

Copy 2

S/S Enlisted Ranks
Personnel Update
5 July 1984

Immediate Action
INTERIM CHANGE

Headquarters
Department of the Army
Washington, DC
15 March 1984

AR 635-200
Interim Change
No. 109
Expires 15 March 1986

PERSONNEL SEPARATIONS

ENLISTED SEPARATIONS

Justification. This interim change is effective 15 March 1984. This change is required to bring this regulation in agreement with AR 600-200.

Expiration. This interim change expires 2 years from date of publication and will be destroyed at that time unless sooner rescinded or superseded by a permanent change.

1. AR 635-200, 1 October 1982, is changed as follows:

Page 11. Add as Section XI of Chapter 1 the following:

	Para	Page
XI. DA Bar to Reenlistment		
General	1-48	1-21
Separation Initiation and Processing	1-49	1-21
Official Military Personnel File	1-50	1-21

Page 1-1. Add to paragraph 1-4, in appropriate alphabetic order by Subject Area, the following:

Subject Area	Guidance	Location
DA Bar to Reenlistment	Not the basis for separation, but mandates initiation of separation actions, after 18 months from date of bar or date of this change (whichever is later), Section III, Chapter 4, AR 600-200 applies.	Section XI, Ch 1

Page 1-14. Paragraph 1-26d and NOTE, thereafter, are superseded as follows:

d. The medical facility commander will--

(1) Send requests for retention, indorsed by the member's unit commander, to the nearest military commander exercising general court-martial convening (GCM) authority for the following personnel:

15 March 1984

- (a) Regular Army personnel.
 - (b) ARNGUS and USAR personnel on IADT or AGR tours. Retention of ARNGUS personnel must be coordinated with the appropriate State adjutant general.
- (2) Include in the request the following information:
 - (a) Member's name, rank and SSN.
 - (b) Reason for separation, (such as ETS).
 - (c) Scheduled release date.
 - (d) A copy of the signed affidavit consenting to retention.
 - (e) Medical reason for retention.
 - (f) Medical recommendation (approval or disapproval).
 - (3) The provisions of AR 135-200 apply to ARNGUS and USAR members on special active duty for training (SADT).

NOTE: Retention requires approval by the GCM commander. However, the GCM commander may delegate this authority to the deputy commander, another general officer on his or her staff, the chief of staff, or the adjutant general. All delegations will be in writing, and will be valid until revoked in writing. Every action taken according to such a delegation will state that it is taken "pursuant to authority delegated by _____ dated _____." A copy of the retention action on Regular Army personnel will be sent to Commander, US Army Enlisted Records and Evaluation Center, Fort Benjamin, Harrison, IN 46249, for filing in the OMPF. A copy of the retention action for ARNGUS personnel will be sent to the appropriate State adjutant general (appendix A). A copy of the retention action for USAR (AGR) personnel will be sent to Commander, ARPERCEN, ATTN: DARP-FS, 9700 Page Blvd., St. Louis, MO 63132, and for USAR (IADT) personnel to Commander, ARPERCEN, ATTN: DARP-ZSG, 9700 Page Blvd., St. Louis, MO 63132.

Page 1-21. Add the following new section:

XI. DA Bar to Reenlistment

1-48. General. Commanders will initiate separation action against soldiers, in accordance with this regulation, who have received a DA-imposed bar to reenlistment under the provisions of Section III, Chapter 4, AR 600-200. Separation action is not based upon the imposition of a DA bar to reenlistment, but rather on the soldier's conduct and performance of military duties. While initiation of separation action is mandatory under paragraph 1-49, below, nothing in this section precludes initiation of separation action against a soldier under any other provision of this regulation when appropriate.

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1-49. Separation Initiation and Processing. If a DA bar to reenlistment has not been removed or an appeal is not pending a soldier will be processed for separation UP Chapters 13 and 14, or other appropriate chapter of this regulation, no later than the first day of the nineteenth month following the date of the HQDA bar notification letter. For soldiers whose DA bar to reenlistment have been presented prior to the effective date of this change, separation action will be initiated no later than the first day of the nineteenth month following the effective date of this change. (See Section III, Chapter 4, AR 600-200.) The separation action will be processed through the chain of command to the appropriate separation authority for a determination as to whether further processing is required. The immediate and intermediate commanders will recommend separation or retention, but no recommendation will be made as to the type of discharge certificate to be awarded.

1-50. Official Military Personnel File (OMPF). Prior to initiation of separation action, commanders will request a copy of the soldier's Performance (P) fiche of the OMPF IAW Chapter 4, AR 640-10, for use in determining whether separation or retention is appropriate. Restrictions on use of adverse matters from a prior enlistment or period of military service are applicable (see paragraphs 1-17d(6) and 3-8b(2)).

2. Post these changes per DA Pam 310-13.

3. File this interim change in front of the publication.

(DAPC-EPA-A)

BY ORDER OF THE SECRETARY OF THE ARMY:

JOHN A WICKHAM, JR.
General, United States Army
Chief of Staff

Official:

ROBERT M. JOYCE
Major General, United States Army
The Adjutant General

DISTRIBUTION:

Active Army, ARNG, USAR: To be distributed in accordance with DA Form 12-9A requirements for AR, Personnel Separations - A

Headquarters
Department of the Army
Washington, DC
9 November 1983

Immediate Action
INTERIM CHANGE

AR 635-200
Interim Change
No. 107
Expires 9 November 1985

PERSONNEL SEPARATIONS

ENLISTED SEPARATIONS

Justification. This interim change is effective 1 November 1983. This interim change authorizes commanders having separation authority to waive the requirement for rehabilitative transfers when appropriate; permits majors, 0-4, on approved recommended lists for promotion to lieutenant colonel, 0-5, who have been assigned to command positions normally commanded by lieutenant colonels, 0-5, to exercise separation authority in the specified circumstances; and makes paragraphs 16-5b(1) and (2) consistent with Army policy as set forth in AR 601-280, paragraph 6-5f.

Expiration. This interim change expires 2 years from date of publication and will be destroyed at that time unless sooner rescinded or superseded by a permanent change.

1. AR 635-200, 1 October 1982, is changed as follows:

Page 1-9. Paragraph 1-18d is superseded as follows:

d. Waivers. The requirement for a rehabilitative transfer may be waived by the separation authority. Waiver authority may be withheld by a higher separation authority in a particular case, class of cases, or all cases. Action to withhold waiver authority will be in writing and will be valid until revoked in writing. Waiver must be based upon the determination of the separation authority that further duty of the member would--

(1) Create serious disciplinary problems or a hazard to the military mission or to the member, or

(2) Be inappropriate because the member is resisting rehabilitation attempts, or

(3) Rehabilitation would not be in the best interests of the Army as it would not produce a quality soldier.

Page 1-11. Paragraph 1-21d is superseded as follows:

9 November 1983

d. Commanders in grade 0-5 or above, and commanders in grade 0-4 who are on an approved recommended list for promotion to 0-5 and who are assigned to command any unit authorized a commander in the grade of 0-5 or above, who have a judge advocate or legal advisor available are authorized to order separation from AD or ADT under chapters 8, 9, 11 and 16, and under chapter 13 in those cases in which the notification procedures (chap. 2, sec II) are used. This includes all chapter 13 cases which are not processed by the administrative board procedures (chap 2, sec III). This authority does not include officers in the grade of 0-4 who are acting commanders.

Page 16-2. Paragraph 16-5b(1) and (2) are superseded as follows:

(1) Members who perceive that they will be unable to overcome a locally imposed bar to reenlistment may apply for immediate separation.

(2) Oversea tours may be curtailed to the extent necessary to permit early separation under this section. Approved requests for separation will be irrevocable.

2. Post these changes per DA Pam 310-13.

3. File this interim change in front of the publication.

(DAPC-EPA-A)

BY ORDER OF THE SECRETARY OF THE ARMY:

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General, United States Army
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ROBERT M. JOYCE
Major General, United States Army
The Adjutant General

DISTRIBUTION:

Active Army, ARNG, USAR: To be distributed in accordance with DA Form 12-9A requirements for AR, Personnel Separations--A.

Immediate Action INTERIM CHANGE

Headquarters
Department of the Army
Washington, DC
9 September 1983

AR 635-200
Interim Change
No. IO6
9 September 1985

PERSONNEL SEPARATIONS

ENLISTED SEPARATIONS

Justification. This interim change implements changes and/or clarifies present Department of the Army retirement policy concerning retirement in lieu of PCS; service obligation after completing letter of acceptance to the Sergeants Major Academy; and PCS alert notification for E-9 and E-8 (promotable).

Expiration. This interim change expires 2 years from date of publication and will be destroyed at that time unless sooner rescinded or superseded by a permanent change.

1. AR 635-200, 1 October 1982, is changed as follows:

Page 12-1. The first sentence in paragraph 12-4a is superseded as follows:

An enlisted member of the Regular Army, ARNGUS, or the USAR who has completed 20, but less than 30 years of active Federal service (AFS) in the US Armed Forces may be retired at his or her request.

Page 12-3. Paragraph 12-7a is superseded as follows:

a. A member who has completed 20 years AFS and who has completed all required service obligations is eligible to retire. Unless restricted in this section, members who have completed 19 or more years of active Federal service may apply for retirement. The request must be made within 12 months of the requested retirement date.

Page 12-4. Paragraph 12-8b(2)(b) is superseded as follows:

(b) Unaccompanied married members must complete five-sixths of the prescribed "all others" tour or 12 months, whichever is longer.

Page 12-4. Subparagraph (c) is added to paragraph 12-8b(2).

(c) Members who have no dependents must complete five-sixths of the tour prescribed for the country in which serving or 12 months, whichever is longer.

Page 12-4. Paragraph 12-9 is superseded as follows:

a. A member who receives an alert or orders for permanent change of station (PCS) may request retirement in lieu of PCS subject to the following conditions:

(1) Members having 19 years, 6 months or more of AFS when notified of permanent change of station may request a retirement date. The member will receive official notification per DA Pam 600-8-10, procedure 3-1. If the member elects to retire, insure DA Form 5115-R, Voluntary Retirement in Lieu of PCS Statement, is forwarded to the retirement section. The retirement application (DA Form 2339) must be submitted and approved within 30 days of receipt of official alert notification of permanent change of station. The retirement date will not be later than 6 months from the date of notification or the first day of the month following the month in which 20 years of active Federal service is completed, whichever is later. All service obligations must be fulfilled not later than the approved retirement date.

(2) Members having 19 - 20 years active Federal service on overseas movement date may sign a Declination of Continued Service Statement (DA Form 4991-R) only if all the criteria in (a), (b), and (c) below are met. Members electing to complete a Declination of Continued Service Statement per AR 601-280, chapter 3 will be required to retire immediately upon attaining retirement eligibility, whether or not they have completed the current term of service. The retirement application (DA Form 2339) and the Declination of Continued Service Statement (DA Form 4991-R) must be submitted and approved within 30 days of receipt of official alert notification of permanent change of station.

(a) All service obligations resulting from promotion, training or similar action must be completed before 20 years AFS.

(b) Member will have less than 12 months between movement date and ETS.

(c) Member will have at least 20 years AFS at ETS.

b. When a member cannot fulfill his or her service obligations by the requested retirement date, the retirement approval authority will return the member's application.

c. Applications for retirement in lieu of PCS which are approved will not be withdrawn, nor will the retirement date be changed. The member must retire on the approved retirement date.

Headquarters
Department of the Army
Washington, DC

1 February 1984

Immediate Action INTERIM CHANGE

AR 635-200
Interim Change
No. I08
Expires 1 February 1986

PERSONNEL SEPARATIONS

ENLISTED SEPARATIONS

Justification. This interim change is effective 1 February 1984. This change provides the requirement that first-time drug offenders, grades E5-E9 will be processed for separation upon discovery of a drug offense.

Expiration. This interim change expires 2 years from date of publication and will be destroyed at that time unless sooner rescinded or superseded by a permanent change.

1. AR 635-200, 1 October 1982, is changed as follows:

Page 14-4. The second sentence in paragraph 14-12d is superseded as follows:

Other personnel (first-time offenders grades E1-E4) may be processed for separation as appropriate.

Page 14-4. The first sentence in paragraph 14-12d(1) is superseded as follows:

First-time drug offenders, grades E5-E9.

2. Post these changes per DA Pam 310-13.

1 February 1984

3. File this interim change in front of the publication.

(DAPC-EPA-A)

BY ORDER OF THE SECRETARY OF THE ARMY:

JOHN A. WICKHAM, JR.
General, United States Army
Chief of Staff

ROBERT M. JOYCE
Major General, United States Army
The Adjutant General

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d. The retirement approval authority will set up procedures to insure written acknowledgement by the member of the reassignment notification. The written acknowledgement will be used as confirmation of receipt of assignment instructions. Members in grade E-9 and E-8 (promotable), stationed in CONUS, as an exception to DA Pam 600-8-10, procedure 3-1, will be officially notified telephonically of permanent change of station. If the member elects to retire in lieu of PCS, the provisions of a(1) or (2) are applicable.

e. Assignment instructions or orders will be deleted only after request for retirement is approved.

f. Members who request retirement in lieu of PCS will normally remain at the same duty station in an authorized position. Utilization will be in the best interest of the Army. A move may be necessary for such reasons as deletion of position, reorganization of disciplinary problems. Members will not be slotted below the grade currently held. To facilitate proper utilization, members may be reassigned within the installation. Where this is not possible, members will be reassigned to the nearest military installation where they can be used. Members will not be reassigned solely to move them to the installation nearest their requested place of retirement. Members moved for the convenience of the government under these conditions will not be required to complete a one year CONUS service obligation.

Page 12-5. In paragraph 12-11 change subparagraph "b" to "c."

Page 12-5. Subparagraph b is added to paragraph 12-11.

b. Members who are selected for attendance at the Sergeants Major Academy and complete the letter of acceptance incur a service obligation to attend the academy. Requests for exception to this obligation must be requested by the member with full justification and forwarded through command channels as indicated below.

Page 12-5. Paragraph 12-13 is superseded as follows:

12-13. Preparation of DA Form 2339. Each member requesting retirement will, with the help of the personnel officer, complete section I, DA Form 2339, including date and signature. Applications not including this information are invalid. Each item will be completed in full. Not applicable ("N/A") or ("none") will be entered where appropriate. When a waiver to a service obligation is requested, justification will be included as an inclosure.

a. The officer having custody of the applicant's personnel records will assist the member in preparing the application. Special attention will be given to items 4, 6, 14, and 19.

(1) Item 4. Enter the first day of desired retirement month not the last day of the preceding month.

(2) Item 6. Enter the highest grade (permanent or temporary) in which the member served on active duty and the branch of Armed Forces in which served.

(3) Item 14.

(a) Insure that all service claimed is correct. A member must have at least 20 years of creditable active Federal service to be eligible for retirement. (See sec IV.)

(b) Enter all uninterrupted service on one line (such as RA enlisted service with no breaks between enlistments, or continuous active Federal service as a commissioned officer, regardless of grade).

(4) Item 19. If member elects to be processed for retirement at a location of choice separation transfer point (AR 635-10, para 2-18), enter the complete designation and location of such separation transfer point. (For example: US Army Separation Transfer Point, Fort Sheridan, IL 60037.) The member must check the appropriate election and sign his or her name. This does not apply to enlisted members not on active duty.

b. The personnel officer will complete section II, DA Form 2339. Each item will be completed in full.

(1) Item 21. Enter the complete designation and location of the authorized STP or STA where the member will be processed for retirement. (See AR 635-10, chap 2, and app A.)

(2) Item 27. Also enter type tour "all others" or with "dependents" as applicable and DEROS.

(3) Item 28. Will be completed only when member elects retirement in lieu of PCS. Enter the date member was notified of alert for permanent change of station. Enter date when the Voluntary Retirement in Lieu of PCS Statement (DA Form 5115-R) was signed, and include as inclosure 1 to DA Form 2339. When applicable, enter date of Declination of Continued Service Statement and include as inclosure 2 to DA Form 2339.

(4) Item 30. Require the applicant to sign all copies.

(5) Item 31. Enter the statements and information required by (a), (b), (c), and (d) below.

(a) If application is being submitted per paragraph 12-9, enter the following statement: "Approved for retirement in lieu of PCS." This statement will be typed on all copies of the DA Form 2339 and signed by the retirement approval authority or the designated representative.

(b) If the member will be taking terminal leave in conjunction with retirement, enter the following statement:

_____ (rank) _____ (name) has requested and had approved _____ days of terminal leave (DDALV) to be taken in conjunction with the requested retirement action. This leave will commence _____ (date) and conclude on _____ (date)."

(c) If the member currently is serving as a SGM, E9, but formerly served as CSM, E9, enter whichever of the following statements is applicable (see para 12-16):

"SGM, E9 _____ (name) served satisfactorily as CSM, E9, from _____ (date) to _____ (date). He/she was released from the CSM Program solely because of assignment limiting physical condition incurred in LD."

"SGM, E9, _____ (name) served as CSM, E9, from _____ (date) to _____ (date). He/she (was released from the CSM Program due to inadequate performance of duty) or (voluntarily withdrew from the CSM Program for reasons other than an assignment limiting physical condition incurred in LD)."

(d) If member is currently serving in the grade of MSG, E8, but formerly served as 1 SG E8, enter the following statement (see para 12-17):

"MSG E8 _____ (name) served satisfactorily as 1 SG E8 from _____ (date) to _____ (date)."

c. The personnel officer will send a signed copy of the application as soon as section I and section II are completed to HQDA (DAPC-EP-(Career Management Branch), ALEX VA 22331. Enlisted members of the USAR on active duty will submit a signed copy of the application to RCPAC (AGUZ-LTE-). US Army National Guard members on active duty will submit a signed copy of the application to the State Adjutant General. For Regular Army members who are being considered by HQDA Selection Board for promotion to the next higher grade, an additional copy will be sent to HQDA (DAPC-MS-PE), ALEX VA 22332. The submission of these copies of the application will not be delayed until the medical examination or verification of service are completed.

d. The personnel officer will verify the member's service (para 12-28).

e. The personnel officer will insure that the member's enlistment does not expire before the requested retirement date. If the enlistment will expire before requested date of, or eligibility for, voluntary retirement, the retirement approval authority may extend it through the last day of the month preceding the requested retirement date. Enlistment will not be extended more than 12 months, per AR 601-280, chapter 3, and AR 600-9. For example:

(1) Members who have reached retirement eligibility (20 years of active Federal service) may be extended up to 12 months if the member qualifies for such extension per AR 601-280.

(2) Members who have reached retirement eligibility, but are not qualified for extension per AR 601-280 and AR 600-9, may be extended through the last day of the month during which ETS occurs.

(3) Members who, at ETS will have completed 18 years of AFS, but less than 20 years, may be extended to reach retirement eligibility. The member's eligibility per AR 601-280 does not matter except as shown below. The period of extension will be only through the last day of the month in which the member becomes retirement eligible. When a request is to be approved, the approval and oath of extension will be completed before retirement orders are issued. Members in the following categories are not eligible to extend for retirement without a waiver from HQDA:

(a) Members refusing to act to meet length of service requirements per AR 601-280, paragraph 3-2.

(b) Members not meeting retention standards of AR 600-9.

(c) Members with a locally initiated bar to reenlistment approved by HQDA per AR 601-280, chapter 6.

f. Members who receive a DA-imposed bar to reenlistment may be extended to complete 20 years of service as stated in AR 600-200, paragraph 4-1b.

g. The personnel officer will send the application to the retirement approval authority as soon as section II is completed and signed.

h. After retirement orders are issued, the personnel officer will notify the retirement approval authority and HQDA if a waiver has been granted. The officer will get the decision of that commander or HQDA either to revoke the orders or to let them stand. The officer will notify the member of the decision before the effective date of retirement.

9 September 1983

IO6, AR 635-200

Page 12-8. Subparagraph d is added to paragraph 12-15.

d. Requests for exceptions to policy not supported by required documentation i.e., DA Form 2339, DA Form 5115-R, or DA Form 4991-R will be returned without action.

2. Post these changes per DA Pam 310-13.
3. File this interim change in front of the publication.

(DAPC-EPA-A)

BY ORDER OF THE SECRETARY OF THE ARMY:

JOHN A. WICKHAM, JR.
General, United States Army
Chief of Staff

ROBERT M. JOYCE
Major General, United States Army
The Adjutant General

DISTRIBUTION:
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Copy 2

Immediate Action INTERIM CHANGE

Headquarters
Department of the Army
Washington, DC, 1 July 1983

AR 635-200
Interim Change
No. IO5
Expires 1 July 1985

PERSONNEL SEPARATIONS

ENLISTED SEPARATIONS

Justification. This interim change is effective 1 July 1983. This change adds specific provisions on abuse of illegal drugs to chapter 14. These changes have been made to prevent possible adverse judicial rulings against the Army.

Expiration. This interim change expires 2 years from date of publication and will be destroyed at that time unless sooner rescinded or superseded by a permanent change.

1. AR 635-200, 1 October 1982, is changed as follows:

Page 14-4. Subparagraph d is added to paragraph 14-12.

d. Abuse of illegal drugs. Members in (1), (2) or (3), below, against whom charges will not be referred to a court-martial authorized to impose a punitive discharge or against whom separation action will not be initiated under the provisions of chapter 9, chapter 13 or section II of this chapter will be processed for separation under the provisions of a, b or c, above, as applicable. Other personnel (first-time offenders, grades E1 - E7) may be processed for separation as appropriate. "Processed for separation" means that separation action will be initiated and processed through the chain of command to the appropriate separation authority for a determination as to whether further processing is required. The immediate and intermediate commanders will recommend separation or retention. No recommendation will be made as to the type of discharge certificate to be awarded. Abuse of illegal drugs is serious misconduct, and separation action normally will be based upon commission of a serious offense (paragraph c, above). However, relevant facts may mitigate the nature of the offense. Therefore, a single drug abuse offense may be combined with one or more minor disciplinary infractions or incidents of other misconduct and processed for separation under the provisions of a or b, above, or under chapter 13, as appropriate. The separation reason in all separations authorized by this paragraph will be "misconduct - - abuse of illegal drugs."

(1) First-time drug offenders, grades E6 - E9. Personnel in these grades will be processed for separation upon discovery of a drug offense.

(2) Second-time drug offenders, grades E1 - E9. All personnel must be processed for separation after a second offense.

(3) Medically diagnosed drug dependent personnel, grades E1 - E9. All personnel will be processed for separation upon completion of actions required by AR 600-85.

2. Post these changes per DA Pam 310-13.

3. File this interim change in front of the publication.

(DAPC-EPA-A)

By Order of the Secretary of the Army:

E. C. MEYER
General, United States Army
Chief of Staff

ROBERT M. JOYCE
Major General, United States Army
The Adjutant General

DISTRIBUTION:

Active Army, ARNG, USAR: To be distributed in accordance with DA Form 12-9A requirements for AR, Personnel Separation --A.

Immediate Action
INTERIM CHANGE

Headquarters
Department of the Army
Washington, DC
1 June 1983
AR 635-200
Interim Change
No. IO4
Expires 1 June 1985

PERSONNEL SEPARATIONS

ENLISTED SEPARATIONS

Justification. This interim change authorizes commanders of District Recruiting Commands (DRCs) to void enlistments under the provisions of chapter 7, paragraph 7-15e. This change has been made to prevent possible adverse judicial rulings against the Army.

Expiration. This interim change expires 2 years from date of publication and will be destroyed at that time unless sooner rescinded or, superseded by a permanent change.

1. AR 635-200, 1 October 1982, is changed as follows:

Page 1-12. Subparagraph k is added to paragraph 1-21.

k. Commanders of District Recruiting Commands (DRCs) in grade O5 or higher are authorized to void enlistments under the provisions of chapter 7, paragraph 7-15e.

Page 7-4. Paragraph 7-15c is superseded as follows:

e. If, before an enlistee's departure from a MEPS, it is discovered that he or she was erroneously enlisted, the enlistment will be voided as follows. The MEPS commander will revoke any orders already issued assigning the individual to a RECSTA or other unit of assignment and will issue an order assigning the individual to the adjacent District Recruiting Command (DRC) for the purpose of separation. The DRC commander will accomplish the voidance of the enlistment by the issuance of an order (AR 310-10) releasing the individual from the custody and control of the Army. The order will reflect that the individual's enlistment is void by reason of erroneous enlistment and that his or her release from the custody and control of the Army is being accomplished by reason of a void enlistment. Neither a discharge certificate nor DD Form 214 will be furnished. Distribution of the order will be as follows:

(1) One copy will be filed as a permanent document in the member's DA Form 201 (MPRJ),.

(2) One copy will be furnished to the member.

(3) One copy will be furnished to the Commander, USAREC, Fort Sheridan, IL 60037.

2. Post these changes per DA Pam 310-13.

3. File this interim change in front of the publication.

(DAPC-EPA-A)

By Order of the Secretary of the Army:

E. C. MEYER
General, United States Army
Chief of Staff

ROBERT M. JOYCE
Major General, United States Army
The Adjutant General

DISTRIBUTION:

Active Army, ARNG, USAR: To be distributed in accordance with DA Form 12-9A requirements for AR, Personnel Separations--A.

Headquarters
Department of the Army
Washington, DC , 15 April 1983

Immediate Action INTERIM CHANGE

AR 635-200
Interim Change
No. 103
Expires 15 April 1985

PERSONNEL SEPARATIONS

ENLISTED SEPARATIONS

Justification. This interim change implements changes and clarifies the procedure for separation when a member placed in a weight reduction program fails to comply with the standards listed in AR 600-9. This change implements DOD Directive 1308.1 dated 29 June 1981.

Expiration. This interim change expires 2 years from date of publication and will be destroyed at that time unless sooner rescinded or superseded by a permanent change.

1. AR 635-200, 1 October 1982, is changed as follows:

Page 11-1. Paragraph 11-3a(3) is superseded as follows:

(3) Have demonstrated that they are not qualified for retention. The following conditions are illustrations of conduct which does not qualify for retention:

(a) Cannot or will not adapt socially or emotionally to military life.

(b) Cannot meet the minimum standards prescribed for successful completion of training because of lack of aptitude, ability, motivation or self-discipline.

(c) Have demonstrated character and behavior characteristics not compatible with satisfactory continued service.

(d) Have failed to meet body fat standards after application of the procedures specified in AR 600-9.

Page 13-1. In paragraph 13-2a, renumber subparagraphs "(2)" through "(6)" as "(3)" through "(7)" and add new subparagraph (2) as follows:

(2) The member has failed to meet body fat standards after application of the procedures in AR 600-9, or

2. Post these changes per DA Pam 310-13.

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Washington, D.C. 20310

IO3, AR 635-200

15 April 1985

3. File this interim change in front of the publication.

(DAPC-EPA-A)

By Order of the Secretary of the Army:

E. C. MEYER
General, United States Army
Chief of Staff

ROBERT M. JOYCE
Major General, United States Army
The Adjutant General

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Headquarters
Department of the Army
Washington, DC 14 February 1983

Immediate Action INTERIM CHANGE

AR 635- 200
Interim Change
No. 102
Expires 14 February 1985

PERSONNEL SEPARATIONS

ENLISTED SEPARATIONS

Justification. This interim change removes some of the double jeopardy restrictions, removes rehabilitation requirements from paragraph 5-8, provides retirement approval authority and corrects errors found in the revised regulation. These changes have been made to prevent possible adverse judicial rulings against the Army.

Expiration. This interim change expires 2 years from date of publication and will be destroyed at that time unless sooner rescinded or superseded by a permanent change.

1. AR 635-200, 1 October 1982, is changed as follows:

Page 1-2. In paragraph 1-4, under Guidance for Counseling Requirements, delete last sentence.

Page 1-4. In paragraph 1-4, under Guidance for Separation for Misconduct, change the word "successful" to "unsuccessful."

Pages 1-8 and 1-9. Paragraphs 1-18a and b are superseded as follows:

a. General. Commanders will insure that adequate counseling and/or rehabilitative measures have been taken before initiating action to separate a member for one of the following reasons. Reassignments made in rehabilitation attempts normally will not use permanent change of station of military, Army (PCS-MPA), funds (see para c(3) below for exceptions).

- (1) Inability to perform prescribed duties due to parenthood (para 5-8).
- (2) Personality disorder (para 5-13).
- (3) Entry Level Performance and Conduct (chap 11).
- (4) Unsatisfactory Performance (chap 13).
- (5) Minor disciplinary infractions or a pattern of misconduct (para 14-12a and b).

b. Counseling. When a member's conduct or performance approaches the point where a continuation of such conduct or performance would warrant initiation of separation action for one of the reasons in a above, the member will be counseled by a responsible person about his or her deficiencies at least once before initiating separation action. Additional formal counseling is discretionary; however, the member's counseling or personnel records must establish that the member was afforded a reasonable opportunity to overcome

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these deficiencies. Such factors as the length of time that has elapsed since the prior counseling, the member's conduct and performance during that period, and the commander's assessment of the member's potential for becoming a fully satisfactory soldier, should be considered. Each counseling session should be recorded on DA Form 4856-R (General Counseling Form) (fig. 1-2). DA Form 4856-R will be reproduced locally on 8½ x 11 inch paper. Counseling will include, but will not be limited to, the following:

- (1) Reason for counseling.
- (2) The fact that separation action may begin if the behavior continues.
- (3) If the separation may result in either an under honorable conditions or under other than honorable conditions character of service, the member will be informed of the character of service that may result and the effect of each type. This counseling will be conducted per AR 350-21, paragraph 3, and will be equally comprehensive.

Page 1-9. Paragraph 1-18c is superseded as follows:

c. Rehabilitation. At least one of the following measures will be taken prior to initiation of separation action for one of the reasons established in a(3) through (5) above:

Page 1-9. Paragraph 1-18c(1) is superseded as follows:

(1) Replacement stream personnel. Members will be recycled (reassigned between training companies or, where this is not feasible, between training platoons) at least once.

Page 1-9. The lead statement in paragraph 1-18d is superseded as follows:

d. Waivers. Unless prohibited under a above, rehabilitation may be waived as follows:

Page 1-9. Paragraph 1-18d(2) is superseded as follows:

(2) The commander exercising special court-martial convening authority in the cases of members being separated under chapter 13 (other than those referred to in (1) above) and the commander exercising general court-martial convening authority in the cases of members being separated under chapter 14, may waive rehabilitation requirements when he or she determines that the provisions of (1)(a) and/or (b) above apply.

Page 1-10. Paragraph 1-19a through c are superseded as follows:

a. Separation action for the reasons indicated in paragraph 1-18a will not be initiated until the member has been counseled by a responsible person about his or her deficiencies and offered a reasonable opportunity to overcome them.

b. Separation per this regulation normally should not be based on conduct which has already been considered at an administrative or judicial proceeding and disposed of in a manner indicating that separation was not warranted. Accordingly, administrative separations under the provisions of chapters 11, 13, 14, and 15, and AR 604-10 are subject to the following restrictions. No member will be considered for administrative separation because of conduct that--

(1) Has been the subject of judicial proceedings resulting in an acquittal or action having the effect thereof. Only HQDA will decide that an action does not have the effect of an acquittal. The convening authority must submit a request for such a determination through command channels to HQDA(DAPC-EPA-AS), Alexandria, VA 22331.

(2) Has been the subject of a prior administrative board in which the board entered an approved finding that the evidence did not sustain the factual allegations concerning the conduct, except when the conduct is the subject of a rehearing ordered on the basis of fraud or collusion, or

(3) Has been the subject of an administrative separation proceeding resulting in a final determination by a separation authority that the member should be retained, except in the following circumstances:

(a) When the soldier's subsequent conduct or performance forms the basis, in whole or in part, for a new proceeding. Such conduct need not independently justify the soldier's discharge, but it must be sufficiently serious to raise a question as to his or her potential for further useful military service.

(b) Fraud or collusion is discovered which was not known at the time of the original proceeding and which will probably produce a result significantly less favorable for the soldier at a new hearing.

(c) Substantial new evidence is discovered which was not known at the time of the original proceeding despite the exercise of due diligence.

c. The provisions of b above do not preclude soldiers convicted by a court-martial whose sentence does not include a punitive discharge from being processed for administrative separation under the provisions of chapters 11, 13, 14, or 15, as appropriate, at any time after sentencing. Conduct which was the subject of such a court-martial may be considered to determine retention or separation and, if appropriate, characterization of service.

Page 1-10. The following sentence is added after the parenthetical reference to chapter 2 in paragraph 1-20a:

When there are approved reasons for separation in addition to fraudulent entry, suspension may be authorized only when the additional reason is not homosexuality and a waiver of the fraudulent entry is obtained.

Page 1-11. Paragraph 1-21b is superseded as follows:

b. A general officer in command who has a judge advocate or legal advisor available is authorized to order the separation or release from AD or ADT of enlisted personnel per this regulation. This includes the authority to convene administrative separation boards when required by this regulation. This general officer cannot order separation or release for lack of jurisdiction (para 5-9), separation for the good of the service (chap 10), per an approved court-martial sentence (chap 3, sec IV), or for conviction by a foreign court (paras 1-43a and d, and 14-9a).

Page 1-12. Subparagraph i is added to paragraph 1-21.

i. The authority to approve or disapprove requests for voluntary retirement is granted to:

(1) Commanders of all units and installations which are commanded by or are under the normal command of a general officer, excluding Division Engineers within the US Army Corps of Engineers.

(2) Commanders of the following medical treatment facilities:

- (a) Brooke Army Medical Center.
- (b) Dwight David Eisenhower Army Medical Center.
- (c) Fitzsimons Army Medical Center.
- (d) Letterman Army Medical Center.
- (e) Madigan Army Medical Center.
- (f) Tripler Army Medical Center.
- (g) Walter Reed Army Medical Center.
- (h) William Beaumont Army Medical Center.

(3) Commanders of personnel centers, training centers, oversea replacement depots, transportation terminal commands, and all Active Army installations having an authorized strength of 4,000 or more personnel.

Page 1-12. Subparagraph j is added to paragraph 1-21.

j. The general court-martial authority may delegate to other officers of his or her staff the authority to approve, disapprove, or otherwise appropriately dispose of cases under chapters 6 when an honorable discharge certificate will be awarded and 16.

Page 1-15. The following sentence is added to the end of paragraph 1-28:

However, retention beyond a member's ETS to process administrative separation proceedings pursuant to this regulation is not authorized.

Page 1-18. In paragraph 1-36a, change the "c" in the first line to "d."

Page 1-19. In paragraph 1-36b, change the third sentence to read "Members separated under (1) below with an uncharacterized separation and (2) below whose service is characterized as under honorable conditions will be transferred to the IRR unless they clearly have no potential for useful service under conditions of full mobilization."

Page 1-19. In section IX, change "NATURALIZATION" to "NATURALIZED."

Page 2-2. Subparagraph i is added to paragraph 2-2.

i. To withdraw his or her waiver of rights listed in a through e above, at any time prior to the date the separation authority orders, directs, or approves the separation.

Page 2-2. In paragraph 2-2g, change "fig. 2-1" to "fig. 2-2."

Page 2-3. In paragraph 2-4g, change the first sentence to read "To withdraw his or her waiver of the rights listed in a through f above, any time prior to the date the separation authority orders, directs, or approves the separation."

Page 2-3. In paragraph 2-4g, change "fig. 2-1" to "fig. 2-2."

Page 2-4. Subparagraph (5) is added to paragraph 2-6a.

(5) The action of the separation authority because of alcohol or other drug abuse rehabilitation failure will be per chapter 9.

Pages 2-5 and 2-6. Paragraph 2-6i is superseded as follows:

i. The respondent will be provided a copy of the board proceedings.

Page 2-11. In figure 2-1, change the first sentence to read "HQ, 118th Infantry Division, Fort Jackson, South Carolina. Legally qualified counsel for consultation is unavailable to represent Private (E-2) John A Doe, 000-00-0000, of this command, whose case has been referred to an administrative separation board convened under AR 635-200."

Page 2-11. In figure 2-1, change the second sentence to read "Captain Jane R. Cronkite, 000-00-0000, Quartermaster, is appointed counsel for consultation for the above named member."

Page 2-11. In figure 2-1, change the last sentence to read "This officer's mature judgment and her knowledge of administrative board procedures qualify her to act as appointed counsel for consultation in this case."

Page 2-12 (Figure 2-2). In paragraph 1, change the first sentence to read "I have been advised by my consulting counsel of the basis for the contemplated action to accomplish my separation for (fraudulent entry) (unsatisfactory performance) (misconduct) (homosexuality) under the provisions of

Chapter (ENTER APPROPRIATE CHAPTER), AR 635-200, and its effects; of the rights available to me; and the effect of any action taken by me in waiving my rights."

Page 2-12 (Figure 2-2). The following is added to the end of paragraph 1:

(I understand that if I have less than six years of total active and/or reserve military service at the time of separation and am recommended for separation for reason of unsatisfactory performance under the provisions of Chapter 13, AR 635-200, I am not entitled to have my case heard by a board of officers.) (I understand that if I have less than six years of total active and/or reserve military service at the time of separation and am recommended for separation for reason of misconduct under the provisions of paragraphs 14-12a or b, AR 635-200 and a discharge under other than honorable conditions is not warranted, I am not entitled to have my case heard by a board of officers.)

Page 2-12 (Figure 2-2). In paragraph 8, delete the asterisks after the period.

Page 2-12 (Figure 2-2). Insert "*****" before "(9."

Page 2-13 (Figure 2-2). In paragraph beginning with "*", correct "accorded" on fourth line to read "afforded."

Page 2-13 (Figure 2-2). In sentence beginning with "****", correct "of" at end of first line to read "or."

Page 3-1. In paragraph 3-2, delete "(chapter 11)", and insert a period after the word "status."

Page 5-3. Paragraph 5-8b is superseded as follows:

b. Counseling. Separation processing may not be initiated under this paragraph until the member has been adequately counseled concerning deficiencies (see para 1-18).

Page 5-6. Paragraph 5-13h is superseded as follows:

h. The service of a member separated per this paragraph will be characterized as honorable unless an entry level separation is required under chapter 3, section III. Characterization of service under honorable conditions may be awarded to a member who has been convicted of an offense by general court-martial or who has been convicted by more than one special court-martial in the current enlistment period of obligated service or any extension thereof.

Page 6-1. In chapter title, correct second "OF" to read "OR."

Page 7-6. In paragraph 7-17a, change the fourth sentence to read "However, the enlistment of a minor with false representation as to age and without proper consent will not in itself be considered a fraudulent enlistment."

Page 9-1. Chapter title is superseded as follows:

ALCOHOL OR OTHER DRUG ABUSE REHABILITATION FAILURE

Page 9-1. In paragraph 9-1, change the first sentence to read "This chapter provides the authority and outlines the procedures for discharging personnel with or without right to board action. Member is entitled to request an administrative board if he or she has 6 or more years of total active and/or reserve military service per paragraph 2-2d. A member who has less than 6 years of military service is not entitled to an administrative board."

Page 9-1. Paragraph 9-3a is superseded as follows:

a. Take action as specified in the Notification Procedure or the Administration Board Procedure, as applicable (chap 2, sec~~s~~ II and III and figs 9-1, 9-2, 9-3, and 9-4), including--

Page 9-2. In paragraph 9-5b, change the lead sentence to read "The separation authority will approve separation of cases processed without an administrative board if the documentation in the file indicates that--"

Page 9-2. In paragraph 9-5, change subparagraph "c" to "d."

Page 9-2. Subparagraph c is added to paragraph 9-5.

c. For actions where the administrative board procedure is required, the separation authority will--

(1) Approve separation when recommended by the board if the criteria in paragraph b(1) through (3) are established and direct characterization of the member's service per paragraph 9-4. The separation authority may not authorize the issuance of a discharge certificate of less favorable character than that recommended by the board. Suspension will be per paragraph 1-20.

(2) Approve retention when recommended by the board.

(3) Disapprove a recommendation of separation by the board and direct retention of the servicemember. Suspension will be per paragraph 1-20.

Page 9-3 (Figure 9-1). Title is superseded as follows:

Receipt of Letter of Notification of Discharge for Alcohol and/or Other Drug Abuse Rehabilitation Failure When an Administrative Board is not Required

Page 9-4 (Figure 9-1). Paragraph 5 is superseded as follows:

5. Execute the attached acknowledgement and return it within 7 duty days from the date of this notification. Any statement you desire to submit in your behalf must reach me within 7 duty days after you receive this letter, unless you request and receive an extension for good cause shown.

Page 9-6. Figure 9-3 is added as follows:

Receipt of Letter of Notification of Discharge for
Alcohol and/or Other Drug Abuse Rehabilitation Failure
When Administrative Board Proceedings are Authorized

=====
Data Required by the Privacy Act of 1974
(5 USC 552a)

AUTHORITY: Section 301, Title 5, United States Code and Section 3012, Title 10, United States Code.

PURPOSE: Information provided is used by processing activities and the approval authority to determine if the member meets the requirements for recommended discharge action.

ROUTINE USES: If separation is approved, information is filed in the MPRJ. Release of any information from this form is subject to the restrictions of 21 USC 1175, as amended by 88 Stat 137; 42 USC 4852, as amended by 88 Stat 131; and Chapter I, Title 42, Code of Federal Regulations. Under these statutes and regulations, disclosure of information that would identify the client as an abuser of alcohol or other drugs is authorized within the Armed Forces or to those components of the Veterans Administration furnishing health care to veterans. AR 600-85 further limits disclosure within the Armed Forces to those individuals having an official need to know (for example, the physician or the client's unit commander). All other disclosures require the written consent of the client except disclosures (1) to medical personnel outside the Armed Forces to the extent necessary to meet a bona fide medical emergency; (2) to qualified personnel conducting scientific research, management for financial audits, or program evaluation; or (3) upon the order of a court of competent jurisdiction.

Submission of a statement for consideration is voluntary. If a statement is not submitted, the Army will determine discharge or retention based on the available information.

=====

(Date)

SUBJECT: Letter of Notification

1. Under the provisions of AR 635-200, chapter 9, I am initiating action to discharge you from the Army. If this separation action is approved, you will receive an honorable or general discharge certificate.
2. The reasons for my proposed action are: (state specific, factual details which constitute the basis for the determination that the soldier should be discharged for personal abuse of alcohol and/or drugs, explaining how the criteria of paragraph 9-1 are met).

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Page 9-8. Figure 9-4 is added as follows:

SUBJECT: Receipt of Notification (Your letter dated _____)

TO: (Unit Commander)

1. Letter of notification of action under the provisions of AR 635-200, chapter 9, dated _____ was received at _____ (hours) on (date).
2. *I have been advised by my consulting counsel of the basis for the contemplated action to accomplish my separation for alcohol or other drug abuse rehabilitation failure under the provisions of AR 635-200, chapter 9, and its effects; of the rights available to me; and the effect of any action taken by me in waiving my rights.
3. I (request) (waive) consideration of my case by a board of officers. ***(This waiver (does) (does not) apply to my Reserve Officer status).
4. I (request) (waive) personal appearance before a board of officers.
5. Statements in my own behalf (are) (are not) submitted herewith (Incl. ____).
6. I (request) (waive) (***(consulting counsel)) (and) representation by (counsel for representation) (or) (____) as my military counsel (and) (civilian counsel at no expense to the Government).
7. I understand that my willful failure to appear before the board of officers by absenting myself without leave will constitute a waiver of my rights to personal appearance before the board.
8. I understand that I may expect to encounter substantial prejudice in civilian life if a general discharge under honorable conditions is issued to me. I Understand that if I receive a discharge certificate/character of service which is less than honorable, I may make application to the Army Discharge Review Board or the Army Board for Correction of Military Records for upgrading; however, I realize that an act of consideration by either board does not imply that my discharge will be upgraded.
9. I understand that I may, up until the date the separation authority orders, directs, or approves my separation, withdraw this waiver and request that a board of officers hear my case.
10. I further understand that I will be ineligible to apply for enlistment in the United States Army for a period of 2 years after discharge.
11. I have retained a copy of this statement.

(Signature of individual)

(Typed name, SSN, and grade)

Having been advised by me of the basis for his or her contemplated separation and its effects, the rights available to him or her and the effect of a waiver of his or her rights, _____ (name of member), personally made the choices indicated in the foregoing statement.

(Signature of counsel)

(Typed name, SSN, grade, branch)

*If the member declines to consult with consulting counsel prior to waiving his or her rights, he or she will be ordered to do so by his or her commander. If he or she persists in his or her refusal, insert as first sentence of paragraph 1, the following statement: "Before completing this form, I have been afforded the opportunity to consult with appointed counsel for consultation; or military counsel of my own choice, if he or she is reasonably available; or civilian counsel at my own expense. I decline the opportunity." Separation action will then proceed as if the member had consulted with counsel. In all cases, except the above, consulting counsel will witness this statement and indicate that he or she is a commissioned officer of the Judge Advocate General's Corps.

**To be used if the member holds status as a Reserve commissioned or warrant officer.

***To be used when the member is in civil confinement.

Figure 9-4 Continued.

Page 10-4 (Figure 10-1). At the end of paragraph 1, change the period to a colon.

Page 11-1. Subparagraph c is added to paragraph 11-3.

c. Commanders will consider soldiers meeting the criteria of a, above, and convicted by court-martial, but not sentenced to a punitive discharge, for administrative separation under the provisions of this chapter when the underlying misconduct warrants separation. When appropriate, commanders may initiate separation action while the member is serving a sentence to confinement at the installation detention facility.

Page 11-1. Paragraph 11-3a(2) is superseded as follows:

(2) Have completed no more than 180 days (AD) or (IADT) on current enlistment prior to the date of the initiation of separation action. Prior service personnel are excluded from this program.

Page 12-6. In paragraph 12-13b change "(2)" to "(3)."

Page 12-6. Subparagraph (2) is added to paragraph 12-13b.

(2) Item 30. Require the applicant to sign all copies.

Page 12-6. In paragraph 12-13b, the new (3)(a), (b), and (c) are superseded as follows:

(3) Item 31. Enter the statements and information required by (a), (b), (c), or (d) as applicable.

Page 12-6. In paragraph 12-13b, new (3), change subparagraphs: "(d)" to "(a)", "(e)" to "(b)", "(f)" to "(c)", and "(g)" to "(d)."

Page 12-7. In paragraph 12-13c, change the office symbol to "DAPC-MS-PE."

Page 12-10. In paragraph 12-23a, change the following subparagraphs: "(9)" to "(10)", "(10)" to "(11)", "(11)" to "(12)", "(12)" to "(13)", and "(13)" to "(14)."

Page 12-10. Subparagraph (9) is added to paragraph 12-23a as follows:

(9) Item 19. Enter SPD.

Page 12-11. In paragraph 12-23d, change the first sentence to read "DA Forms 3713 will be transmitted by a cover letter."

Page 13-1. Subparagraph e is added to paragraph 13-2.

e. Commanders will consider soldiers meeting the criteria of a above, and convicted by court-martial, but not sentenced to a punitive discharge, for administrative separation under the provisions of this chapter, when

the underlying misconduct and the member's performance warrant separation. When appropriate, commanders may initiate separation action while the member is serving a sentence to confinement at the installation detention facility.

Page 13-2. Paragraph 13-9 is superseded as follows:

13-9. Action by the separation authority. On receiving a recommendation for separation for unsatisfactory performance, the separation authority (para 1-21) will take one of the following actions:

Page 14-1. Subparagraph g is added to paragraph 14-2.

g. Commanders will consider soldiers meeting the criteria of section III, this chapter, and convicted by court-martial, but not sentenced to a punitive discharge, for administrative separation under the provisions of section III, this chapter, when the underlying misconduct warrants separation. When appropriate, commanders may initiate separation action while the member is serving a sentence to confinement at the installation detention facility.

Page 14-2. Paragraph 14-5 is superseded as follows:

14-5. Conditions which subject a member to discharge. a. A member may be considered for discharge when initially convicted by civil authorities, or action is taken which is tantamount to a finding of guilty, provided one of the following conditions is present. This includes similar adjudications in juvenile proceedings.

(1) A punitive discharge would be authorized for the same or a closely related offense under the MCM, 1969(Rev), as amended; or

(2) The sentence by civil authorities includes confinement for 6 months or more, without regard to suspension or probation. Adjudication in juvenile proceedings includes adjudication as a juvenile delinquent, wayward minor, or youthful offender.

b. Initiation of separation action is not mandatory. Although the conditions established in a(1) or (2) are present, the immediate commander also must consider whether the specific circumstances of the offense warrant separation. Separation action need not be initiated if retention of the member is in the best interest of the Army.

c. If separation action is initiated by the immediate commander, the case will be processed through the chain of command to the general court-martial convening authority for appropriate action.

Page 14-4. In paragraph 14-11b(2), delete the period at the end of the first sentence and add: "and AR 630-10."

Page 14-4. The following sentence is added to the end of paragraph 14-12c:

(See paragraph 1-45 for civil offenses under investigation by foreign authorities.)

Page 14-5. In paragraph 14-17c, change the second and third sentences to read "The case can be referred to the appropriate separation authority (paragraph 1-21c or d) to determine whether the member should be separated for unsatisfactory performance if the reason for separation is determined to be based substantially on any of the conditions described in paragraph 13-2a and the misconduct is not so serious that a discharge under other than honorable conditions appears appropriate."

Page 15-1. In paragraph 15-1c add the sentence "Conviction by a court-martial which did not impose a punitive discharge does not prevent separation action under this chapter."

Page Glossary 1. In paragraph Appointed counsel for consultation, remove the period at the end of the seventh sentence and add, "(desertion from another military service)."

Pages 1-12 and 1-13. Paragraph 1-24a is superseded as follows:

a. A member may be retained after his or her term of service has expired when--

(1) An investigation of his or her conduct has been started with a view of trial by court-martial.

(2) Charges have been preferred.

(3) The member has been apprehended, arrested, confined, or otherwise restricted by the appropriate military authority.

However, if charges have not been preferred, the member shall not be retained more than 30 days beyond the ETS unless the general court-martial convening authority approves. (See para 1-33.)

2. Post these changes per DA PAM 310-13.

3. File this interim change in front of the publication.

(DAPC-EPA-A)

14 February 1983

I02, AR 635-200

By Order of the Secretary of the Army:

E. C. MEYER
General, United States Army
Chief of Staff

Official:

ROBERT M. JOYCE
Major General, United States Army
The Adjutant General

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AR-635-200

1 October 1982

*AR 635-200

ARMY REGULATION

No. 635-200

*SK Enlisted Ranks
Personnel Update
5 July 1984*

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, 1 October 1982

**PERSONNEL SEPARATIONS
ENLISTED PERSONNEL**

Effective 1 October 1982 in accordance with DOD 1332.14

This is a complete revision of AR 635-200. This revision implements DOD Directive 1332.14 dated 28 January 1982, subject: Enlisted Administrative Separations. (Separation actions and proceedings initiated prior to 1 October 1982 will be processed to completion under the provisions of the regulation in effect at the time action was initiated). Major changes are: provides for uncharacterized separations when separated during entry level status (first 180 days of continuous service); deletes EDP and unsuitability as separation reasons, and establishes unsatisfactory performance; reorganizes material for clarity purposes (several separation reasons previously under Convenience of the Government have been placed in a new chapter on Selected Changes in Service Obligations, and certain provisions previously covered in three different chapters are grouped in a chapter on Defective Enlistments and Inductions); provides new criteria for separation for misconduct; provides that only an honorable character of service may be given at ETS and under Selected Changes in Service Obligations; provides notification procedures which must be used in many of the separation reasons; and incorporates the changes made by all interim changes to the 1977 regulation. Local supplementation of this regulation is prohibited unless prior approval is obtained from HQDA(DAPC-EPA-AST), Alexandria, VA 22331.

Interim changes to this regulation are not official unless they are authenticated by The Adjutant General. Users will destroy interim changes on their expiration dates unless sooner superseded or rescinded.

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✓ This regulation supersedes AR 635-200, 21 November 1977.

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CHAPTER 1

GENERAL PROVISIONS

Section I. GENERAL

1-1. Purpose. *a.* This regulation sets policies, standards, and procedures to insure the readiness and competency of the force while providing for the orderly administrative separation of enlisted members for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

b. The Army makes a substantial investment in training, time, equipment, and related expenses when persons enter into military service. Separation prior to completion of an obligated period of service is wasteful because it results in loss of this investment and generates a requirement for increased accessions. Reasonable efforts should be made to identify enlisted members who exhibit a likelihood for early separation, and to improve their chances for retention through counseling, retraining, and rehabilitation prior to initiation of separation

proceedings. Enlisted members who do not demonstrate potential for further military service should be separated in order to avoid the high costs in terms of pay, administrative efforts, degradation of morale, and substandard mission performance.

1-2. References. Required and related publications are listed in appendix C.

1-3. Explanation of abbreviations and terms. Abbreviations and special terms used in this regulation are explained in the glossary.

1-4. User guidance. The information shown below identifies specific subject areas and locations within this regulation. This information is not intended to be all inclusive or to be regarded as absolute authority.

<i>Subject Area</i>	<i>Guidance</i>	<i>Location</i>
Administrative Board Procedures	Service member (SM) must be notified in pending action, possible types of discharge, rights of rebuttal, and available courses of action.	Paragraph 2-4 to 2-12
Alcohol/Drug Abuse	SM must be in ADAPCP; Chapter 9 separation; Commander can declare as rehabilitative failure; SM must be notified of action, (See "Notification of Pending Separation.") Entry in ADAPCP does not provide separation under other provisions of this regulation.	Chapter 9
Authority to Separate	Dependent upon individual case, may be— <i>a.</i> O5 commander with legal counsel, or <i>b.</i> SPCM, or	Paragraph 1-21

Subject Area	Guidance	Location
	c. General officer, or d. General Court-Martial Authority.	
Convenience of the Government	See "Separation for the Convenience of the Government."	
Counseling Requirements	SM must be counseled to warn of possible separation action. Must be told of possible types of discharge and their effects. Some counseling may be waived.	Paragraph 1-18
Defective Enlistments and Inductions	Includes— a. Minority. b. Erroneous enlistment/reenlistment/extension. (See this topic below.) c. Fraudulent entry. (See this topic below.) d. Unfulfilled/defective enlistment or reenlistment contracts. (See this topic below.)	Chapter 7
Defective/Unfulfilled Enlistment/Reenlistment	Defective means SM was qualified for enlistment/reenlistment, but not for specific option—no fraud involved. Unfulfilled means SM was qualified for enlistment and option, but Army cannot fulfill.	
Defective/Unfulfilled Enlistment/Reenlistment	SM must request action within 30 days of the time the defect or unfulfillment is noted, or from the time when it should reasonably have been noted.	Paragraph 7-16
Dependency or Hardship	May include parenthood and/or sole parents. Considered as being for the convenience of the Government. SM may withdraw application for separation. Supporting evidence required. Also see "Parenthood" and Separation for the Convenience of the Government."	Chapter 6
Discharge for the Good of the Service	Not the same as for the convenience of the Government. SM sentenced to Bad Conduct Discharge or Dishonorable Discharge may request. SM will not be coerced to request this discharge. Withdrawal of approved request must be with approval of General Court-Martial Authority.	Chapter 10

Subject Area	Guidance	Location
Disposition of Records and Proceedings	Put in SM records in accordance with AR 635-10.	Paragraph 1-15
Drug Abuse	See "Alcohol/Drug Abuse."	
Erroneous Enlistment, Reenlistment, or Extension	Defined as one that would not have happened if all relevant facts had been known or if applicable regulations had been followed. Cannot be a result of fraud.	Paragraph 7-15
Fraudulent Entry	Occurs when SM knowingly conceals facts which would have made him or her ineligible for enlistment/reenlistment or the specific option.	Paragraphs 7-17 to 7-22
Homosexuality	See "Separation for Homosexuality."	
Indebtedness	SM will not be kept past ETS to pay debts to individuals or the Government.	Paragraph 1-27
Leave in Conjunction with Separation	Leave will be granted in accordance with AR 630-5.	Paragraph 1-11
Misconduct	See "Separation for Misconduct."	
Notification	SM must be notified in writing of pending separation, types of possible discharge, and the effects, rights of rebuttal, and available courses of action.	Paragraph 2-2
Parenthood	SM must be counseled. SM must be notified of pending separation. (See "Notification of Pending Separation.")	Paragraph 5-8
Pregnancy	Commander must counsel pregnant SM. SM must sign statement of counseling. Line of duty determination not required. SM may withdraw request for separation.	Chapter 8
Processing Time Limits	If board action is not required, maximum time is 15 days. If board action is required, maximum time is 50 days. Separation Action Control sheet must be used.	Paragraphs 1-7, and 1-8
Rehabilitation	Normally, must be attempted prior to separation action. Some rehabilitation actions can be waived.	Paragraph 1-18
Retention Past ETS	<p>a. May be for—</p> <p>(1) Time lost to be made good.</p> <p>(2) Investigation.</p>	Paragraph 1-23 to 1-29

Subject Area	Guidance	Location
	(3) Awaiting/undergoing trial. (4) Medical care. (5) Miscellaneous reasons. (6) SM under jurisdiction of a foreign court. b. May not be for indebtedness.	
Retirement	SM must complete minimum of 20 years of active Federal service. Some must complete specific service remaining obligations. (Some waivers allowed.) For Retirement in lieu of PCS— —Must have 19½ years of active service at time of notification. —Request cannot be withdrawn once approved. —Request for change of date is not normally allowed.	Chapter 12
Separation Action Control Sheet	See "Processing Time Limits."	
Separation Authority	See "Authority to Separate."	
Separation for the Convenience of the Government	Includes— a. Sole surviving son/daughter. (See separate heading on this topic.) b. Parenthood. (See separate heading on this topic.) c. Unlawful aliens. d. Did not meet medical fitness standards. e. Personality Disorders. f. Concealment of arrest record. g. Dependency or Hardship. h. Pregnancy. (See separate heading on this topic.)	Chapter 5
Separation for Homosexuality	Homosexuals, bisexuals, or persons with such tendencies will not be retained in the service.	Chapter 15
Separation for Misconduct	Will not be used in lieu of disciplinary action. Will be used if rehabilitation efforts are successful or inappropriate. SM must be counseled and rehabilitation attempted if possible. Misconduct may include conviction by a civilian court.	Chapter 14

Subject Area	Guidance	Location
Separation for Unsatisfactory Performance	Will not be used if SM is in entry level status. (See Trainee Discharge Program.) Will be used if commander does not feel the SM has potential for improvement. SM must be counseled and rehabilitation attempted if possible.	Chapter 13
Separation in a Foreign Country	Enlisted persons can usually be separated in a foreign country if the major Army oversea commander approves, and if all necessary documents have been obtained. See special instructions for SM under investigation by, or sentence of, a foreign court.	Paragraphs 1-42 to 1-47
Sole Surviving Son/Daughter	Does not necessarily mean an "only child." SM must meet specific criteria. Not authorized in all cases even when specific criteria is met.	Paragraphs 5-4 to 5-7
Trainee Discharge Program	Used for SM who demonstrate unsatisfactory performance and/or conduct while in an entry level status. Commander must counsel SM and take rehabilitative action if possible.	Chapter 11
Unfulfilled Enlistment or Reenlistment	See "Defective/Unfulfilled Enlistment/Reenlistment."	
Unsatisfactory Performance	See "Separation for Unsatisfactory Performance."	

1-5. Statutory authority. Title 10, United States Code, Section 1169, provides that no regular enlisted member of the Army may be discharged before his or her term expires except—

- a. As prescribed by the Secretary of the Army.
- b. By sentence of a general court-martial.
- c. As otherwise provided by law.

1-6. Applicability. a. This regulation applies to all Active Army enlisted personnel. This includes Army National Guard of the United States (ARNGUS) and United States Army Reserve (USAR) enlisted personnel ordered to active duty (AD). Active duty includes Active Duty Guard/Reserve (AGR) tours. It also applies to ARNGUS and USAR enlisted personnel ordered to any type of active duty for training (ADT) other than annual training, unless specifically excluded. Unless specifically stated, the provisions of this regulation, and all regula-

tions in the AR 635 series dealing with the separation of enlisted personnel, are binding upon field commanders but not upon HQDA.

b. All determinations requiring action by Commanding General, US Army Military Personnel Center, as set forth in this regulation, will be forwarded to HQDA, DAPC-EPA-A-S, Alexandria, VA 22331, unless otherwise specified.

c. This regulation has been reviewed by the Per Diem, Travel and Transportation Allowance Committee in accordance with Section III, DOD Directive 5154.13, dated 11 February 1980, as case PDC 1328-82.

1-7. Processing goals. Processing time for separations when the Notification Procedure is used will not exceed 15 working days. Processing time when the Administrative Board Procedure is used will not exceed 50 working days. Time will

be measured from the date of notification to the member of the proposed separation to the date of separation. Shorter processing times are encouraged, particularly for cases in which prompt action is likely. Failure to process an administrative separation within these timeframes will not prevent separation or characterization.

1-8. Separation Action Control Sheet (DA Form 5138-R). A separation action control sheet (fig 1-1 which is authorized for local reproduction on 8½ × 11 inch paper) will be used to insure processing goals are met.

1-9. Suspension of favorable personnel action. When suspensions of favorable personnel action per AR 600-31 have been initiated solely because a member is being considered for elimination under chapters 13, 14, or 15, and the member is to be processed for separation for medical reasons (para 1-35), the member's immediate commander will expedite action to remove the suspension action. This will prevent delay in disposition of the case through medical channels.

1-10. Forwarding fingerprints to the FBI. FD Form 249 (Fingerprint Card) will be prepared when the member is discharged per section IV of chapter 3, or chapters 10 or 14, if he or she meets the criteria of AR 190-47, paragraph 5-2. Forward card to STP or STA for disposition.

1-11. Leave in conjunction with separation. Granting of leave in conjunction with separation will be per AR 630-5. Separation processing of these members is prescribed in DA PAM 600-8-11, table 2-1-2.

1-12. Separation orders. *a.* The authority for separation (AR 635-200) will be included in directives or orders directing members to report to the appropriate STP or STA for separation processing. See AR 310-10.

b. Except as provided in (1) and (2) below, ARNGUS personnel will be released from AD or ADT and returned to the control of the appropriate State National Guard; USAR personnel will be released from AD or ADT and returned to their USAR status.

(1) **ARNGUS.**

(a) An ARNGUS member who is being separated for any reason for which a Regular

Army member would be discharged will be discharged from his or her Reserve of the Army status. The member will be returned to the appropriate State National Guard authorities for discharge from the ARNG. When a person is to be separated because of a void enlistment per paragraph 7-4*a*, 7-9, 7-15*e* or *f*, 7-18, or 7-22, an order will be issued releasing the individual from the custody and control of the Army (state specific reason). The order will return the individual to the appropriate State Adjutant General for disposition. The order will include the statement "This voids individual's enlistment as a Reserve of the Army."

(b) When an ARNGUS member is to be transferred to the IRR per section VIII, the member will be released from active duty. The member will be returned to the appropriate State Adjutant General for discharge from his or her State status and transferred to the IRR (appropriate USAR Control Group). A copy of the order releasing the member from active duty will be sent Commander, RCPAC, ATTN: AGUZ-RM, Room 4185, Building 100, 9700 Page Boulevard, St. Louis, MO 63132.

(2) **USAR.**

(a) A USAR member can be separated for any reason for which a Regular Army enlisted member would be discharged, or for which an individual would be released because of a void enlistment. The USAR member as appropriate, will be discharged from his or her status as a Reserve of the Army or released by reason of a void enlistment as appropriate.

(b) When a USAR member is to be transferred to the IRR per section VIII, the member will be released from active duty. The member will be transferred to the appropriate USAR Control Group to complete his or her military service obligation.

1-13. Separation of members with access to Special Intelligence, other compartmented information, or sensitive programs. When a member has had access to Special Intelligence, other compartmented information, or extremely sensitive programs and involuntary separation is being considered, separation must be coordinated with HQDA (DAMI-CIS), WASH, DC 20310. Notification of the proposed action will be sent by electrical message. It will include the

following information: name, grade, SSN, date and place of birth, marital status, length of service, summary of circumstances leading to the consideration for involuntary separation, degree of sensitivity of classified information to which the individual had access, and type of discharge contemplated. This information will be classified as appropriate, based on content.

1-14. Reduction in grade. When a member is to be discharged under other than honorable conditions, the convening authority will direct an immediate reduction to the lowest enlisted grade per AR 600-200, chapter 8, section IV.

1-15. Disposition of proceedings/records. *a.* When separation is ordered, the approved proceedings will be sent to the commander who has the member's records for separation processing per AR 635-10. The original copy of the proceedings will be filed as permanent material in the "Field 201 file section" of the member's DA Form 201, per AR 640-10.

b. If the convening authority recommends separation after board proceedings (chaps 13, 14, or 15) or discharge proceedings (chap 9) on a member with 18 or more years of active Federal service, the proceedings are sent to HQDA (DAPC-EPA-A-S), Alexandria, VA 22331, for final determination. These proceedings will include complete documentation and the recommendation of the separation authority.

c. When separation is not ordered by the separation authority, the proceedings will be filed at that headquarters. The enlisted member's commanding officer will be notified of the final action. When practicable, the separation authority will direct reassignment of the member to a different organization. Ultimate disposition of the board proceedings will be governed by AR 340-18-7.

d. When the member is considered for discharge because of fraudulent entry and retention is directed, the retention constitutes a waiver of the fraudulent entry. The following statement will be entered in item 27, DA Form 2-1: (Personnel Qualification Record—Part II) "Discharge action based on fraudulent entry is waived and retention is authorized on (date)." The original copy of the approved document will be forwarded to the Com-

mander, US Army Enlisted Records and Evaluation Center, Fort Benjamin Harrison, IN 46249. This copy will be included in the member's Official Military Personnel File (OMPF).

e. The respondent, whether to be separated or retained, will be furnished a copy of the board proceedings. The proceedings will not include any written medical testimony and reports that would prove injurious to the respondent's physical or mental health. Classified documents attached to the board proceedings may be summarized.

(1) The respondent's copy of the proceedings will be marked "Copy for (name and SSN of the member)." This copy will be given to the respondent or his or her counsel. A signed receipt will be obtained from the member or his or her counsel and filed with the original board proceedings. If the member refuses to sign the receipt, a statement to that effect will be submitted.

(2) If the member or his or her counsel does not want a copy of the board proceedings or, if a copy is not furnished, a notation will be made on the member's copy to accompany the original. Only the Commander, US Army Reserve Components Personnel and Administration Center, ATTN: AGUZ-RCA, St Louis, MO 63132, can release this copy thereafter.

f. When the convening authority approves an enlisted member's discharge from a Reserve commission or warrant, he or she will send a copy of the approved proceedings to the Commander, US Army Reserve Components Personnel and Administration Center, ATTN: AGUZ-RCA, St Louis, MO 63132, for appropriate action (AR 135-175). Action prescribed in AR 135-175 will be taken after member's separation from an enlisted status.

g. When an ARNGUS trainee is released from ADT per chapters 4, 13 and 15, a copy of the approved proceedings will be sent to the State Adjutant General of the State concerned. (See app A.) However, proceedings under chapter 9, and any information contained in chapter 14 proceedings derived from the Alcohol and Drug Abuse Prevention and Control Program (ADACP), will be disclosed per AR 600-85, chapter 1, section IV, to the appropriate State Adjutant General only if that officer is also federally recognized.

h. When the member was the subject of DA Form 3835 (Notice of Unauthorized Absence from the United States Army), insure that a report of return to military control has been furnished the Commander, US Army Deserter Information Point (USADIP), Fort Benjamin Harrison, IN 46249.

i. When material errors and discrepancies are noted before accomplishing discharge the type

of discharge directed by the separation authority per this regulation may be changed by the separation authority at any time prior to the full execution of the separation. If another headquarters processing the case (transfer activities) finds material error or discrepancies in approved board proceedings prior to the full execution of the separation, the case will be returned to the separation authority for review.

Section II. GUIDELINES ON SEPARATION

1-16. Scope. This general guidance will be considered when initiating separation action.

1-17. Guidance. *a.* There is a substantial investment in the training of persons enlisted or inducted into the Army. Reasonable efforts at rehabilitation should be made before starting separation proceedings.

b. Unless separation is mandatory, the potential for rehabilitation and further useful military service will be considered by the separation authority. Where applicable, the administrative separation board should also consider these factors. If separation is warranted despite the potential for rehabilitation, consider suspending the separation, if authorized.

c. Adequate counseling and rehabilitation measures will be taken before initiating separation action against a member when the reason for separation so specifies. An alleged or established inadequacy in previous rehabilitation efforts does not provide a legal bar to separation.

d. When deciding retention or separation in a case, consider the following factors:

(1) The seriousness of the events or conditions that form the basis for initiation of separation proceedings. Also consider the effect of the member's continued retention on military discipline, good order, and morale.

(2) The likelihood that the events or conditions which led to separation proceedings will continue or recur.

(3) The likelihood that the member will be a disruptive or undesirable influence in present or future duty assignments.

(4) The member's ability to perform duties

effectively now and in the future, including potential for advancement or leadership.

(5) The member's rehabilitative potential.

(6) The member's entire military record. This includes—

(a) Past contributions to the Army, assignments, awards and decorations, evaluation ratings, and letters of commendation.

(b) Letters of reprimand or admonition, counseling records, records of nonjudicial punishment, records of conviction by court-martial, and records of involvement with civilian authorities.

(c) Any other matter deemed relevant by the board or the separation authority. This may include specialized training, duties, and experience of persons entrusted by this regulation with decisions on separation or retention.

(d) Adverse matter from a prior enlistment or period of military service only when such records would have a direct and strong probative value in determining whether separation is appropriate. This would include records of nonjudicial punishment and convictions by court-martial. Such records ordinarily will be used only in those cases involving conduct repeated over an extended time.

(e) Isolated incidents and events that are remote in time normally have little probative value in determining whether administrative separation should be effected.

1-18. Counseling and Rehabilitative Requirements. *a. General.* Some reasons for separation require counseling and rehabilitation before taking action against a member per this regulation. When required, commanders will insure that adequate counseling and rehabilitative

measures have been taken. Reassignments made in rehabilitation attempts normally will not use permanent change of station or military personnel, Army (PCS-MPA), funds. See paragraph c(3) for exceptions to this policy.

b. Counseling. When a member's conduct or performance may warrant separation action, the member will be counseled by responsible people. Each counseling session will be recorded on DA Form 4856-R (General Counseling Form) (fig 1-2). DA Form 4856-R will be reproduced locally on 8½ × 11 inch paper. Counseling will include, but will not be limited to the following:

- (1) Reason for counseling.
- (2) The fact that separation action may begin if the behavior continues.
- (3) If the separation may result in either an under honorable conditions or under other than honorable conditions character of service, the member will be informed of the character of service that may result and the effect of each type. This counseling will be conducted per AR 350-21, paragraph 3, and will be equally comprehensive. Counseling will include the showing of the film, "Take the Smart Way Out—It's Honorable," if practicable.

c. Rehabilitation. At least one of the following measures will be taken:

(1) *Replacement stream personnel.* Members will be recycled (reassigned between training companies) at least once.

(2) *Other than replacement stream personnel.* Members will be reassigned at least once, with at least 2 months of duty in each unit. Reassignment should be between at least battalion-size units. This requirement does not prevent reassignment between brigade or larger units when considered necessary by local commanders. If this is not possible because of the circumstances involved in a case, the procedures prescribed in (3) below will apply.

(3) *Permanent change of station transfer.* A permanent change of station may be considered necessary to provide a change in commanders, associates, and living or working conditions to rehabilitate a member. If so, the commander exercising general court-martial jurisdiction over the member may authorize such reassignment within the same command (or may request HQDA (DAPC-EP-appropriate branch), Alexandria, VA 22231, to accomplish assign-

ment to another command) provided—

(a) The member involved is in pay grade E4 (with 2 years of service or less), E3, E2, or E1. Members in grade E4 with over 2 years of active service and all other personnel who are eligible because of grade and service for transportation of dependents and shipment of household goods are not eligible for reassignment per this paragraph.

(b) A transfer to another station would not be detrimental to the member or to the Army. (This includes cases involving indebtedness, personnel enrolled in Alcohol and Drug Abuse Prevention and Control programs, personnel undergoing special counseling or other rehabilitative type mental health treatment programs, or maladjusted or apathetic personnel who would not respond to disciplinary controls or benefit from change of associates, regardless of assignment locale.)

d. Waivers. Unless prohibited under paragraph 1-19a, counseling and rehabilitation may be waived as follows:

(1) By commanders (O5 and above) who are commanders of battalions and battalion-size units in the cases of members being separated under Chapter 13. The member must have completed at least 6, but not more than 36, months of continuous active duty on his order first enlistment in the Army at the time the member's immediate commander formally recommends separation. This recommendation will be based on the commander's determination that further duty of the member would—

(a) Create serious disciplinary problems or a hazard to the military mission or to the member.

(b) Be inappropriate because the member is obviously resisting all rehabilitation attempts or that rehabilitation would not produce the quality soldier desired by the Army.

(2) The commander exercising special court-martial convening authority in the cases of members being separated under chapter 13 (other than those referred to in (1) above), and the commander exercising general court-martial convening authority in the cases of members being separated under chapter 14, may waive the requirements of *b* and *c* above when he or she determines that the provisions of (1)(a) or (b) above apply.

1-19. Restrictions on administrative separation and board hearings. *a.* Separation action for the reasons indicated below, will not be started until a member has been counseled by the unit commander about his or her deficiencies. Then the member must be offered a reasonable opportunity to overcome them.

(1) Personality disorder (chap 5).

(2) Entry Level Performance and Conduct (chap 11).

(3) Inability to perform prescribed duties due to parenthood (para 5-8).

(4) Unsatisfactory performance (chap 13).

(5) A pattern of misconduct or minor disciplinary infractions (para 14-12*a* and *b*).

b. Separation per this regulation should not be based on conduct which has already been considered at an administrative or judicial proceeding and disposed of because separation was not warranted. Accordingly, administrative separations under the provisions of chapters 13, 14 and 15 and AR 604-10 are subject to the following restrictions. No member will be considered for administrative separation because of conduct which—

(1) Has been the subject of judicial proceedings resulting in an acquittal or action having the effect thereof. Only HQDA will decide whether an action has the effect of an acquittal. The convening authority must submit a request through command channels to HQDA (DAPC-EPA-A-S), Alexandria, VA 22331, for this decision.

(2) Has been the subject of administrative proceedings resulting in a final determination that the member should be retained in the service.

c. The restrictions in *b*(2) above are not applicable when the following occur:

(1) Fraud or collusion is discovered which was not known at the time of the original proceeding and which will probably produce a result significantly less favorable for the soldier at a new hearing.

(2) Substantial new evidence is discovered which was not known at the time of the original proceeding despite the exercise of due diligence, or subsequent conduct by the soldier warrants consideration for separation. Such conduct need not independently justify the soldier's discharge. But it must be sufficiently serious to

raise a question as to his or her potential for further useful military service. This exception, however, does not permit further consideration of conduct of which the soldier has been absolved in a final factual determination by an administrative or judicial body.

1-20. Suspension of execution of approved discharge. *a.* A highly deserving member may be given a probation period to show successful rehabilitation before the member's enlistment or obligated service expires. The discharge authority or higher authority may suspend (except fraudulent entry or homosexuality) execution of an approved discharge for a period of full-time military duty not to exceed 6 months. (See chap 2.) During the period of suspension, the member can show that he or she is able to behave properly under varying conditions. The member can also show that he or she can perform assigned duties efficiently.

b. Upon satisfactory completion of the probation period, or earlier if rehabilitation has been achieved, the authority who suspended the discharge may cancel execution of the approved discharge. If the member has been transferred to the command of another discharge authority, the discharge may be canceled by the new discharge authority or higher authority.

c. If the member engages in conduct similar to that for which separation was approved, but suspended, or otherwise fails to meet the appropriate standards of conduct and duty performance the commander concerned, the convening authority, or the separation authority, will take one of the following actions:

(1) Initiate punitive or new administrative action in spite of the suspension of execution of the approved discharge.

(2) Withhold action in the case of a member who is absent without authority or in civilian confinement by delivery under UCMJ, Article 14, until after the member's return to military control. The period of probation ceases to run during absence without authority or while in civilian confinement. The provisions of either (1) above or (3) below will be complied with when the member returns to military control and before the period of probation expires.

(3) Advise the enlisted person in writing that vacation action is being considered and the rea-

sons which warrant such consideration. The enlisted person will be given three duty days to consult with counsel and submit a written statement in his or her own behalf or decline to make any statement. The commander taking the action will consider any information the member submits. If the member identifies specific legal issues for consideration the separa-

tion authority will have the matter reviewed by a member of the Judge Advocate General's Corps. The separation authority will—

(a) Vacate suspension of approved discharge and execute discharge.

(b) Continue to suspend execution of the approved discharge for the remainder of the probation period.

Section III. AUTHORITY TO ORDER AND ACCOMPLISH SEPARATION

1-21. Authority to order discharge or release from active duty prior to expiration of term of service. *a.* Except for conviction by a foreign court (paras 1-43a and d, and 14-9a), commanders who are general court-martial convening authorities and their superior commanders are authorized to order separation or release from AD or ADT per this regulation. This includes the authority to convene administrative separation boards when required by this regulation.

b. A general officer in command who has a judge advocate or legal advisor available is authorized to order the separation or release from AD or ADT of enlisted personnel per this regulation. This general officer cannot order separation or release for lack of jurisdiction (para 5-9), separation for the good of the service (chap 10), per an approved court-martial sentence (chap 3, sec IV), or for conviction by a foreign court (paras 1-43a and d, and 14-9a). This includes the authority to convene administrative separation boards when required by this regulation.

c. Commanders who are special court-martial convening authorities are authorized to order the separation or release from AD or ADT under the following:

(1) Chapters 5 (except for lack of jurisdiction para 5-9), 6, 7 (except for the issuance of a discharge under other than honorable conditions based on fraudulent entry), 8, 9, 11, 13, and 16.

(2) Chapter 14 when—

(a) Separation is for minor disciplinary infractions or a pattern of misconduct. The notification procedures must be used.

(b) An administrative separation board recommends entry level separation or separation with an honorable or under honorable con-

ditions characterization, and the commander exercising general court-martial jurisdiction has authorized the exercise of this separation authority.

(3) Chapter 15 when—

(a) Discharge under other than honorable conditions would not be authorized under paragraph 15-4 based on the facts known before convening an administrative separation board.

(b) An administrative separation board recommends entry level separation or separation with an honorable or under honorable conditions characterization, and the commander exercising general court-martial jurisdiction has authorized the exercise of this separation authority.

(4) This includes the authority to convene administrative separation boards when required by this regulation.

d. Commanders in grade O5 or higher who have a judge advocate or legal advisor available are authorized to order separation from AD or ADT under chapters 8, 9, 11, and 16, and under chapter 13 in those cases in which the notification procedures (chap 2, sec II) are used. This includes all chapter 13 cases which are not processed by the administrative board procedures (chap 2, sec III).

e. The authority granted under *b*, *c*, and *d* above may be withheld by a higher separation authority in a particular case or class of cases. Such authority will be in writing and will be valid until revoked in writing.

f. Any member who has completed 18 or more years of active Federal service will not be discharged without approval of HQDA (DAPC-EPA-A-S), except when discharge is under chapter 3 (sec IV) or chapter 10.

g. The authority to convene an administrative separation board, when required by this regulation, may be delegated as follows:

(1) When the authority to convene the board is vested in a general court-martial convening authority (*a* above) or a general officer in command (*b* above), to another general officer on his staff, the deputy commander, or the Chief of Staff.

(2) When the authority to convene the board is vested in a special court-martial convening authority (*c* above), to the deputy commander.

(3) All delegations will be in writing, and will be valid until revoked in writing. Every action taken according to such a delegation will state that it is taken "pursuant to delegation of authority by _____ dated _____."

Section IV. SEPARATION AFTER EXPIRATION OF TERM OF SERVICE/PERIOD OF ACTIVE DUTY/ACTIVE DUTY TRAINING

1-23. Time lost to be made good. Every member in active Federal service who is unable for more than 1 day to perform duty will complete the full term of service or obligation, exclusive of such time lost. The term will be served when the member returns to full duty status.

a. Lost time refers to periods of more than 1 day when a member on active duty cannot perform duty because of—

- (1) Desertion.
- (2) Absence without proper authority.
- (3) Confinement under sentence.

(4) Confinement while awaiting trial or disposition of member's case, if trial results in conviction.

(5) Intemperate use of drugs or alcohol (AR 600-85, para 4-21).

(6) Disease or injury, the result of member's misconduct.

b. Time lost during an enlistment period will be made good at the end of the enlistment period. When an enlistment is extended by law, time lost will be made good at the end of the extension. This requirement may be waived by HQDA. Recommendations for waiver of time lost will be submitted to HQDA (DAPC-EPA-A-S), Alexandria, VA 22331. The discharge authority must consider that because of unusual circumstances, waiver of time lost is in the best interest of the member and the Government.

1-22. Action by commanders having separation authority. *a.* Commanders having separation authority directing separation or release from active duty of an enlisted person will comply with AR 635-10.

b. The enlistment/reenlistment bonus authority (37 USC 308) requires the Army to recoup unearned portions of enlistment bonus and reenlistment bonuses (regular, selective, and variable) when a member is separated voluntarily or because of misconduct. (See AR 635-5-1.) Semiannual by name reports reflecting the Army's success at actual recoupment are required by Congress. It is critical that individual commanders screen actions to ascertain recoupment requirements and then counsel members about their repayment responsibilities.

c. Reserve component personnel ordered to IADT under the Reserve Enlistment Program of 1963 (trainees performing at least 12 weeks IADT) will make up time lost. However, commanding officers of training installations can waive this requirement if the member has completed the required training. In these instances, the commander must consider that it would not be in the best interest of the service to retain the member on active duty for training. Commanding officers of training installations are authorized to indorse the orders extending the initial period of ADT for reservists who must make good the time lost during IADT. One copy of the indorsement will be furnished the State Adjutant General or the commander that issued the original ADT orders.

d. Enlisted members of the ARNGUS and the USAR being released from active duty because the unit in which they were ordered to active duty is being returned as a unit to inactive status will not be retained on active duty to make good time lost.

1-24. When investigation is initiated with view to trial by court-martial or member is awaiting trial or result of trial. *a.* A member may be retained after his or her term of service has expired when—

- (1) An investigation of his or her conduct

has been started with a view of trial by court-martial.

(2) Charges have been preferred.

(3) The member has been apprehended, arrested, confined, or otherwise restricted by the appropriate military authority. However, if charges have not been preferred, the member shall not be retained more than 30 days beyond the ETS unless the general court-martial convening authority approves. (See para 1-33.)

b. A member who is awaiting trial or result of trial by court-martial when he or she would otherwise be eligible for discharge or release from AD, will not be discharged or released until final disposition of the court-martial charges. For effective date of discharge, see section VI. Enlisted personnel under sentence to a dishonorable or bad conduct discharge will not be discharged before appellate review is completed, unless so directed by HQDA. If the member is absent without leave at the time appellate review is completed, the punitive discharge may still be carried out.

1-25. En route to United States or to territory of origin. When a member is held in service after period of service expires under the conditions in *a* and *b* below, the member will be retained for the convenience of the Government.

a. As a casual for separation. A member en route to the United States from overseas as a casual will not be separated until arrival at destination.

b. As members of an organization. Members whose periods of service expire while at sea en route to the United States with their organization and who signify intention to reenlist for the same organization on the day following discharge will be discharged and reenlisted at sea. Those who do not signify their intention to reenlist will be held in the service until they arrive in the United States.

1-26. Medical/dental care required or sick in hospital when period of service expires. *a.* A member may only be considered for retention past the set release date when—

(1) Continued health care is required (must be in hospitalized status but not necessarily occupying a bed).

(2) Physical disability processing is required or has been initiated.

The request for retention will be submitted per *d* below. Members determined medically fit for retention or separation will not be retained past set release date.

b. A member being retired for maximum length of service or maximum age will not be retained unless his or her medical condition indicates referral of the case to a physical evaluation board. When retention is required, the hospital commander will notify HQDA (DAPC-EPA-AR) and request the member's retirement orders be rescinded. The request will include the medical diagnosis and expected date of case referral to the physical evaluation board for processing.

c. No member will be retained beyond their scheduled release date without written consent. (See affidavit below.) This consent must be signed by the member. If the member is mentally incompetent or otherwise unable to sign, the next-of-kin or legal representative will be requested to sign for the member. The consent affidavit will be filed in the member's Military Personnel Records Jacket, US Army (DA Form 201). The member retained under this paragraph is subject to favorable or adverse personnel action including actions per this regulation. However, if the member later demands discharge, he or she cannot be retained on active duty for the sole purpose of taking such administrative action.

Note: Exception—if the member is unable to sign and the next-of-kin or legal representative cannot be located or will not indicate whether or not the member will be retained, the member will be retained. The hospital commander will notify the nearest military commander exercising GCM authority for Regular Army enlisted personnel and Commander, RCPAC, ATTN: AGUZ-LT, 9700 Page Blvd., St Louis, MO 63132 for USAR (AGR) enlisted personnel. The hospital commander will supply full details of the case including actions taken to secure consent for retention.

WITH THE ARMY OF THE UNITED STATES, SS
AFFIDAVIT

At _____

Personally appeared before me, the undersigned, authorized by law to administer oaths pursuant to the Uniform Code of Military Justice, Article 136, one _____ who, after being advised by me of the rights and advantages of remaining in an active duty status in the Army beyond the scheduled date of release for the purpose of completion of hospital care and/or physical disability evaluation under the provisions of chapter 61, title 10,

USC, and after being duly sworn, deposes and says:

"I, _____ have been fully advised by the undersigned officer of the rights and advantages that may accrue to me by voluntarily remaining on active duty in the Army beyond the scheduled date of my release for the purpose of completing hospital care and/or physical disability evaluation under the provisions of chapter 61, Title 10, USC, and have been further fully advised that if I elect to be discharged or released from active duty as scheduled I will not, after such discharge or release from active duty, be eligible for separation or retirement for physical disability. Wherefore, in consideration of the above, I (do)(do not) desire retention on active duty in the Army beyond the scheduled date of expiration of my term of service."

(Signature of member)

(Grade and organization of officer administering oath)

(Signature of officer administering oath)

d. The medical facility commander will send a request indorsed by the member's unit commander to the nearest military commander exercising GCM authority for Regular Army enlisted personnel and to Commander, RCPAC, ATTN: AGUZ-LT, 9700 Page Blvd., St Louis, MO 63132, for USAR (AGR) enlisted personnel. The request will include the following information:

- (1) Member's name, rank and SSN.
- (2) Reason for separation, (such as Qualitative Management Program, ETS).
- (3) Scheduled release date.
- (4) A copy of the signed affidavit consenting to retention.
- (5) Medical reason for retention.
- (6) Medical recommendation (approval or disapproval).

Note: Retention requires personal approval by GCM authority for Regular Army personnel and by the Commander, RCPAC for USAR (AGR) personnel. A copy of the retention action on Regular Army personnel will be sent to Commander, US Army Enlisted Records and Evaluation Center, Fort Benjamin Harrison, IN 46249, for filing in the OMPF. The retention action will be sent to the Commander, RCPAC, ATTN: AGUZ-LT, on USAR (AGR) personnel.

e. Retention under this paragraph will not provide a means of completing 18 years of service and, thereby, qualify for retention to 20 years of service and retirement eligibility. See AR 600-200, paragraph 4-16.

f. Members will be advised concerning the advantages of remaining on active duty (DA Pam 608-2). The member will be furnished the following list of retention advantages:

(1) Advantages while remaining on active duty for completion of hospitalization or medical care or while being processed for disability are—

(a) Medical care and/or hospitalization provided.

(b) Receipt of normal benefits such as pay and allowances, to include exchange and commissary privileges.

(c) Eligibility for dependent medical care if member is on AD or ADT under orders which do not specify a period of 30 days or less.

(d) State income tax benefit where allowed by the laws of the States concerned.

(2) Advantages, if processed and found eligible for disability separation, are shown below.

(a) If permanently retired, the member may choose the most favorable retired pay computed per Army regulations, or under law by which he or she is eligible for retired pay. If temporarily retired, the same selection of pay is authorized, but the minimum pay will not be less than 50 percent of basic pay while temporarily retired.

(b) If retired, a former member and his or her authorized dependents would be eligible for certain medical care. This care is dependent on facilities and staffing availability at Uniformed Service facilities and certain medical care in civilian facilities. (See AR 40-3 and AR 40-121.)

(c) If discharged for disability, member will be entitled to severance pay.

(d) Since retired pay is based on the percent of disability involved, such pay is excluded in computing gross income reportable for taxation.

1-27. **Indebtedness.** a. A member who is eligible for discharge or release from active duty will not be retained—

(1) To satisfy a debt to the US Government or to an individual.

(2) To obtain remission or cancellation of debt to the Government. The Secretary of the Army is authorized to remit or cancel only that part of a member's debt that is unpaid before or at the time of the honorable discharge, retirement, or release from active duty.

b. A request for remission or cancellation of indebtedness will be acted on before the date the member is eligible for discharge, retirement or release. (See AR 600-4 and AR 37-104-3.)

1-28. Retention for miscellaneous reasons. If it is desired to retain a member beyond the ETS for a reason, other than those covered by paragraphs 1-23 through 1-26, request for approval of such action must be submitted to HQDA (DAPC-EPA-A-S), Alexandria, VA 22331, for Regular Army personnel. Requests for approval for USAR (AGR) personnel will be submitted to Commander, RCPAC, ATTN: AGUZ-LT, 9700 Page Blvd., St Louis, MO 63132.

1-29. Retained in service while subject to criminal jurisdiction of foreign courts but not physically confined by such courts. Retention in service per this paragraph is intended to permit the Government to fulfill its obligations under current jurisdictional agreements with foreign governments.

a. If the final action in the civil charges will not be completed before accused's ETS, the following action will be taken:

(1) The Army will try to get the accused's consent to be retained beyond ETS, until final action on the civil charges and consequent administrative separation action has been completed. Before such consent is obtained, the member concerned will be advised that, since he or she is subject to the UCMJ, court-martial charges may be preferred if the foreign government does not proceed with the case. However, court-martial charges will not be resorted to solely to insure retention. Further, member will be advised that he or she may be processed for separation per chapter 14, section II, if the case ultimately results in a civil conviction.

(2) If the accused does not consent to retention, foreign officials will be offered the opportunity of accepting custody of the accused.

This will prevent a member's separation from the service while absent in the custody of civil authorities.

b. Should the member consent to retention he or she will be requested to complete the following statement. The statement will be filed in the member's DA Form 201. A copy of the statement will be sent to Commander, US Army Enlisted Records and Evaluation Center, Fort Benjamin Harrison, IN 46249 for Regular Army personnel. A copy for USAR (AGR) personnel will be sent to Commander, RCPAC, ATTN: AGUZ-LT, 9700 Page Blvd., St Louis, MO 63132. This copy will be filed in the member's OMPF as a permanent document.

REQUEST FOR RETENTION IN SERVICE

I, (Name, Grade, SSN, Organization), am being subjected to the exercise of criminal jurisdiction of the Government of _____ I am presently:

- _____ Awaiting disposition of the charges by the authorities of the foreign government.
- _____ Undergoing trial in a court of the foreign government.
- _____ Awaiting a decision on my appeal of my conviction and sentence by a court of the foreign government.

I request that I be retained in the service beyond _____, the expiration date of my term of service, until final disposition of the charges against me by the foreign government and completion of administrative action to accomplish my separation from the Army. I have been informed that if my case results in civil conviction, I will be processed for elimination under the provisions of AR 635-200, chapter 14, section II, and may be furnished a discharge certificate under other than honorable conditions (DD Form 794A).

I have been advised of my rights under Article 31, UCMJ. I have also been informed that, since I am subject to the UCMJ, it is possible that court-martial charges may be preferred against me if the foreign government does not proceed with its case.

I certify that this request for retention in the service is not the result of coercion, force, or threat of harm, nor have I been promised any benefits by the military authorities of the United States.

Date

Signature of Member

Signature of Counseling Officer

c. If the provisions of a above cannot be complied with, the case, with full details, will be referred through channels to HQDA (DAPC-

EPA-A-S), Alexandria, VA 22331, for instructions. Care will be exercised to insure that each case is submitted before the member's ETS.

d. When the foreign country concerned has determined to exercise criminal jurisdiction and

it appears probable that the accused may not obtain a fair trial, the commander exercising general court-martial jurisdiction over the accused will follow the procedures in AR 27-50, paragraph 1-4a(1).

Section V. SEPARATION PRIOR TO EXPIRATION OF TERM OF SERVICE

1-30. Discharge or release from active duty prior to expirations of term of service. *a.* When separation is to be completed before ETS or the period for which ordered to AD or ADT, it will be completed per this regulation or other applicable regulations by the commanders specified in paragraph 1-21. Exceptions are indicated in *b* and *c* below.

b. When discharge or release from AD is to be completed before ETS or the period for which ordered to AD or ADT, time lost need not be made good. The exception is in cases where discharge or release for the convenience of the Government is to be completed per 16-6, 16-7, 16-8, 16-10 and 16-11. In these cases, the expiration of term of required service of a member with time lost will be adjusted to include such

lost time (adjusted ETS). Early discharge for the purpose of immediate reenlistment in the Regular Army will be accomplished per AR 601-280.

c. Personnel under sentence of dishonorable or bad conduct discharge will not be discharged or released from active duty before appellate review is completed, unless so directed by HQDA.

d. When the member is discharged per chapters 9, 10, 13, 14, or 15 of this regulation, the case file of the member will be reviewed by the commander having authority to approve discharge. The commander will decide whether the reporting requirements set forth in AR 190-10 are applicable. When such conditions exist in a member's case file, the report required by AR 190-10 will be submitted.

Section VI. EFFECTIVE DATE OF DISCHARGE

1-31. Effective date of discharge. *a.* The discharge of a member for the reasons listed in (1) and (2) below is effective at 2400 hours on the date of notice or discharge. The member will be so notified.

(1) Discharge because of ETS.

(2) Discharge to continue on active duty in the same or another status.

b. Release from active duty is effective 2400 hours on the date of release when the member—

(1) Is transferred to the USAR to complete reserve obligation incurred under the Military Selection Service Act of 1967, as amended.

(2) Is transferred to the temporary disability retired list per AR 635-40.

c. For a member who entered on active duty from a reserve component, who reverts to USAR or State ARNG control, date of release is effective at 2400 hours on the date of expiration of authorized travel time.

d. Discharge for all reasons other than those set forth in *a*, *b*, and *c* above is effective at 2400 hours on the date of notice of discharge to the enlisted person.

e. Notice of discharge may be either—

(1) Actual, as by delivery to the member of the discharge certificate, or

(2) Constructive, when actual delivery of the discharge certificate cannot be accomplished owing to the absence of the members to be discharged. Such a situation arises in the cases of members on authorized leave and in those cases covered by paragraph 2-15. Receipt by the member's organization at their proper station of the order directing their discharge will be deemed sufficient notice. The member's organization will annotate the date of receipt and the reason actual notice was not given on the discharge order and on the back of the certificate. The annotated discharge certificate, discharge order, and copy of DD Form 214 (Cer-

tificate of Release or Discharge from Active Duty) reflecting effective date of discharge, will be sent to the member at the address provided for that purpose. The annotated discharge order and copy of DD Form 214, further reflecting date of mailing to the member, will be included in the personnel file. The personnel file will be sent to the Commander, US Army Enlisted Records and Evaluation Center, Fort Benjamin Harrison, IN 46249. If the documents mailed to the member are returned unclaimed or undeliverable, they will be destroyed.

f. Distribution of DD Form 214. Distribution will be made per AR 635-5.

1-32. Mentally incompetent. The effective date of discharge of a mentally incompetent member may be constructive, as when he or she has been placed in an institution. (See AR 635-40.)

1-33. When retained in service awaiting trial or result of trial. When members are retained in service per paragraph 1-24, the effective date of his or her discharge or release depends upon

the result of the trial or the disposition made of the case. Examples are given below.

a. A member who has no lost time to make good under 10 USC 972, who is confined awaiting trial will, if acquitted after ETS, be discharged or released from active duty within 5 days after date of announcement of acquittal. The member will have been retained in service for the convenience of the Government.

b. If convicted and sentenced to either confinement only, or confinement and forfeiture only, a member who is confined awaiting trial will be discharged on the adjusted ETS. The adjusted ETS date will be computed by adding to the date of release from confinement or completion of the court-martial case, as applicable, all time lost before and including the original ETS date.

c. A member who is retained per paragraph 1-24, with a view to trial by court-martial and court-martial charges are not brought or are disposed of without trial, will be separated within 5 days after the decision is made. The member will be regarded as having been retained in service for the convenience of the Government.

Section VII. MEDICAL PROCESSING

1-34. Medical evaluation. a. Medical examinations are required for members being separated per paragraphs 5-3 or 16-4 and chapters 8, 9, 12, or 13. Medical examinations under any other provision of this regulation are not required, but may be requested by members in writing. (See AR 40-501, para 10-25 and DA Pam 600-80-11, procedure 1-6.)

b. When a member is to be processed per paragraph 5-13; chapter 13; chapter 14, section III; or chapter 15, the unit commander must insure that an appropriate mental status evaluation is obtained. A member to be processed under the provisions of chapter 10 who requests a medical examination will be required to undergo a mental status evaluation. Detailed information about the reasons for considering the member for separation will be furnished the medical examiner to allow a thorough understanding of the contemplated action.

c. Servicing medical treatment facility will perform the medical examination, and if re-

quired, the mental status evaluation. When only mental status evaluations are required, they will be performed only by a physician. When both a medical examination and a mental status evaluation are required, the mental status evaluation may be performed with the examining physician, by a clinical psychologist, or social worker. Except as provided in d below, referral to a psychiatrist will be made only when—

- (1) Specifically requested by the member.
- (2) Deemed appropriate by the examining physician.
- (3) Specifically requested by the commander who recommended separation or by the board considering separation action.

d. Members being considered for discharge per paragraph 5-13 (Personality disorders) must be evaluated by a physician training in psychiatry and psychiatric diagnosis.

e. When a mental status evaluation is required, DA Form 3822-R (Report of Mental Sta-

tus Evaluation) (fig 1-3) will be used. DA Form 3822-R will be reproduced locally on 8½ × 11 inch paper.

f. Under no circumstances will medical personnel be used as an investigative agency to determine facts relative to the member's behavior.

1-35. Disposition through medical channels.

a. When the medical treatment facility commander determines that a member being considered for separation for unsatisfactory performance (chap 13) does not meet retention medical standards (AR 40-501), he or she will process the member per AR 40-3. The member's unit commander will be notified of this action. The elimination action will be closed.

b. When the examining medical officer decides that a member being considered for elimination for misconduct (chap 14) does not meet the retention medical standards, he or she will refer the member to a medical board. If there is no medical board at the examining facility, the member will be referred to the nearest medical treatment facility that does have a medical board. The medical treatment facility commander will furnish a copy of the approved board proceedings to the commander exercising general court-martial jurisdiction over the member concerned. A copy will also be furnished to the unit commander. The commander exercising

general court-martial jurisdiction will direct the member to be processed through disability channels per AR 635-40 when it is determined that—

(1) The disability is the cause or substantial contributing cause of the misconduct, or

(2) Circumstances warrant disability processing instead of administrative processing.

c. If the general court-martial authority determines that the member will be processed for discharge per this regulation and if the member is also eligible for retirement per chapter 12, the case will be referred to HQDA(DAPC-EPA-A-S), Alexandria, VA 22331. HQDA will decide whether to retire or discharge the member.

d. A copy of the signed decision of the general court-martial authority to process the member through disability channels will be included in the records. The commander exercising general court-martial jurisdiction will notify the medical treatment facility commander of the decision. Then appropriate further medical processing may be expedited. The commander will also notify the unit commander of the decision to process the member through medical channels. The unit commander will close the elimination action.

e. Members who have been diagnosed as alcohol or drug dependent will be separated per AR 600-85 (discharge from the Service and/or transfer to Veterans Administration (VA) medical facilities).

Section VIII. TRANSFER TO THE INDIVIDUAL READY RESERVE (IRR) IN LIEU OF DISCHARGE

1-36. Policy. To retain potential mobilization assets, *only* those members with *no potential* to meet mobilization requirements will be discharged. All personnel who have not completed their statutory service obligation (10 USC 651) and who meet the criteria in *a* and *b* below will be transferred to the IRR.

a. Except as provided in *c* below, transfer to the IRR to complete a statutory service obligation is *mandatory* for members who have completed BT or at least 8 weeks of one station training or one station unit training and are

separated for one of the following reasons:

(1) Separation of personnel who did not meet procurement medical fitness standards but meet retention standards. (See para 5-11.)

(2) Sole surviving sons or daughters and surviving family members. (See para 5-4.)

(3) Inability to perform prescribed duties due to parenthood. (See para 5-8.)

(4) Dependency. (See para 6-3a.)

(5) Hardship. (See para 6-3b.)

(6) Parenthood of married service women/sole parents. (See para 6-3b(1) and (2).)

(7) Pregnancy. (See chap 8.)

b. Except as provided in *d* below, the following criteria apply to members who have completed BT or 8 weeks of OSUT and who are to be separated under one of the reasons cited in (1) or (2) below. Members separated under (2) below whose service will be characterized as honorable will be transferred to the IRR. Members separated under (1) and (2) below whose service is characterized as under honorable conditions will be transferred to the IRR unless *they clearly have no potential* for useful service under conditions of full mobilization. Before making a "no potential" determination, the separation authority *must* give due consideration to all pertinent factors. This includes the positive motivation that a full mobilization may have on the member and the probable maturing effect of 2 or more years in age. The fact that the member is being separated from active duty for one of these reasons is not sufficient basis, by itself, for a "no potential" determination.

(1) Entry level performance and conduct (chap 11).

(2) Unsatisfactory performance (chap 13).

c. The criteria in *a* and *b* above also apply to those ARNGUS and USAR members who are separated while serving under a contractual obligation only, as distinct from a 6-year statutory obligation.

d. Members who have less than 3 months to serve on their statutory or contractual obligation, whichever expires later, will be discharged.

1-37. **Overview.** This policy will retain in the IRR all soldiers who have *some potential* for useful service under conditions of full mobilization. Many soldiers who are separated in peacetime would be retained during a full mobilization.

1-38. **Character of service.** The service of members who are transferred to the IRR under the programs cited in paragraph 1-36 will be characterized as honorable or under honorable conditions. This is based upon the member's behavior and performance of duty, in the same manner as set forth in chapter 3 for discharge, unless entry level is appropriate.

Section IX. NATURALIZATION PERSONNEL SEPARATED UNDER OTHER THAN HONORABLE CONDITIONS

1-39. **General.** This section prescribes the procedures for notifying the Immigration and Naturalization Service when naturalized personnel are separated under other than honorable conditions.

1-40. **Revocation of citizenship.** The citizenship of members of the United States Armed Forces naturalized through active duty service in the Armed Forces during designated periods of military hostilities (8 USC 1440) may be revoked. It may be revoked if such members are later separated from the military service under other than honorable conditions. The Immigration and Naturalization Service, Department of Justice, is responsible for the initiation of citizenship revocation proceedings in such cases.

1-41. **Notification to Immigration and Naturalization Service.** When a naturalized member is separated under conditions other than honorable, the member's commanding officer will notify the Immigration and Naturalization Service, ATTN: Assistant Commissioner (Naturalization), 425 Eye Street, NW, WASH DC 20546, by letter. The letter will include the facts and date of discharge. The letter should contain—

a. The address of proposed residence after discharge.

b. The number of certificate of naturalization, if available.

c. The name under which the member was naturalized if different than the name at the time of discharge.

d. The date and place of birth.

e. The date and place of naturalization.

Section X. SEPARATION OF ENLISTED PERSONNEL IN FOREIGN COUNTRIES

1-42. General. This section prescribes the rules governing the separation of enlisted personnel in foreign countries. It governs only the place of separation and does not prescribe substantive rules for discharge or other separations.

1-43. Separation in foreign countries. *a.* A member eligible for separation who is serving in a foreign country may be separated therein, upon approval by the major Army oversea commander provided—

(1) Member requests separation in that country.

(2) Member's separation in that country is not precluded by any provision of paragraphs 1-44a, 1-45, and 1-46.

(3) The foreign government concerned has either formally or informally—

(*a.*) Consented to the separation of the member within its territory, or

(*b.*) Consented generally to the separation of members otherwise eligible for separation under the circumstances set forth in (1) and (2) above.

b. No member will be separated in a foreign country until the member has obtained all documents needed to his or her lawful continued presence in that country.

c. Enlisted personnel who are accepted for service in a foreign country but who are not stationed in that country may be returned if *a* and *b* above are complied with and the member has the appropriate documents entitling him or her to entry into the country. However, specific consent of that country for his or her separation in its territory is not needed.

d. Requests for separation in an oversea command may be disapproved by the major Army oversea commander, when—

(1) Revocation action per AR 604-5 has been taken against the member concerned during the current term of enlistment.

(2) The member's access to defense information is suspended per AR 604-5 when the decision is made whether or not to separate an enlisted member in a foreign country.

(3) There is cogent reason to believe that the member's presence in the oversea area in a nonmilitary status would endanger the national security.

(4) Other cogent reasons exist causing the commander to believe the member should not be separated in the oversea command.

1-44. Enlisted personnel confined pursuant to the sentence of a foreign court. *a.* Enlisted personnel confined in a foreign penal institution pursuant to the sentence of a foreign court may be separated from the service per chapter 14, section II, during their period of confinement. The member will be separated only—

(1) Upon approval of the Secretary of the Army.

(2) After final action (including final appellate action, if any) by the foreign authorities.

(3) Subject to the specific consent of the country concerned to his or her separation in its territory.

b. When the oversea commander considers separation of such enlisted person before the sentence of confinement is completed, he or she will send a request for approval for such separation to HQDA (DAPC-EPA-A-S), Alexandria, VA 22331, with a report which will include the following information:

(1) Name, grade, SSN.

(2) Last organization and assignment.

(3) Offense alleged to have been committed and the pertinent facts and circumstances thereof.

(4) Court before which tried.

(5) Date and place of trial.

(6) Offense of which enlisted person was convicted.

(7) Sentence pursuant to which the enlisted person is confined.

(8) Matters in mitigation, extenuation, or aggravation.

(9) Appellate action, if any, and result thereof.

(10) Whether the action of the foreign courts is final or whether further appellate action is possible or contemplated.

(11) Place and condition of confinement.

(12) Possibility for parole and facts pertinent thereto.

(13) Special facts and circumstances, including reasons supporting discharge during confinement.

(14) Whether consent for separation in the territory of the foreign country has been obtained from that country.

(15) A report concerning board proceedings as set forth in chapter 2, section III.

1-45. Enlisted personnel under investigation by foreign authorities or sentence by foreign court but not confined pursuant to that sentence. *a.* Enlisted personnel will not be considered for separation in the foreign country (except per para 1-29c) until final action has been taken by the foreign authorities when—

(1) The member's sentence to confinement is not suspended, but he or she is not confined pending appellate action.

(2) The member is not confined but is charged with or is under investigation for offenses subject to jurisdiction of foreign authorities for which a sentence to confinement could be imposed.

b. After final action by the foreign authorities, such enlisted personnel may be considered for separation in the foreign country under paragraph 1-43 or 1-44, whichever is appropriate.

1-46. Separation of enlisted personnel sentenced by foreign courts. The provisions of paragraph 1-44 do not prohibit a commander from initiating action per chapter 14, section II, when an enlisted person in his or her command is confined in a foreign penal institution. The commander can initiate action with a view toward discharge of such enlisted person after release from confinement and return to the United States or its territorial possessions.

1-47. Personnel eligible for return from overseas for separation or release from active duty. Members scheduled for return to the continental United States, its territories, or possessions for separation or release from active duty will be processed for return per AR 635-10.

SEPARATION ACTION CONTROL SHEET				
For use of this form, see AR 635-200; the proponent agency is MILPERCEN.				
NAME (Last, First, Middle Initial)			SSN	
UNIT			DATE PREPARED	
ITEM NO.	ACTION	DATE	DAYS REQUIRED	TOTAL ELAPSED DAYS
1.	Notification to service member of initiation of separation procedures.			
2.	Service member acknowledges receipt of notification.			
3.	Service member indicates election of rights.			
4.	Unit Commander's recommendation for separation forwarded to:			
5.	Separation case received at: _____			
6.	Actions completed (Specify): _____ and/or case forwarded to: _____			
7.	Separation case received at: _____			
8.	<input type="checkbox"/> Service member does not rebut the proposed separation action (chap 9 and 11 only).			
	<input type="checkbox"/> Service member does rebut the proposed separation action and special court-martial convening authority considered rebuttal (chap 11 only).			
	<input type="checkbox"/> Service member does rebut the proposed separation action, and separation case is forwarded to general or special court-martial authority, as appropriate (chap 9 only).			
9.	Separation case received at: _____			
10.	Final Disposition (specify): _____			
11.	Service member separated from the service.			
12.	Total days required to process case. _____			
REMARKS				

GENERAL COUNSELING FORM			
For use of this form, see AR 635-200; the proponent agency is MILPERCEN			
DATA REQUIRED BY THE PRIVACY ACT OF 1974			
AUTHORITY: 5 USC 301, 10 USC 3012(G). PRINCIPAL PURPOSE: To record counseling data pertaining to service members. ROUTINE USES: Prerequisite counseling under paragraphs 5-8, 5-13, chapters 11, 13 or section III, chapter 14, AR 635-200. May also be used to document failures of rehabilitation efforts in administrative discharge proceedings. DISCLOSURE: Disclosure is voluntary, but failure to provide the information may result in recording of a negative counseling session indicative of the subordinate's lack of a desire to solve his problems.			
PART I - BASIC DATA			
1. NAME (last, first, MI)	2. SOCIAL SECURITY NO	3. GRADE	4. SEX
6. UNIT	FOR TRAINING UNITS ONLY		
	6. WEEK OF TRAINING	7. TRAINING SCORES HIGH ___ MED ___ LOW ___	
PART II - OBSERVATIONS			
8. DATE AND CIRCUMSTANCES			
9. DATE AND SUMMARY OF COUNSELING			

DA FORM 4856-R, OCT 82

REPLACES DA FORM 4856, 1 MAR 80, WHICH IS OBSOLETE

Figure 1-2.

PART III - AUTHENTICATION	
10. NAME, GRADE, SIGNATURE OF COUNSELOR	DATE
11. I acknowledge having been counseled by the above individual and understand the reason for this counseling session. I concur/nonconcur that the information above accurately reflects this counseling session. I nonconcur for the following reasons:	
12. NAME, GRADE, SIGNATURE OF INDIVIDUAL COUNSELED	DATE
13. IF COUNSELED INDIVIDUAL REFUSES TO SIGN COUNSELING NOTES, COUNSELOR WILL INITIAL THIS BLOCK.	
PART IV - REHABILITATION	
14. REHABILITATION RESULTS/COMMENTS	
15. NAME, GRADE, SIGNATURE OF INDIVIDUAL COUNSELED	DATE
16. NAME, GRADE, SIGNATURE OF COUNSELOR	DATE
PART V - UNIT COMMANDER INTERVIEW	
17. INTERVIEW RESULTS AND RECOMMENDATION	
18. NAME, GRADE, SIGNATURE OF UNIT COMMANDER	DATE

REVERSE OF DA FORM 4856-R, OCT 82

Figure 1-2 cont...

REPORT OF MENTAL STATUS EVALUATION <small>For use of this form, see AR 635-200; the proponent agency is MILPERCEN</small>		
NAME	GRADE	SOCIAL SECURITY NUMBER
REASON FOR EVALUATION		
1. REQUEST A MENTAL STATUS EVALUATION FOR THE ABOVE NAMED SERVICE MEMBER WHO IS BEING CONSIDERED FOR DISCHARGE BECAUSE OF <input type="checkbox"/> PERSONALITY DISORDER <input type="checkbox"/> MISCONDUCT <input type="checkbox"/> REQUEST FOR DISCHARGE FOR GOOD OF SERVICE <input type="checkbox"/> OTHER (See Remarks) NOTE: IF NECESSARY, INCLUDE SPECIFIC REASONS IN REMARKS		
EVALUATION (Check all that apply)		
2. BEHAVIOR <input type="checkbox"/> HYPERACTIVE <input type="checkbox"/> NORMAL <input type="checkbox"/> PASSIVE <input type="checkbox"/> AGGRESSIVE <input type="checkbox"/> HOSTILE <input type="checkbox"/> SUSPICIOUS <input type="checkbox"/> BIZARRE		
3. LEVEL OF ALERTNESS <input type="checkbox"/> FULLY ALERT <input type="checkbox"/> DULL <input type="checkbox"/> SOMNOLENT		
4. LEVEL OF ORIENTATION <input type="checkbox"/> FULLY ORIENTED <input type="checkbox"/> PARTIAL <input type="checkbox"/> DISORIENTED		
5. MOOD OR AFFECT <input type="checkbox"/> ANXIOUS <input type="checkbox"/> FLAT <input type="checkbox"/> UNREMARKABLE <input type="checkbox"/> DEPRESSED <input type="checkbox"/> LABILE <input type="checkbox"/> MANIC OR HYPOMANIC		
6. THINKING PROCESS <input type="checkbox"/> CLEAR <input type="checkbox"/> CONFUSED <input type="checkbox"/> BIZARRE <input type="checkbox"/> LOOSELY CONNECTED		
7. THOUGHT CONTENT <input type="checkbox"/> NORMAL <input type="checkbox"/> ABNORMAL <input type="checkbox"/> HALLUCINATIONS <input type="checkbox"/> PARANOID IDEATION <input type="checkbox"/> DELUSIONS		
8. MEMORY <input type="checkbox"/> GOOD <input type="checkbox"/> FAIR <input type="checkbox"/> POOR		
IMPRESSIONS (Check all that apply)		
9. IN MY OPINION, THIS SERVICE MEMBER <input type="checkbox"/> HAS THE MENTAL CAPACITY TO UNDERSTAND AND PARTICIPATE IN THE PROCEEDINGS <input type="checkbox"/> WAS MENTALLY RESPONSIBLE <input type="checkbox"/> MEETS THE RETENTION REQUIREMENTS OF CHAPTER 3, AR 40-501 <input type="checkbox"/> NEEDS FURTHER EXAMINATION (See remarks) <input type="checkbox"/> OTHER (See Remarks)		
REMARKS		
DATE	SIGNATURE	

CHAPTER 2

PROCEDURES FOR SEPARATION

Section I. SCOPE

2-1. Application. *a.* The procedures in this chapter will be followed when required by the specific reason or reasons for separation. (See Fig. 2-2.)

b. When a member is subject to separation for more than one reason (including limitations on separation actions and on characterization of service) the following apply:

(1) The basis for each reason must be clearly established.

(2) If a reason for separation set forth in the notice of purposed action requires processing under the Administrative Board Procedure,

the entire matter will be processed under section III, this chapter.

(3) If more than one reason for separation is approved, the guidance on characterization that provides the greatest latitude may be applied.

(4) When there is any other conflict between a specific requirement for one reason and a general requirement for another reason, the specific requirement will be applied.

(5) If a conflict in procedures cannot be resolved based on the above, the requirement most favorable to the member will be used.

Section II. NOTIFICATION PROCEDURE

2-2. Notice. When the reason for separation requires the Notification Procedure, the commander will notify the member in writing that his or her separation has been recommended per this regulation. The commander will cite specific allegations on which the proposed action is based. The commander will also include the specific provisions of this regulation authorizing separation. The member will also be advised whether the proposed separation could result in discharge, release from active duty to a Reserve Component, or release from custody and control of the Army. The member will be advised of the least favorable characterization of service or description of separation he or she could receive. He or she will be further advised of the following rights:

a. To consult with consulting counsel within a reasonable time (not less than 3 duty days). Members may also consult with civilian counsel retained at his or her own expense.

b. To submit statements in his or her own behalf.

c. To obtain copies of documents that will be sent to the separation authority supporting the proposed separation. Classified documents may be summarized.

d. To present the case under the Administrative Board Procedure (sec III) if he or she has 6 or more years of total active and reserve military service.

e. To waive the above rights in writing. Failure to respond within 7 duty days shall constitute a waiver of the right.

f. The following additional notice requirements will be satisfied, as appropriate:

(1) If separation processing is initiated for more than one reason, the member will be notified of the basis of each reason, including the circumstances upon which the action is based, per this regulation.

(2) If the respondent is in civil confinement or absent without leave, the relevant notification procedures apply.

(3) Additional notification requirements are set forth in chapter 5 when characterization of

service as General (under honorable conditions) is authorized and the member is processed for separation by reason of convenience of the Government.

g. An extension may be granted to the time allowed to consult with counsel upon a timely showing of good cause by the member. If he or she elects to waive his or her rights, the member will personally sign a waiver. The member's consulting counsel will advise him or her and will sign the written waiver as witness, indicating that he or she is a commissioned officer of the Judge Advocate General's Corps. (See fig 2-1.) If the member refuses to consult with counsel and declines to respond as to the waiver of rights, such declination shall constitute a waiver of rights. An appropriate notation will be made on the form provided for the member's reply. If the member indicates that one or more of the rights will be exercised but declines to sign the appropriate form, the selection of rights will be noted. An appropriate notation as to the failure to sign will be made.

h. If notice by mail is authorized and the member fails to acknowledge receipt or submit a timely reply, that fact shall constitute a waiver of rights. An appropriate notation shall be recorded on a retained copy of the appropriate form.

2-3. Action by separation authority. The ac-

tion of the separation authority will be recorded.

a. Upon receipt of the recommended action, the separation authority will determine if there is sufficient evidence to verify the allegations. If there is not sufficient basis for separation, the separation authority will disapprove the recommendation or take other appropriate action under this regulation. If the recommendation is disapproved, the return indorsement will cite reasons for disapproval.

b. If there is sufficient factual basis for separation, the separation authority will determine whether separation is warranted per chapter 1, section II, then take one of the following actions:

(1) Direct retention.

(2) Direct separation for a specific reason. (If basis for separation is more than one reason, separation authority will designate the most appropriate basis as the primary reason for reporting purposes.)

(3) Suspend separation per paragraph 1-20.

c. The separation authority will determine the type of discharge certificate and character of service per chapter 3.

d. The criteria in chapter 1, section VIII, will govern whether the member will be released from AD or ADT with transfer to the IRR, or discharged. (See Para 1-12 for additional instructions on ARNGUS and USAR personnel.)

Section III. ADMINISTRATIVE BOARD PROCEDURE

2-4. Notice. When the reason for separation requires the Administrative Board Procedure, the commander will notify the member in writing that his or her separation has been recommended per this regulation. The commander will cite the specific allegations on which the proposed action is based. The commander will also include the specific provisions of this regulation authorizing separation. The commander will also advise whether the proposed separation could result in discharge, release from active duty to a reserve component, or release from custody and control of the Army. The member will be advised of the least favorable characterization of service or description of sep-

aration he or she could receive. He or she will be further advised of the following rights:

a. To consult with consulting counsel. Members may also consult with civilian counsel at his or her own expense.

b. To obtain copies of documents that will be sent to the separation authority supporting the proposed separation. Classified documents may be summarized.

c. To request a hearing before an administrative board (sec III).

d. To present written statements instead of board proceedings.

e. To request appointment of either a military counsel for representation; or representation

by a military counsel of the member's choice. The proper authority must determine if the counsel requested is reasonably available, subject to the limitations in AR 15-6, paragraph 5-6b(2). In either case, respondents may retain civilian counsel at no expense to the Government. If the respondent is absent, the counsel may present the case before an administrative discharge board.

f. To waive the above rights in writing. Failure to respond within 7 duty days shall constitute a waiver of these rights.

g. To withdraw his or her waiver of the rights listed in *a* through *f* above, anytime the separation authority orders, directs, or approves the discharge. The member may then request that the case be presented before a board of officers. The member will be given a reasonable time (not less than 3 duty days) to consult with counsel (*a* above) before waiving the rights listed in *b* through *f* above. An extension may be granted to the time allowed to consult with counsel when the member shows good cause. The member must personally sign a waiver when electing to waive rights. Consulting counsel will advise the member and will sign the written waiver as witness, indicating that he or she is a commissioned officer of the Judge Advocate General's Corps. (See fig 2-1.) If the member refuses to consult with a counsel, a statement to this effect will be prepared by the commander and included in the file. Separation action will then proceed as if the member had consulted with counsel. If the member indicates that one or more of the rights will be exercised but declines to sign the appropriate form, the selection of rights will be noted. An appropriate notation as to the failure to sign will be made. If a member elects to present his or her case before an administrative separation board, he or she will be advised that willful failure to appear before the board of officers without good cause will constitute a waiver of rights to personal appearance before the board. If a member waives his or her rights, the discharge authority may disapprove the waiver. The discharge authority will then refer the case to an administrative separation board, direct retention on active duty, or direct discharge according to the type elimination action being processed. If discharge is directed, the type of certificate will be specified.

h. The following additional notice requirements will be satisfied as appropriate:

(1) If separation processing is initiated for more than one reason, the member shall be notified of the basis of each reason. This includes the circumstances upon which the action is based, per this regulation.

(2) If the respondent is in civilian confinement, absent without leave, or is transferred to the IRR, the relevant notification procedures apply.

(3) Additional notification requirements are set forth in chapter 5 when characterization of service as General (under honorable conditions) is authorized and the member is processed for separation by reason of convenience of the Government.

i. If notice by mail is authorized and the member fails to acknowledge receipt or submit a timely reply, that fact shall constitute a waiver of rights. An appropriate notation shall be recorded on a retained copy of the appropriate form.

2-5. Waiver. *a.* When a member waives his or her right to a hearing before an administrative board, the case will be processed under the Notification Procedure (sec II). However, the separation authority will be the same as if the board was held.

b. Conditional waivers will not be accepted. A member, for example, cannot waive the board with the stipulation that he or she receive a certain type of discharge.

c. Waivers of the board hearings and representation by counsel at board hearings will not be accepted in the cases of members who have completed 18 years or more active federal service.

2-6. Separation authority action after board hearings. *a.* When a case has been referred to and action completed by the board, the board proceedings will be reviewed by a qualified officer fully cognizant of applicable regulations and policies. The officer determines whether the action meets the requirements of this regulation. When the board recommends that a discharge certificate under other than honorable conditions be issued or the member identifies specific legal issues for consideration by the

separation authority, the proceedings will be reviewed by a member of the Judge Advocate General's Corps. Upon completion of the review—

(1) When the board has recommended separation for misconduct, the separation authority may take one of the following actions:

(a) Direct separation of the member for misconduct except for members referred to in paragraph 1-21f. (See also para 2-12b(5).)

(b) Direct separation of the member for unsatisfactory performance if such was the stated provision in the initial letter of notification, except for members referred to in paragraph 1-21f. (See also para 2-12b(5).)

(c) Disapprove the recommendation. Direct retention of the member when the grounds for separation are not documented in the file or if the file does not indicate that the member is without the potential for full effective duty and separation is not otherwise mandatory.

(d) Unless specifically prohibited, approve separation for misconduct and suspend execution of the separation when the member's record shows sufficient potential for full effective duty. (See para 1-17.)

(2) In fraudulent entry actions processed per chapter 7, section V, the separation authority may take one of the following actions (when misconduct by recruiting officials is not in question):

(a) Approve board recommendation to separate the member, except for members referred to in paragraph 1-21f. (See also para 2-12b(5).)

(b) If the member entered the service with a waivable disqualification, the convening authority may:

(1) Approve recommendation for retention.

(2) Disapprove a recommendation for discharge and direct retention (or approve a recommendation for discharge and suspend its execution per para 1-20).

(3) When the board has recommended separation for unsatisfactory performance, the separation authority may take one of the following actions:

(a) Direct separation of the member for unsatisfactory performance, except for members referred to in paragraph 1-21f. (See also para 1-20 and 2-12b(5).)

(b) Disapprove the recommendation and direct retention of the member.

(c) Approve separation for unsatisfactory performance and suspend execution of the separation when the member's record shows sufficient potential for full active duty. (See para 1-20.)

(4) The action of the separation authority because of homosexuality will be per chapter 15.

b. A member who has completed 20 or more years of active service creditable toward retirement and for whom elimination is recommended to HQDA will be given the opportunity of applying for retirement. However, he or she will be told that authority to submit the application does not assure that it will be approved. DA Form 2339 (Application for Voluntary Retirement) will be attached when the case is sent to HQDA. SF 88 (Report of Medical Examination), per chapter 12, will be attached to the application for retirement.

c. When a member of the Reserve Component is to be eliminated per chapters 13, 14, or 15, the separation authority will decide, based on board findings, whether the member concerned is being eliminated because of moral or professional derelictions.

d. No separation authority will direct discharge if a board recommends retention. Neither will he or she authorize the issuance of a discharge certificate of less favorable character than that recommended by the board. However, as provided above, a separation authority may direct retention when discharge is recommended, or he or she may issue a discharge certificate of a more favorable character than that recommended.

e. A separation authority may send a case to HQDA(DAPC-EPA-A-S), Alexandria, VA 22331, when a board of officers has recommended retention and he or she believes that discharge is warranted and in the Army's best interest. (In cases of fraudulent entry see paragraph 2-6a(2).) Before sending the case, the notification procedure (sec II) shall be used. However, the procedure for requesting an administrative board (para 2-2d) is not applicable. It is the policy of HQDA to uphold the recommendations of a duly constituted board unless compelling justification is given to warrant separation by the

Secretary of the Army as being in the Army's best interest. Compelling justification warranting a separation might be such things as incomplete record available to the board, false testimony, or other defects in the proceedings. HQDA may grant discharge authority. If a discharge is authorized, it will be issued per paragraph 5-3. The member will be given an entry level separation or awarded an honorable or general discharge certificate, as appropriate.

f. If the separation authority notes a defect which he or she deems to be harmless in a case in which separation has been recommended, he or she will take final action per *d* above. If there are substantial defects, he or she may take one of the following actions:

(1) Direct retention.

(2) If the board has failed to make findings or recommendations required, return the case to the same board for compliance with this regulation.

(3) If there is an apparent procedural error or omission in the record of proceedings that may be corrected without reconsideration of the findings and recommendations of the board, return the case to the same board for corrective action.

(4) If the board error materially prejudiced a substantial right of the member, the separation authority may act only as can be sustained without relying on the proceedings affected by the error. The separation authority may set aside the findings and recommendations and refer the case to a new board for a rehearing. No member of the new board will have served on a prior board which considered any of the same matters against the member. The new board may be furnished the evidence properly considered by the first board. This evidence will include extracts from its record of testimony of witnesses not deemed by the convening authority to be reasonably available to testify at the rehearing. Additional admissible evidence may be furnished to or obtained by the new board. The separation authority may, upon due notice to the member, incorporate new allegations based on later conduct of the member. Unless the new board considers substantial additional evidence unfavorable to the member, the separation authority may not approve any findings and recommendations of the new

board less favorable than those rendered by the first board.

(5) If the separation authority determines that the findings of the first board were obtained by fraud or collusion, the case may be referred to a new board. No member of the new board may have been a member of the first board. The separation authority may not approve findings and recommendations less favorable to the member than those rendered by the first board unless the separation authority finds that the fraud or collusion in the first board is attributable to the member or an individual acting on the member's behalf.

(6) No more than one rehearing may be directed without HQDA approval.

g. A member subject to discharge because of conviction by civil court or because of adjudication as a juvenile offender may be processed for discharge even though the member has filed an appeal or stated his or her intention to do so. However, it will be the general policy to withhold the execution of the approved discharge pending the outcome of the appeal. If the execution of the discharge is considered appropriate without waiting for final action on the appeal, the member may be discharged with the appropriate type of discharge certificate, upon the direction of the Secretary of the Army. (See para 14-6.)

h. The Government cannot initially introduce limited use evidence (Alcohol and Drug Abuse Prevention and Control Program) into elimination proceedings accomplished under this regulation, except chapter 9. If prohibited evidence is included by the Government before the board convenes, the elimination proceedings may be reinitiated, excluding all references to exempt information. If prohibited evidence is introduced by the Government after the board convenes, a general court-martial convening authority who is a general officer may set aside the proceedings and refer the case to a new board for rehearing. (See AR 600-85, para 6-5e.) The reason for the rehearing will not be disclosed to the new board. Review and action in the case will be based only on the new record. If a rehearing is not deemed possible, the member may be separated with an honorable discharge (para 3-8a).

i. The respondent will be provided a copy of

the board's statement of facts and recommendations.

2-7. Composition of board. *a.* A board of officers convened to decide separation under the Administrative Board Procedure will consist of at least three experienced commissioned, warrant, or noncommissioned officers. Enlisted personnel appointed to the board will be in grade E-7 or above, and senior to the respondent. At least one member of the board will be serving in the grade of major or higher. The majority of the board will be commissioned or warrant officers. The senior member will be president of the board. The convening authority will appoint a nonvoting recorder and may also appoint a nonvoting legal advisor.

b. Care will be exercised to insure that—

(1) The board is composed of experienced, unbiased officers. The officers should be fully aware of applicable regulations and policies pertaining to cases for which the board is convened.

(2) In the case of a Reserve Component enlisted member, the membership of the board will include at least one Reserve Component officer. Voting members will be senior to the respondent's reserve grade.

(3) In the case of a female enlisted member, the board will, upon the written request of the respondent, include a female officer as a voting member, if reasonably available. In the event of nonavailability, the reason will be stated in the record of proceedings.

(4) In the case of an enlisted member of the Army who holds a Reserve commission or warrant, the board will be composed of an uneven number of officers. The officers will be senior in permanent grade to the Reserve grade held by the enlisted member. One member of the board will be a Regular Army officer and the remainder Reserve Components officers of the Army who are serving on AD.

(5) If the respondent is a member of a minority group, the board will, upon written request of the respondent, include as a voting member, a member who is also a minority group member, if reasonably available. When requested, the appointed board member normally should be of the same minority group as the respondent. However, nonavailability of a

member of the same minority group will not prevent convening the board. In the event of nonavailability, the reason will be stated in the record of proceedings.

(6) The board is provided a competent stenographer or clerk.

(7) The officer initiating the action prescribed in this regulation or any intervening officer who had direct knowledge of the case is not a member of the board.

c. The president will preside and rule finally on all matters of procedure and evidence. The rulings of the president may be overruled by a majority of the board. If appointed, the legal advisor will rule finally on all matters of evidence and challenges except to himself or herself.

2-8. Effective processing procedures. The following procedures have proved useful in effective processing by boards:

a. Appointing a permanent board of officers to serve as large a unit as possible. Changes should be held to a minimum and regulated to provide continuity. This insures uniform treatment for lower or parallel units. It will provide a volume of cases sufficient to allow the board members to attain professional competence in this duty. On a permanent board, the members will gain experience from which evolves judgment more mature and more sensitive to the interest of both the member and the Service.

b. Disseminating procedural instructions to lower units by the recorder of the board serving the units.

c. Recessing a hearing for 30 to 90 days when the board members are unable to reach an agreement based on the data at hand. During this time, further rehabilitation data may be secured.

2-9. Witnesses. The ETS date or transfer status of each expected witness will be checked. This will insure that essential military witnesses will be available at the board proceedings. The appropriate commander will insure that no witness is transferred or separated before the beginning of a board hearing except when an enlistment or period of service fixed by law expires. In such cases, an attempt will be made to obtain the member's consent to retention. If he or she does not consent, a dispo-

sition or affidavit will be obtained, as appropriate.

2-10. Board procedures. *a.* A member under military control will be notified in writing of the convening date of the board at least 15 days before the hearing. This will allow the member and the appointed counsel time to prepare the case. The written notice will state that, if the member fails to appear before the board when scheduled, by willfully absenting himself or herself without good cause he or she may be discharged from or retained in the service without personal appearance before a board. The member will be notified of the names and addresses of witnesses expected to be called at the board hearing. The member will also be notified that the recorder of the board will, upon request of the member, try to arrange for the presence of any available witness that he or she desires to call. A copy of the case file, including all affidavits and depositions of witnesses unable to appear in person at the board hearing will be furnished to the member or the counsel as soon as possible after it is determined that a board will hear the case. When, for overriding reasons, the minimum of 15 days cannot be granted, the president of the board will insure that the reason for acting before that time is fully explained. The reason will be recorded in the proceedings of the board. Requests for an additional delay, normally not to exceed 30 days after initial notice, will be granted if the convening authority or president of the board believes such delay is warranted to ensure that the respondent receives a full and fair hearing.

b. The commander will advise the member in writing of the specific basis (subparagraph number and description heading) for the proposed discharge action. The commander will also advise the member that he or she has the following rights:

(1) The member may appear in person, with or without counsel for representation, or, if absent, be represented by counsel at all open proceedings of the board. When the member appears before a board without representing counsel, the record will show that the president of the board counseled the member. The member will be counseled as to type of discharge he or she may receive as a result of the board ac-

tion, the effects of such a discharge in later life, and that he or she may request representing counsel. The record will reflect the member's response.

(2) The member may, at anytime before the board convenes or during the proceedings, submit any answer, deposition, sworn or unsworn statement, affidavit, certificate, or stipulation. This includes depositions or affidavits of witnesses not deemed to be reasonably available or witnesses who are unwilling to appear voluntarily.

(3) The member may request the attendance of witnesses. The member may submit a written request for TDY or invitational travel orders for witnesses. Such a request shall contain the following matter:

(a) A synopsis of the testimony that the witness is expected to give.

(b) An explanation of the relevance of such testimony to the issues of separation or characterization.

(c) An explanation as to why written or recorded testimony would not be sufficient to provide for a fair determination.

(4) The convening authority may authorize expenditure of funds for production of witnesses only if the presiding officer (after consultation with a judge advocate) or the legal advisor (if appointed) determines that—

(a) The testimony of a witness is not cumulative;

(b) The personal appearance of the witness is essential to a fair determination on the issues of separation or characterization;

(c) Written or recorded testimony will not accomplish adequately the same objective;

(d) The need for live testimony is substantial, material, and necessary for a proper disposition of the case; and

(e) The significance of the personal appearance of the witness, when balanced against the practical difficulties in producing the witness, favors production of the witness. Factors to be considered in the balancing test include the cost of producing the witness, the timing of the request for production of the witness, the potential delay in the proceeding that may be caused by producing the witness, or the likelihood of significant interference with military

operational deployment, mission accomplishment, or essential training.

(5) If the convening authority determines that the personal testimony of a witness is required, the hearing will be postponed or continued if necessary to permit the attendance of the witness.

(6) The hearing shall be continued or postponed to provide the respondent with a reasonable opportunity to obtain a written statement from the witness if a witness requested by the respondent is unavailable in the following circumstances:

(a) When the presiding officer determines that the personal testimony of the witness is not required.

(b) When the commanding officer of a military witness determines that the military necessity precludes the witness' attendance at the hearing.

(c) When a civilian witness declines to attend the hearing.

(7) The member may or may not submit to examination by the board. The provisions of UCMJ, Article 31, will apply.

(8) The member and his or her counsel may question any witness who appears before the board.

(9) The member may challenge any voting member of the board for cause only.

(10) The member or counsel may present argument before the board closes the case for deliberation on findings and recommendations.

(11) Failure of the member to invoke any of the above rights after he or she has been apprised of same will not have an effect upon the validity of the elimination proceedings.

c. If the member holds Reserve Component status as a commissioned or warrant officer, the board will notify him or her that the action also involves his or her Reserve Component status and could terminate such status.

d. When the board meets in closed session, only voting members will be present.

e. Except as modified per this regulation, the board will conform to the provisions of AR 15-6 applicable to formal proceedings with respondents. As an exception to AR 15-6, paragraph 3-7b, expert medical and psychiatric testimony routinely may be presented in the form of affidavits. However, if the member desires to

present such evidence, he or she is entitled to have the witnesses appear in person, if they are reasonably available.

f. The proceedings of the board will be summarized as fairly and accurately as possible. They will contain a verbatim record of the findings and recommendations (App B).

g. If the member has exercised his or her right to revoke a previous waiver, the board and its members will not be advised in any manner of such action by the member, or of the type discharge which had been recommended in his or her case. When the member or the counsel knows that facts intended to be excluded by this paragraph are known by any member of the board, failure to challenge the member having such knowledge constitutes an irrevocable waiver of the benefits of the exclusionary rule of this paragraph.

2-11. Presentation of evidence. The rules of evidence for court-martial and other judicial proceedings are not applicable before an administrative board. Reasonable restrictions will be observed, however, concerning relevancy and competency of evidence.

2-12. Findings and recommendations of the board. a. *Findings.*

(1) The board will determine whether each allegation in the notice of proposed separation is supported by a preponderance of the evidence.

(2) The board will then determine per chapter 1, section II, whether the findings warrant separation with respect to the reason for separation. If more than one reason was contained in the notice, there will be a separate determination for each reason.

b. *Recommendations.*

(1) The board convened to determine whether a member should be separated for misconduct will recommend that he or she be—

(a) Separated because of misconduct. Type of discharge certificate—honorable, general, or other than honorable—to be furnished will be indicated, or

(b) Separated because of unsatisfactory performance (except in fraudulent entry actions) if such was the stated provision in the initial letter of notification. Type of discharge

certificate—honorable or general—to be furnished will be indicated, or

(c) Retained in the Service. The recommendation will indicate the type of duty which it is believed he or she can perform satisfactorily.

(2) The board convened to determine whether a member should be separated for unsatisfactory performance will recommend that he or she be—

(a) Separated because of unsatisfactory performance. Type of discharge certificate—honorable or general—to be furnished will be indicated.

(b) Retained in the Service. The recommendation will indicate the type of duty which it is believed he or she can perform satisfactorily.

(3) The recommendation of the board in a case involving separation because of homosexuality will be made per chapter 15.

(4) When the member is absent without leave and fails to appear before the board, the discharge authority will be advised of the fact, together with any board recommendation for separation or retention made per (1), (2), or (3) above.

(5) If the enlisted member holds a Reserve Component commission or warrant, the board will make separate recommendations concerning his or her Reserve Component status, including type of discharge certificate to be issued. The recommendations should be compatible with enlisted status recommendations. Normally, facts warranting separation from an active enlisted status prescribed in this chapter will also warrant termination of a Re-

serve Component commission or warrant. Under certain circumstances, it may be reasonable to recommend retention in an active enlisted status but termination of a Reserve Component commission or warrant.

(6) When the board recommends separation, it may also recommend that the separation be suspended per paragraph 1-20. But the recommendation as to suspension is *not* binding on the separation authority.

(7) If separation or suspension of separation is recommended, the board will also recommend a characterization of service or description of separation as authorized per chapter 3.

(8) Except when the board has recommended separation because of alcohol or drug abuse, misconduct, or homosexuality (chaps 9, 14, and 15), or has recommended characterization of service under other than honorable conditions, the board will recommend whether the respondent should be retained in the IRR as a mobilization asset to fulfill the respondent's total military obligation.

c. The completed report of proceedings will be forwarded to the separation authority. (See app B for sample report of proceedings.) When board action is completed on a member with over 18 years of service, the findings and recommendations of the board, with complete documentation and the recommendation of the convening authority, will be forwarded to HQDA(DAPC-EPA-A-S), Alexandria, VA 22331, for final determination when the convening authority recommends discharge.

Section IV. ADDITIONAL PROVISIONS CONCERNING ABSENT MEMBERS

2-13. Processing in absence of member. When proceedings have been initiated against a member who is absent without leave or confined by civil authorities, the case may be processed in his or her absence.

2-14. Civil confinement. a. A member confined by civil authorities will receive notice under the Notification Procedure or the Administrative Board Procedure, as appropriate. The notice will be delivered personally to the member or sent by certified mail, return receipt re-

quested. When a member refuses to acknowledge receipt of notice, the individual who mails the notice will prepare a Sworn Affidavit of Service by Mail (PS Form 3800) which will be inserted in the member's personnel file.

b. If delivered personally, receipt will be acknowledged in writing by the member. If the member does not acknowledge receipt, the notice will be sent by mail as provided in a above.

c. The notice will state that the action has been suspended until a specific date (not less

than 30 days from the date of delivery) in order to give the member the opportunity to exercise the rights set forth in the notice. When warranted by the distance involved or other circumstances, a period in excess may be allowed for the enlisted person to reply. If member does not reply by the given date, the separation authority will take appropriate action under paragraph 2-3.

d. The name and address of the military counsel for appointed consultation will be specified in the notice.

e. When entitled to an administrative board, the member will be notified that the hearing by a board of officers will proceed in his or her absence and that he or she will be represented by counsel.

2-15. Additional requirements for members beyond military control by reason of unauthorized absence. a. *Determination of applicability.* If the general court-martial convening authority or higher authority determines that separation is otherwise appropriate under this regulation, a member may be separated without return to military control in one or more of the following circumstances.

(1) Absence without authority after receiving notice of initiation of separation processing.

(2) When prosecution of a member who is absent without authority appears to be barred by the statute of limitations, UCMJ Article 43 (10 USC 901-940, Articles 1-140).

(3) When a member who is an alien is absent without leave and appears to have gone to a foreign country where the United States has no authority to apprehend the member under a treaty or other agreement.

b. *Notice.* Before separation is executed under a(2) or (3) above, the member will be notified of

the imminent action by registered mail. This mail, with return receipt requested (or by an equivalent form of notice if such service by US Mail is not available for delivery outside the United States) is sent to the member's last known address or to the next-of-kin. The notice shall contain the matter set forth in chapter 2, sections II or III, as appropriate. The notice will state that the action has been suspended until a specific date (not less than 30 days from the date of mailing) to give the member the opportunity to return to military control. If the member does not return to military control by such date, the separation authority shall take appropriate action per chapter 2, sections II or III.

c. *Members of Reserve Components.*

(1) A member of a Reserve Component of the Army who is separated for cause is entitled to a discharge under honorable conditions except in the following circumstances:

(a) Member is discharged under conditions other than honorable under an approved sentence of a court-martial or under the approved findings of a board of officers convened by an authority designated by the Secretary of the Army; or

(b) Member consents to a discharge under conditions other than honorable with a waiver of proceedings of a court-martial or a board.

(2) The provisions of (1) above do not apply in cases of ARNGUS or USAR members dropped from the rolls of the Army who have been absent without authority for at least three months, or who are sentenced to confinement in a Federal or State penitentiary or correctional institution after being found guilty of an offense by a court other than a court-martial or other military court, and whose sentence has become final.

CERTIFICATE

DATE _____

HQ, 118th Infantry Division, Fort Jackson, South Carolina Counsel per AR 635-200 is unavailable to represent Private (E-2) John A Doe, 000-00-0000, of this command, whose case has been referred to an administrative separation board convened under AR 635-200. Captain Jane R. Cronkite, 000-00-0000, Quartermaster, is appointed counsel for the above named member. Captain Cronkite has performed 10 years of active service. During this time she has acted as recorder and as counsel for respondents before administrative separation boards. She also has served as a summary court and as trial and defense counsel in special court-martial. (State other qualifications.) This officer's mature judgment and her knowledge of administrative board procedures qualify her to act as appointed counsel in this case.

Commanding

Figure 2-1.

Separation Under the Provisions of Chapter 7, 13, 14, or 15,
AR 635-200

Data Required by the Privacy Act of 1974
(5 USC 552a)

AUTHORITY: Section 301, Title 5 USC and Section 3012, Title 10 USC.

PURPOSE: This statement indicates service member's options as pertain to the rights available to him or her in contemplated administrative separation cases.

ROUTINE USES: Information provided in the statement is used by processing activities and the approval authority to determine what rights service member desires to exercise and the offering of such rights as indicated. Upon completion of processing actions, the statement is filed in the MPRJ. So long as filed in the MPRJ, this personal information may be used by other appropriate Federal agencies and State and local government authorities where the use of the information is compatible with the purpose for which the information is collected.

Disclosure is voluntary. If the information is not provided, the Army will complete processing using information available.

(Date individual and counsel sign statement)

Figure 2-2

1 October 1982

**SUBJECT: Separation Under the Provisions of Chapter (ENTER AP-
PROPRIATE CHAPTER), AR 635-200**

To (Unit Commander)

1. *I have been advised by my consulting counsel of the basis for the contemplated action to accomplish my separation for (unsatisfactory performance) (misconduct) (homosexuality) under the provisions of Chapter (ENTER APPROPRIATE CHAPTER), AR 635-200, and its effects; of the rights available to me; and the effect of any action taken by me in waiving my rights. (I understand that if I am being considered for separation under the provisions of AR 635-200, Chapter 7, Section V (fraudulent entry), and I am not being considered for a discharge under other than honorable conditions, I will neither have my case considered by a board of officers, nor have a right to counsel for representation.)
2. I (request) (waive) consideration of my case by a board of officers. ******(This waiver (does) (does not) apply to my Reserve Officer status).
3. I (request) (waive) personal appearance before a board of officers.
4. Statements in my own behalf (are) (are not) submitted herewith (Incl. _____).
5. I (request) (waive) (******(consulting counsel)) (and) representation by (counsel for representation) (or) (_____) as my military counsel (and)(civilian counsel at no expense to the Government).
6. I understand that my willful failure to appear before the board of officers by absenting myself without leave will constitute a waiver of my rights to personal appearance before the board.
7. I understand that I may expect to encounter substantial prejudice in civilian life if a general discharge under honorable conditions is issued to me.******** (I further understand that, as the result of issuance of a discharge under other than honorable conditions, I may be ineligible for many or all benefits as a veteran under both Federal and State laws and that I may expect to encounter substantial prejudice in civilian life.) I understand that if I receive a discharge certificate/character of service which is less than honorable, I may make application to the Army Discharge Review Board or the Army Board for Correction of Military Records for upgrading; however, I realize that an act of consideration by either board does not imply that my discharge will be upgraded.
8. I understand that I may, up until the date the separation authority orders, directs, or approves my separation, withdraw this waiver and request that a board of officers hear my case.*********
- (9. I understand that if I am being considered for separation for fraudulent entry my enlistment may be voided under certain circumstances.)
9. I further understand that I will be ineligible to apply for enlistment in the United States Army for a period of 2 years after discharge.
10. I have retained a copy of this statement

(Signature of individual)

(Typed name, SSN, and grade)

Figure 2-2-Continued.

Having been advised by me of the basis for his or her contemplated separation and its effects, the rights available to him or her and the effect of a waiver of his or her rights, _____(name of member), personally made the choices indicated in the foregoing statement.

(Signature of counsel)

(Typed name, SSN, grade, branch)

*If the member declines to consult with consulting counsel prior to waiving his or her rights, he or she will be ordered to do so by his or her commander. If he or she persists in his or her refusal, insert as first sentence of paragraph 1, the following statement: "Before completing this format, I have been accorded the opportunity to consult with appointed counsel for consultation; or military counsel of my own choice, if he or she is reasonably available; or civilian counsel at my own expense. I decline the opportunity." Separation action will then proceed as if the member had consulted with counsel. In all cases, except the above, consulting counsel will witness this statement and indicate that he is a commissioned officer of the Judge Advocate General's Corps.

**To be used if the member holds status as a Reserve commissioned or warrant officer.

***To be used when the member is in civil confinement.

****To be used if the member has been recommended for discharge for misconduct of homosexuality.

*****To be used if the member is being considered for separation for fraudulent entry. Renumber later paragraphs if this paragraph is used.

Figure 2-2—Continued.

CHAPTER 3

CHARACTER OF SERVICE/DESCRIPTION OF SEPARATION

Section I. SEPARATION CERTIFICATES

3-1. Statutory authority. Title 10, United States Code, Section 1168, provides that a discharge certificate or certificate of release from active duty will be given to each enlisted member of the Army upon discharge from the Service or release from AD.

3-2. Discharge certificates. Discharge certificates are furnished all enlisted personnel when they are discharged except personnel separated from entry level status (chapter 11). The latter are issued DD Form 214 (Certificate of Release or Discharge from Active Duty). In-

structions for the completion of the various types of discharge certificates are in AR 635-5. The issuance of discharge certificates is governed by this regulation. The five types of discharge certificates are listed in table 3-1.

3-3. Certificate of Release or Discharge from Active Duty (DD Form 214). Individuals who are discharged or released from AD or ADT will be furnished a factual record of their military service on DD Form 214. Instructions for the completion and distribution of DD Form 214 are in AR 635-5.

Table 3-1. Types of Discharge Certificates

<i>DD Form No.</i>	<i>Type of discharge</i>	<i>Character of discharge or separation</i>	<i>Given by</i>
256A	Honorable.....	Honorable.....	Administrative action
257A	General.....	Under honorable conditions.	Administrative action
794A	Under other Than Honorable	Under conditions other than honorable.	Administrative action
259A	Bad Conduct.....	Bad Conduct.....	Sentence of special or general court-martial
260A	Dishonorable.....	Dishonorable.....	Sentence of general court-martial

Section II. TYPES OF CHARACTERIZATION OR DESCRIPTION

3-4 a. Types authorized. The following types of characterization of service or description of separation are authorized:

(1) Separation with characterization of service as Honorable, General (under honorable conditions), or Under Other Than Honorable Conditions.

(2) Entry Level Separation.

(3) Order of release from the custody and control of the Army by reason of void enlistment or induction.

(4) Separation by being dropped from the rolls of the Army.

b. Use. The types of separation listed above will be used in appropriate circumstances unless limited by the reason for separation.

Section III. CHARACTERIZATION OF SERVICE

3-5 General considerations. *a* Characterization at separation will be based upon the quality of the member's service, including the reason for separation and guidance in paragraph 3-7, subject to the limitations under the various reasons for separation. The quality of service will be determined according to standards of acceptable personal conduct and performance of duty for military personnel. These standards are found in the UCMJ, directives and regulations issued by the Army, and the time-honored customs and traditions of military service.

b. The quality of service of a member on AD or ADT is affected adversely by conduct that is of a nature to bring discredit on the Army or is prejudicial to good order and discipline, regardless of whether the conduct is subject to UCMJ jurisdiction. Characterization may be based on conduct in the civilian community; the burden is on the member to demonstrate that such conduct did not adversely affect his or her service.

c. The reasons for separation, including the specific circumstances that form the basis for the separation, shall be considered on the issue of characterization. As a general matter, characterization will be based upon a pattern of behavior rather than an isolated incident. There are circumstances, however, in which the conduct or performance of duty reflected by a single incident provides the basis for characterization.

d. Due consideration shall be given to the member's age, length of service, grade, aptitude, physical and mental condition, and the standards of acceptable conduct and performance of duty.

e. The type of discharge and character of service are of great significance to the soldier. They must accurately reflect the nature of service performed. Eligibility for veterans' benefits provided by law, eligibility for reentry into service, and acceptability for employment in the civilian community may be affected by these determinations. The type of discharge and character of service will be determined solely by the military record during the current enlistment or period of service, plus any extension thereof, from which the soldier is being sepa-

rated. The soldier's performance of duty and conduct must be accurately evaluated. The evaluation must be based on the overall period of service and not on any isolated actions or entries on the DA Form 2-1.

3-6. Separation as it affects the member. Both the honorable and general discharges entitle a member to full Federal rights and benefits provided by law. However, a discharge under other than honorable conditions or bad conduct discharge may or may not deprive the member of veterans' benefits administered by the Veterans Administration; a determination by that agency is required in each individual case. A Dishonorable Discharge deprives the member of all veterans' benefits and may deprive him or her of civil rights.

3-7. Types of administrative discharges/character of service. *a. Honorable discharge.*

(1) An honorable discharge is a separation with honor. The honorable characterization is appropriate when the quality of the member's service generally has met the standards of acceptable conduct and performance of duty for Army personnel, or is otherwise so meritorious that any other characterization would be clearly inappropriate. Only the honorable characterization may be awarded a member upon completion of his or her period of enlistment or period for which called or ordered to AD or ADT, or where required under specific reasons for separation, unless an entry level status separation (uncharacterized) is warranted. (See para 3-9a and chap 11.) When a member is discharged before ETS for a reason for which an honorable discharge is discretionary, the following considerations apply. Where there have been infractions of discipline, the extent thereof should be considered, as well as the seriousness of the offense(s). A member will not necessarily be denied an honorable discharge solely by reason of a specific number of convictions by court-martial or actions under the UCMJ Art 15. Conviction by a general court-martial or by more than one special court-martial does not automatically rule out the possibility of awarding an honorable discharge. An honorable dis-

charge may be furnished when disqualifying entries in the member's military record are outweighed by subsequent honest and faithful service over a greater period of time during the current term of service. It is a pattern of behavior and not the isolated instance which should be considered the governing factor in determination of character of service. Unless otherwise ineligible, a member may receive an honorable discharge if he or she has, during his or her current enlistment, period of obligated service, or any extensions thereof, received a personal decoration.

(2) In the case of an honorable discharge, an Honorable Discharge Certificate (DD Form 256A) will be awarded and notation will be made on the appropriate copies of the DD Form 214 or DD Form 215.

b. General discharge.

(1) A general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a member whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

(2) A characterization of under honorable conditions may be issued only when the reason for the member's separation specifically allows such characterization. It will *not* be issued to members upon separation at expiration of their period of enlistment, military service obligation, or period for which called or ordered to AD.

c. Under other than honorable conditions. A discharge under other than honorable conditions is an administrative separation from the service under conditions other than honorable. It may be issued for misconduct, fraudulent entry, homosexuality, security reasons, or for the good of service in the following circumstances:

(1) When the reason for separation is based upon a pattern of behavior that constitutes a significant departure from the conduct expected of members of the Army.

(2) When the reason for separation is based upon one or more acts or omissions that constitutes a significant departure from the conduct expected of members of the Army. Examples of factors that may be considered include the following:

(a) Use of force or violence to produce serious bodily injury or death.

(b) Abuse of a position of trust.

(c) Disregard by a superior of customary superior-subordinate relationships.

(d) Acts or omissions that endanger the security of the United States or the health and welfare of other members of the Army.

(e) Deliberate acts or omissions that seriously endanger the health and safety of other persons.

(3) An other than honorable conditions discharge certificate will be directed only by one of the following:

(a) A commander exercising general court-martial jurisdiction,

(b) A general officer in command who has a judge advocate or legal advisor available to his or her command.

(c) Higher authority.

(4) No member will be discharged per this regulation with an under other than honorable conditions discharge certificate unless he or she is afforded the right to present his or her case before an administrative discharge board. The member will be offered the advice and assistance of counsel. Such discharge must be supported by approved board findings and an approved board recommendation for a discharge with an under other than honorable conditions discharge certificate. As prescribed in chapter 13, an under other than honorable conditions discharge certificate is not authorized in case of discharge for unsatisfactory performance.

(5) As exception to (4) above, an under other than honorable conditions discharge certificate may be issued without board action if the member—

(a) Is beyond military control by reason of prolonged unauthorized absence.

(b) Requests discharge for the good of the Service.

(c) Waives his or her other rights to board action.

(6) A member beyond military control by reason of unauthorized absence may be issued an other than honorable conditions discharge certificate in absentia only as provided for in paragraph 2-15 or chapter 14, except when directed by HQDA. Separation of members of ARNGUS and USAR will be subject to the limitations of 10 USC 1163.

(7) A member who requests discharge as

prescribed in chapter 10 may be issued an under other than honorable conditions discharge certificate if he or she has been afforded the opportunity (not less than 72 hours) to consult with a consulting counsel. The member must certify in writing that he or she understands that he or she may receive a discharge under other than honorable conditions. The member must understand the adverse nature and possible consequences of such a discharge. The member must personally sign a request for discharge. A conditional request is not permitted. The consulting counsel will sign as a witness, indicating that he or she is a commissioned officer of the Judge Advocate General's Corps. A member may waive consultation with a consulting counsel. Counsel will prepare a statement to this effect, which will be attached to the file and the member will state that the right to counsel has been waived.

(8) Consideration required. Members of boards that recommend discharges to be furnished, and commanders that determine the type of discharge certificate to be issued, are urged to consider all facets of a case involving discharge so a fair decision will result.

3-8. Limitations on characterization. Characterization will be determined solely by the member's military record which includes the member's behavior and performance of duty during the current enlistment or period of service to which the separation pertains, plus any extensions prescribed by law or regulation or effected with the consent of the member. The exceptions are provided in this paragraph. In determining the type of discharge certificate or character of service, the following will be used as guidelines:

a. A member is entitled to an honorable discharge if limited use evidence (Alcohol and Drug Abuse Prevention and Control Program) is improperly included by the Government in the discharge proceedings, and the discharge is based on those proceedings. (See paragraphs 1-20 and 2-6*h*; and see AR 600-85, table 6-1, paragraphs 6-4*a* and 6-5*d*. The results of mandatory urinalysis may not be used in the issue of characterization when prohibited by AR 600-85.

b. The following will not be considered in determining the type and character of separation to be issued:

(1) Preservice activities except in a proceedings for fraudulent entry, when misrepresentations, including omissions of facts which, if known, would have prevented, postponed, or otherwise affected the member's eligibility for enlistment.

(2) Prior service activities including but not limited to, records of convictions by courts-martial, records of nonjudicial punishment, records of absence without leave, or commission of other offenses for which punishment was not imposed. To the extent that such matters are considered on the issue of retention or separation, the record of proceedings will reflect express direction that such information will not be considered on the issue of characterization. As an exception, personal decorations received during prior service may be considered in characterizing the current period of service. (See para 3-7*c*(8).)

(3) Mental status evaluation or other similar medical evaluation given during the period of service which is being characterized.

c. In the case of an ARNGUS or USAR member on AD or ADT who is to be discharged, the character of the period of service from which he or she is discharged will be based solely on military behavior and performance of duty during the current period of service while he or she was actually performing AD or ADT.

d. The limitations in chapter 1 as to matters that may be considered on the issue of separation apply to matters that may be considered on characterization.

e. When the sole basis for separation is a serious offense which resulted in a conviction by a court-martial that did not impose a punitive discharge, the member's service may not be characterized Under Other Than Honorable Conditions unless such characterization is approved by the Secretary of the Army.

f. A member's record of current enlistment or current period of service, only, will be carefully screened for data which might affect the final decision as to type of discharge certificate to be awarded. A checklist will be prepared to assist in the overall evaluation. The checklist will include the following data:

(1) Length of time served in the enlistment or period of service.

(2) Promotions and dates thereof.

(3) Reductions, if any, and dates thereof. When there has been a reduction the specific reason should be listed.

(4) Whether there is a record of time lost; if so, whether due to AWOL, confinement, or other reasons.

(5) Whether there has been disciplinary action under UCMJ, Article 15; if so, list the specific offenses which resulted in such action.

(6) Whether there have been any convictions by court-martial; if so, note offenses, findings and sentence and any subsequent actions in the case.

g. A member's voluntary submission to a treatment and rehabilitation program (for personal use of drugs) and evidence provided voluntarily by the member concerning personal use of drugs as part of initial entry into such a program may not be used against the member on the issue of characterization. This limitation does not preclude the following actions:

(1) The introduction of evidence for impeachment or rebuttal purposes in any proceeding where the evidence of drug abuse (or lack thereof) has been first introduced by the member.

(2) Taking action based on independently derived evidence. This includes evidence of drug abuse after initial entry into the treatment and rehabilitation program.

3-9. Uncharacterized separations. *a. Entry level separation.*

(1) A separation will be described as an entry level separation if processing is initiated while a member is in entry level status, except in the following circumstances:

(a) When characterization Under Other Than Honorable Conditions is authorized under the reason for separation and is warranted by the circumstances of the case.

(b) The Secretary of the Army, on a case-by-case basis, determines that characterization of service as Honorable is clearly warranted by the presence of unusual circumstances involving personal conduct and performance of duty. This characterization is authorized when the member is separated by reason of selected changes in service obligation, convenience of

the Government and Secretarial plenary authority.

b. Void enlistments or inductions. A member shall not receive a discharge, characterization of service at separation, or an entry level separation if the enlistment or induction is void except when a constructive enlistment arises and such action is required under (3) below. If characterization or an entry level separation is not required, the separation will be described as an order of release from custody and control of the Army.

(1) An enlistment is void in the following circumstances:

(a) If it was effected without the voluntary consent of a person who has the capacity to understand the significance of enlisting in the Army. This includes enlistment of a person who is intoxicated or insane at the time of enlistment.

(b) If the person is under 17 years of age.

(c) If the person is a deserter from another military service.

(2) Although an enlistment may be void at its inception, a constructive enlistment shall arise in the case of a person serving with the Army who—

(a) Submitted voluntarily to military authority.

(b) Met the mental competency and minimum age qualifications, at the time of voluntary submission to military authority.

(c) Received military pay or allowances.

(d) Performed military duties.

(3) If an enlistment that is void at its inception is followed by a constructive enlistment within the same term of service, characterization of service or description of separation will be in accordance with paragraph 3-5 and 3-9 as appropriate. However, if the enlistment was void by reason of desertion from another military service, the member will be separated by an order of release from the custody and control of the Army regardless of any subsequent constructive enlistment. A constructive enlistment does not preclude the Army from either retaining the member or separating the member based on the circumstances that occasioned the original void enlistment or any other reason for separation.

Section IV. DISHONORABLE AND BAD CONDUCT DISCHARGE

3-10. DD Form 260A (Dishonorable Discharge Certificate). A member will be given a dishonorable discharge pursuant only to an approved sentence of a general court-martial. The appellate review must be completed and the affirmed sentence ordered duly executed. See paragraphs 14b, 98, and 127, MCM, 1969 (Rev. Ed.).

3-11. DD Form 259A (Bad Conduct Discharge Certificate). A member will be given a bad conduct discharge pursuant only to an approved sentence of a general or special court-martial. The appellate review must be completed and the affirmed sentence ordered duly executed. See paragraphs 14b, 98 and 127, MCM, 1969 (Rev. Ed.).

3-12. Members confined in foreign penal institutions. Members with approved sentences to a dishonorable or bad conduct discharge, who are confined in foreign penal institutions, either before, during or after trial by a foreign tribunal, will not be discharged until returned to the United States. (See AR 27-50.) In a specific case, if the commander considers that discharge in an oversea area is desired, a request for approval of such discharge may be forwarded to HQDA (DAPC-EPA-A-S), Alexandria, VA 22331. A report containing essentially the information outlined in paragraph 1-44b will be sent with the request. The separation in foreign countries of members so confined will be subject to paragraph 1-44a.

3-13. Expulsion from the Army. Dishonorable and bad conduct discharges result in expulsion from the Army. For exceptions affecting court-martial jurisdiction, see 10 USC 802(7) and 803; UCMJ, Articles 2(7) and 3; and paragraph 11, MCM, 1969 (Rev. Ed.).

3-14. Reason and authority for discharge. The reason and authority for discharge will be entered in item 9c of DD Form 214, as shown in AR 635-5-1.

3-15. Discharge in absentia. Except as provided in paragraph 3-12, a member placed on excess leave without pay pending completion of appellate review (AR 630-5, para 5-2d(4)) may be discharged without returning to a military installation when the sentence is affirmed.

a. When appellate review is completed and the affirmed sentence ordered executed, the appropriate discharge documents will be completed and mailed by certified mail. The documents are mailed, return receipt requested, to the address furnished by the member. The return address will be shown as Commander, US Army Reserve Components Personnel and Administrative Center, 9700 Page Boulevard, St Louis, MO 63132. If the documents are returned unclaimed or undeliverable, they will be destroyed.

b. Before departure on excess leave, action will be taken to—

(1) Prepare fingerprint card (FD Form 249). See AR 190-47, paragraph 5-2.

(2) Complete as much of the preprocessing (AR 635-10) as is appropriate, including partial completion of DD Form 214.

c. Members assigned to an oversea unit who have approved excess leave may be reassigned to the personnel control facility (PFC) closest to their leave address (AR 614-30 and AR 600-62) provided—

(1) Any sentence to confinement has been deferred or served.

(2) Individual is not subject to further trial or investigation within the oversea command.

Section V. TRAVEL AND FORM OF SEPARATION CERTIFICATES

3-16. Travel allowance. See Joint Travel Regulations.

3-17. Form of separation certificate to be given.

a. Discharge certificate, based upon the character of service rendered and DD Form 214

will be issued to the member concerned per AR 635-5.

b. Members released from active duty and transferred or returned to a Reserve Component (USAR or ARNG) "For Convenience of the

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Government" will be furnished a Report of Separation from Active Duty if requested in writing.

c. A member to be released from military control pursuant to paragraph 5-9 or an administrative determination that he or she is not currently a member of the Army will not be

"discharged" from the Army. The individual does not have military status. Such individuals will, instead, be released from the custody and control of the Army without being furnished a certificate of discharge. However, a DD Form 214 indicating no creditable service will be furnished the individual. (See AR 635-5.)

CHAPTER 4

SEPARATION FOR EXPIRATION OF SERVICE OBLIGATION

4-1. Policy. A member will be separated upon expiration of enlistment or fulfillment of service obligation. This includes members within 10 days of the date of ETS who return to CONUS for separation. It also includes non-CONUS residents returned to their overseas state or territory who arrive before the date of return set in AR 614-30, paragraph 1-8.

4-2. Discharge or release from the Active Army upon termination of enlistment, and other periods of active duty or active duty for training.

a. The periods of military service required of all members of the Army will be in accordance with applicable laws. Periods for which enlistment is authorized are in NGR 600-200, AR 140-111, and AR 601-210. Periods for which members are ordered to AD are prescribed by law.

b. Aliens who enlisted in the Regular Army for 3 years will not be separated before the full period for which enlisted purely as a matter of convenience. The exception is provided in paragraph 5-2. If performance or conduct does not justify retention, the member will be processed for separation under the appropriate chapter of this regulation.

c. Personnel who are physically unfit for retention (AR 40-501, chap 3), but who were accepted for, or continued in, military service per AR 635-40, will not be separated because of ETS unless processing for separation because of physical disability is waived.

d. Subject to chapter 1, section VI, a member enlisted or ordered to AD normally will be discharged or released from AD on the date he or she completes the period for which enlisted or ordered to AD. Other than those listed in *b* above, some members' term of service expires or they otherwise become eligible for discharge or release from active duty on a Saturday, Sunday, or legal holiday. These members may consent to be discharged or released to or transferred

to the USAR on the last working day before their normal date of discharge or release. A member listed in *b* above whose term of service expires or who otherwise becomes eligible for separation on a Saturday, Sunday, or legal holiday may consent to be released from active duty and be transferred to the USAR on the last working day before the normal date of discharge or release, if otherwise appropriate. But the member may not be discharged on such date. As an exception, members whose early separation will leave them 90 days short of completing their 6-year obligation will be discharged. Members whose rate of pay is subject to change on a Saturday, Sunday, or legal holiday upon which they would be separated will not be discharged until their normal separation date unless they request otherwise. The actual date of release or discharge will be recorded in item 12b, DD Form 214. Personnel released from AD transferred to the USAR upon completion of the term of service for which ordered into active Federal service, or released to their Reserve Component upon completion of AD, will not be discharged until completion of their reserve obligation.

e. AR 135-91 defines the various service obligations incurred by military personnel upon initial entry into military service and prescribes the methods of fulfillment. Enlisted personnel who will not continue or reenter on active duty in another status will be released by separation orders to the ARNGUS or the USAR per DA Pam 600-8-11.

f. A noncitizen who incurs a reserve obligation upon entry into military service but who at time of release from AD fails or refuses to give a mailing address within the United States, Puerto Rico, the Virgin Islands, Guam, or the Canal Zone, but gives only an address in a foreign country as a permanent mailing address

(item 19, DD Form 214), thus showing his or her intention to reside permanently outside the United States, is not eligible for transfer to the USAR. The member will be discharged upon and by reason of having completed the period of service for which enlisted. The member will be advised before such discharge that it may permanently bar him or her from United States citizenship.

g. Members of the ARNGUS and the USAR ordered to AD for a period in excess of 90 days will, upon release from AD revert to control of the appropriate Reserve Component.

h. Reserve Component personnel ordered to active duty for training under the Reserve Enlisted Program of 1963 will out-process per AR 612-201.

i. Members serving as cadets in military academies whose expiration of enlisted term of service occurs while member is serving in such capacity, will be discharged or released, as appropriate.

j. A member who, at the time of entry on active duty held an appointment as a USAR commissioned or warrant officer, or who while on active duty accepts appointment and such appointment is still current, will not be transferred to the USAR in his or her enlisted status. The member will be discharged. Orders discharging the member will be prepared per AR 310-10. The orders will indicate that the member is transferred to the USAR in his or her commissioned or warrant grade. Discharge to enter another military status does not terminate the member's military service obligation incurred under 10 USC 651a.

k. The separation authority delegated to commanders by this regulation will not include the authority to discharge a member under court-martial sentence to dishonorable or bad conduct discharge before appellate review is complete, unless the separation authority intends such separation action as a remission of the conviction.

4-3. Counseling required for certain retirement-eligible personnel. *a.* Each member who, upon ETS, will have completed 20 or more years of active Federal service will be counseled by his or her personnel officer. The officer will advise the member regarding his or her options

and their consequences in accordance with the following if he or she—

(1) Has a service obligation remaining which would require extension of his or her current enlistment, or reenlistment, to complete.

(2) For any reason may be ineligible for immediate or later reenlistment.

b. Counseling will be done during the sixth month before the member's ETS, whether or not he or she states an intention to submit an application for retirement.

c. The member will be required to sign a statement that he or she has been counseled and fully understands the consequences of being discharged upon ETS rather than extending or reenlisting to complete a service obligation (see para 12-13, and AR 601-280, para 3-2, concerning enlistment extensions), or of retiring if he or she is ineligible to reenlist. DA Form 4657-R (Statement of Retirement-Eligible Member-Remaining Service Obligation) and DA Form 4658-R (Statement of Retirement-Eligible Member-Not Eligible to Reenlist) (figs 4-1 and 4-2) will be reproduced locally on 8½ × 11-inch paper. DA Form 4657-R will be used for personnel affected by *a*(1) above. DA Form 4658-R will be used for personnel affected by *a*(2) above. The statement will be completed in triplicate. All copies will be signed by the member. The original signed statement will be sent to the Commander, US Army Enlisted Records and Evaluation Center, Fort Benjamin Harrison, IN 46249, for file in the member's OMPF as a permanent document. A copy of the statement will be filed in the member's MPRJ as an action-pending document and a copy will be forwarded to HQDA (DAPC-EP-(appropriate Career Branch symbol)), Alexandria, VA 22331. (See AR 614-200, table 1-1, for correct office symbol.)

d. The following information will be provided to the service member during the counseling session:

(1) Under 10 USC 3914 and 3917 an enlisted member of the Regular Army must be on AD at the time of application for retirement and at the time of retirement. There is no statutory requirement that USAR or Army National Guard of the United States enlisted members be on AD at the time of retirement. Members whose reenlistment is precluded for any reason will not be retained beyond the last day of the

month in which their ETS falls, except per AR 601-280, chapter 2. Nor can they have their enlistments extended solely because of failure to apply for, or late application for retirement, or to complete a medical examination in conjunction with retirement. (See chap 12, sec V.)

(2) A member who elects to be discharged upon ETS rather than reenlist or extend enlistment, as appropriate to complete a service obligation (para 12-8) will not be eligible to enlist until 93 days following discharge. The subsequent reenlistment may be in a grade lower than the grade held at the time of discharge. Thus, retirement during that term of service would also have to be in the lower grade unless the member is promoted to a higher grade during such period of service before retirement, or is eligible to retire under 10 USC 3917 (30 or more years of active Federal service).

(3) Retirement cannot be retroactive. Therefore, a member who is discharged, later reenlists, and then retires, cannot be placed in a retired pay status for the period between his discharge and subsequent reenlistment. Re-

tired pay will be based on the grade in which retired.

(4) Members precluded from reenlistment for any reason (such as provisions of the Qualitative Management Program, AR 600-200, chap 4) would forfeit retirement eligibility altogether. There would be no way for them to regain an active duty status for the purpose of applying for retirement.

e. The failure to counsel an enlisted member under this paragraph will not alter his or her status or entitlement to any benefits.

4-4. Characterization of service. A member being separated upon expiration of enlistment or fulfillment of service obligation will be awarded a character of service of honorable, unless an entry level separation is required.

4-5. Separation authority. Separations will be accomplished by the STP or STA processing the member for separation (AR 635-10), per the separation orders issued by the appropriate commander. (See AR 310-10.)

STATEMENT OF RETIREMENT-ELIGIBLE MEMBER - REMAINING SERVICE OBLIGATION

For use of this form, see AR 635-200; the proponent agency is MILPERCEN.

1. My current ETS is _____
(Date)
2. My current service obligation (as indicated below) will not be completed until _____
(Date)
 - 12 Months at current station.
 - 12 Months from arrival of dependents at my current station.
 - Military or civilian course of instruction.
 - Promotion lock-in.
3. I understand that if I do not reenlist or extend my enlistment, as appropriate, in order to complete my service obligation, I will be discharged upon my ETS and may forfeit my retirement eligibility.
4. I understand that if I am discharged upon my ETS because I failed to reenlist or extend my enlistment, as appropriate, I will not be eligible to enlist until 93 days following the date of my discharge and that such reenlistment will be subject to enlistment authorization and grade determination procedure prescribed in AR 601-210 and may be at least one grade lower than that in which I was discharged upon my ETS.
5. I fully realize that if I am discharged upon my ETS and later reenlist, I may only retire in the grade in which then serving and my retirement will not be retroactive to the date of my prior discharge.
6. I understand that I may submit my retirement application no earlier than 12 months, and no later than two months, prior to my ETS (or desired retirement date if it is earlier than my ETS). If circumstances beyond my control prevent me from applying within this time frame, I understand that I must consult my commanding officer or personnel officer about requesting an exception to policy or an extension of service (Paragraph 12-13, AR 635-200).

DATE	TYPED NAME, GRADE & SSN OF INDIVIDUAL	SIGNATURE
DATE	TYPED NAME, GRADE, BRANCH & SSN OF COMMANDING OFFICER	SIGNATURE

STATEMENT OF RETIREMENT-ELIGIBLE MEMBER - NOT ELIGIBLE TO REENLIST

For use of this form, see AR 635-200; the proponent agency is MILPERCEN.

1. My current ETS is _____
 (Date)

2. I understand that I will not be eligible to reenlist following my ETS for the following reasons: (Cite appropriate reason or regulatory authority.)

3. I understand that, although I will be retirement eligible upon my ETS, I will be precluded from applying for retirement once I have been released from active duty.

4. I understand that I may submit my retirement application no earlier than 12 months, and no later than two months, prior to my ETS (or desired retirement date if it is earlier than my ETS). If circumstances beyond my control prevent me from applying within this time frame, I understand that I must consult my commanding officer or personnel officer about requesting an exception to policy or an extension of service. (Paragraph 12-13, AR 635-200).

DATE	TYPED NAME, GRADE & SSN OF INDIVIDUAL	SIGNATURE
DATE	TYPED NAME, GRADE, BRANCH & SSN OF COUNSELING OFFICER	SIGNATURE

CHAPTER 5

SEPARATION FOR CONVENIENCE OF THE GOVERNMENT

Section I. GENERAL

5-1. Characterization of service or description of separation. A member being separated for the convenience of the Government will be awarded a character of service of honorable, under honorable conditions or an entry level separation.

5-2. Exclusion from applicability. Permanent residence aliens, who have enlisted in the Regular Army for a period of 3 years or more and who desire to fulfill naturalization require-

ments through military service, will not be involuntarily separated per this chapter before completing 3 full years of active duty service. The member can be involuntarily separated if—

- a. Member's performance or conduct does not justify retention.
- b. Member is to be transferred to inactive duty in a Reserve Component to complete a Reserve service obligation.
- c. The Secretary of the Army authorizes separation.

Section II. SECRETARIAL AUTHORITY

5-3. Policy. The separation of enlisted personnel for the convenience of the Government is the prerogative of the Secretary of the Army (SA). Except as delegated by this regulation or by special DA directives, it will be accomplished only by the SA's authority. The separation of any enlisted member of the Army under this

authority will be based on an SA determination that separation is in the best interests of the Army. Before involuntary separation under this paragraph, the notification procedure (chap 2, sec II) will be used. However, the procedure for requesting an administrative board (para 2-2d) is not applicable.

Section III. SOLE SURVIVING SONS OR DAUGHTERS AND SURVIVING FAMILY MEMBERS

5-4. General. a. Commanders specified in paragraph 1-21 are authorized to order separation for the convenience of the Government of personnel who qualify per this section as sole surviving sons or daughters or family members. The criteria in chapter 1, section VIII, will govern whether the member will be released from AD with transfer to the IRR, or discharge. (See para 1-12 or additional instructions on ARNGUS and USAR personnel.)

b. Separation under this section is not authorized—

(1) During a period of war or national emergency hereafter declared by the Congress.

(2) When a service member who qualified per this section waives his or her status per AR 614-200, paragraph 11-75. Although a member who has waived status as a sole surviving son or daughter may request reinstatement of that status, reinstatement will not provide a basis for separation under this section.

(3) A member advised of this section who enlists, reenlists, or otherwise voluntarily extends his or her active duty after the date of notification of the family casualty on which the

status as a sole surviving family member is based (and after enactment of Public Law 92-129, 92d Congress (28 September 1971)) will be considered as having automatically waived his or her rights for separation under PL 92-129.

(4) A member may—

(a) Have court-martial charges pending.

(b) Have been tried and convicted by court-martial and the case is being reviewed or appealed.

(c) Be serving a sentence (or otherwise satisfying punishment) imposed by court-martial.

In these cases, administrative elimination will be postponed until final action (including completion of any punishment imposed pursuant to such court-martial) has been completed. This includes final action on charges, review or appeal or until sentence has been served or until any other punishment imposed has been satisfied.

c. The following definitions apply to these terms as used in this section:

(1) The "sole surviving son" or "sole surviving daughter" is the only remaining son or daughter in a family whose parent (or one or more sons or daughters) served in the Armed Forces of the United States and—

(a) Was killed in action.

(b) Died in the line of duty as a result of wounds, accident or disease.

(c) Is 100 percent physically disabled (to include 100 percent mental disability) as determined by the Veterans Administration or one of the military services. This person must be hospitalized on a continuing basis and not gainfully employed because of such disability.

(2) "Family members" include a husband and wife, or the father, mother, sons, and daughters, and all sisters and brothers as defined in 37 USC 501(a)(3) and (4).

(3) "Armed Forces" or "Armed Forces of the United States" denotes collectively all components of the Army, Navy, Air Force, Marine Corps, and Coast Guard.

Note: Neither the acquisition or retention of sole surviving son, sole surviving daughter, or surviving family member status is dependent upon the existence of any other living family member (Supreme Court Decision, *McKart vs US*, 395 USC 185 (1969)). Thus, the continued existence of a family unit is not required as a prerequisite

for qualification as a "sole surviving son," "sole surviving daughter," or "surviving family member." This also applies to the existence of a sole surviving son having one or more surviving sisters or to a sole surviving daughter having one or more surviving brothers.

d. In determining eligibility, the death or 100 percent disability under c(1) above must have been incurred in line of duty (or resulted from wounds, accident, or disease which was incurred in line of duty) as determined per AR 600-10 or comparable regulations of other Services.

e. Requests for separation may be submitted only by the military member concerned. They must be in writing. All applications submitted will include the following evidence:

(1) Name, grade, SN, or SSN, branch of service (Army, Navy, Air Force, Marine Corps, or Coast Guard), relationship, and date of death or disability of the family member upon which request is based.

(2) Veterans Administration Claim Number if appropriate.

(3) Name, age, and sex of other family members.

f. See AR 614-200, table 11-XVII-1, for offices to contact to obtain verification of status of other family members when appropriate.

5-5. Characterization of service or description of separation. a. A member being separated under this section will be awarded a character of service of honorable, under honorable conditions or an entry level of separation.

b. No member will be awarded a character of service of under honorable conditions under this section unless the member is notified of the specific factors in his or her service record that warrant such a characterization, using the notification procedures.

5-6. Separation of sole surviving sons or daughters. a. Except as provided in b below, enlisted personnel who become sole surviving sons or daughters after enlistment, order to AD or ADT under the Reserve Enlistment Program of 1963 and whose applications meet the criteria in paragraph 5-4 may apply for and be separated.

b. A member who qualified as a sole surviving son or daughter because of the 100 percent disability status of a parent, brother, or sister which

occurred after enlistment or order to AD or ADT, may apply for and be separated. The member cannot be separated if he or she reenlisted or voluntarily extended his or her period of AD. In order to qualify for a veteran's exemption under the provisions of 50 App USC 456(b)(3), he or she must complete at least 6 months of AD before separation.

5-7. Separation of surviving family members. Except as provided in paragraph 5-4b(1) or (4), a surviving family member may apply for and be discharged if he or she—

a. Has been inducted into the Armed Forces under the Military Selective Service Act of 1967, as amended, and

b. Is serving active on duty with the Armed Forces on or after 28 September 1971, and

c. Has not enlisted or reenlisted or otherwise voluntarily extended his or her period of active duty in the Armed Forces, and

d. If the parent, brother or sister, while serving in the Armed Forces after 31 December 1959—

(1) Was killed in action.

(2) Died in line of duty.

(3) Died after such date because of injuries received or disease incurred in line of duty during such service.

(4) Is in a captured or missing status as a result of such service.

Section IV. OTHER CONVENIENCE OF THE GOVERNMENT SEPARATION POLICIES

5-8. Inability to perform prescribed duties due to parenthood. a. *General.* This paragraph prescribes procedures for separation because of inability to perform prescribed duties, repeated absences, or nonavailability for worldwide assignment as a result of parenthood.

b. *Counseling and rehabilitation requirements.* Before taking separation action against a member per this paragraph, commanders will insure that adequate counseling and rehabilitation measures have been taken. Paragraph 1-18 prescribes counseling and rehabilitation requirements.

c. *Procedures.* If separation is appropriate for the reasons in a above, the unit commander will take action as specified in the notification procedure in chapter 2.

d. *Characterization of service or description of separation.* A member being separated under this paragraph will be awarded a character of service of honorable, under honorable conditions, or an entry level separation.

e. *Separation authority.* Commanders specified in paragraph 1-21 are authorized to order separation under this paragraph. See paragraph 1-12 for additional instructions for ARNGUS and USAR personnel. The criteria in chapter 1, section VIII, will govern whether the member will be released from AD or ADT with transfer to the IRR, or discharged.

5-9. Lack of jurisdiction. The general court-martial convening authority will direct the dis-

charge, release from active military service, or release the individual concerned from military control. This authority will not be delegated.

a. The discharge or release of an individual from the Army may be ordered by a US court or judge thereof. The office upon whom such an order or writ is served will report it immediately to The Judge Advocate General, per AR 27-40.

b. Upon the final judicial determination of a military judge, a president of a special court-martial, or military appellate agency that an individual is not currently a member of the Army, and where a commander reasonably believes that the Army may lack jurisdiction over a member presently under his or her jurisdiction, the general court-martial convening authority will immediately initiate thorough inquiry. All allegations and relevant facts and circumstances will be examined. AR 15-6 will not apply to such inquiries.

(1) If the claim of lack of jurisdiction is based upon recruiter misconduct, inquiry to appropriate recruiting officials will be included.

(2) If the claim of lack of jurisdiction is based upon an apparent failure to meet all the requirements of AR 135-91, inquiry will be made by telephone or message to the appropriate Adjutant General (in ARNG cases) or appropriate area commander (in USAR cases) for the missing documentation. If this involves a Reservist involuntarily ordered to active-duty because of unsatisfactory participation in ARNG or USAR

unit training, this inquiry will be made before a determination of lack of jurisdiction is made.

(3) If the claim of lack of jurisdiction is based on other provisions of this regulation (such as minority, erroneous, or fraudulent enlistment), the inquiry and later action on the claim will be conducted per procedures outlined in those specific provisions. Those paragraphs will be cited as the authority for the action taken.

c. The general court-martial convening authority will determine whether retention or release from military control, or release from active service is warranted.

(1) *Retention.* In making determinations on retention, paragraph 7-21b should be considered. Only individuals with waivable disqualifications (AR 601-210 or AR 601-280) will be considered for retention.

(2) *Release from military control or from active military service.* If the general court-martial convening authority concludes that the Army lacks jurisdiction over the individual and determines that separation is warranted, he or she will take action per paragraph 1-12b for ARNGUS or USAR personnel. Regular Army personnel will be released from military control per this paragraph.

5-10. Discharge of aliens not lawfully admitted to the United States. Commanders specified in paragraph 1-21 are authorized to dispose of cases involving aliens not lawfully admitted to or residing in the United States, who did not conceal their true citizenship status at enlistment. Such individuals will be reported to the nearest office of the Immigration and Naturalization Service. If these individuals are subject to deportation proceedings at this time, or upon discharge from the service, or if their custody is desired by immigration officials, they will be reported to the commander having discharge authority. This commander will then order the discharge for the convenience of the Government. Commanders responsible for separation processing will notify immigration officials of the discharge action so that they may take the individual into custody, if they so desire. The character of service and discharge certificate furnished will reflect service rendered by the individual after enlistment. (See paras 3-7 and 5-5.)

5-11. Separation of personnel who did not meet procurement medical fitness standards. a. Members who were not medically qualified under procurement medical fitness standards when accepted for initial enlistment will be separated. Medical proceedings, regardless of the date completed, must establish that a medical condition was identified by appropriate military medical authority within 4 months of the member's initial entrance on AD or ADT under the Reserve Enlistment Program of 1963 which—

(1) Would have permanently disqualified him or her for entry into the military service had it been detected at that time; and

(2) Does not disqualify him or her for retention in the military service under the provisions of AR 40-501, chapter 3.

b. As an exception, a member who has completed BT or 8 weeks of OSUT and meets the requirements of a above, but who requests to complete the period of service for which enlisted, may be retained in the Service (with the exception of EPTS pregnancies) by commanders cited in paragraph 1-21. Such member will sign a statement electing to complete the period of service, in spite of his or her eligibility for separation under this paragraph.

c. The criteria in chapter I, section VIII, will govern whether the member will be released from AD with transfer to the IRR, or discharged. Separation will be accomplished within 72 hours following approval by the separation authority (para 1-21). (See para 1-12 for additional instructions on ARNGUS or USAR personnel.)

d. Members who do not meet the medical fitness standards for retention will be processed per AR 635-40.

e. This paragraph is not to be used in personality disorders cases, which will be processed per paragraph 5-13.

f. For characterization of service or description of separation, see paragraph 5-5.

5-12. Discharge for failure after enlistment to qualify medically for flight training. Members who enlist on or after 1 March 1971 per AR 601-210, table H-12, for the Warrant Officer Flight Training (WOFT) option and who, after enlistment, fail to qualify medically for flight training may be discharged from the Army. The fol-

lowing conditions apply:

a. Eligibility for discharge will be determined by the Commander, US Army Aeromedical Center, Fort Rucker, AL 36362 (AR 612-201, para 3-5a and f), that—

(1) The medical condition would permanently disqualify the member for flight training, and

(2) The condition does not disqualify the member for retention in the military service per AR 40-501, chapter 3.

b. To be eligible for discharge under this paragraph, the member must submit a written request for discharge (fig 5-1) to his or her unit commander. It must be submitted within 30 days of the date the Commander, US Army Aeromedical Center finds the member disqualified for flying.

c. Applications for discharge will be processed promptly and separation will be accomplished within 72 hours following approval by the discharge authority. (See para 1-21.)

d. Members who do not meet retention medical fitness standards will be processed per AR 635-40.

e. This paragraph is not to be used for personality disorder cases, which will be processed per paragraph 5-13.

f. A member who meets the requirements of a above and elects to complete the period of service for which enlisted must submit a written request to be retained on AD (fig 5-2). The request is submitted to the unit commander within 30 days of the date the Commander, US Army Aeromedical Center finds the member medically disqualified for flying.

g. The determination made by the Commander, US Army Aeromedical Center, the member's request for discharge (fig 5-1) or retention (fig 5-2), and other pertinent papers will be filed in the member's DA Form 201 (Military personnel Records Jacket (US Army)) as permanent material.

h. For characterization of service or description of separation, see paragraph 5-5.

5-13. Separation because of personality disorder. Under the guidance in chapter 1, section II, a member may be separated for personality disorder (not amounting to disability (AR 635-40)), that interferes with assignment to or per-

formance of duty, when so diagnosed as indicated in a below.

a. *Personality Disorder.* As determined by medical authority (i.e., the diagnosis will have been as established by a physician trained in psychiatry and psychiatric diagnosis) and described in the Diagnostic and Statistical Manual (DSM III) of Mental Disorders (section on mental disorders, International Classification of Diseases and Injuries -8, Diagnostic and Statistical Manual (DSM III) of Mental Disorders, 3rd Edition, Committee on Nomenclature and Statistics, American Psychiatric Association, Washington, DC 1980), this condition is a deeply ingrained, maladaptive pattern of behavior of long duration which interferes with the member's ability to perform duty. Exception: Combat exhaustion and other acute situational maladjustments.

b. Commanders will not take action prescribed in this chapter in lieu of disciplinary action solely to spare a member who may have committed serious acts of misconduct for which harsher penalties may be imposed under the UCMJ.

c. Separation because of personality disorder is authorized only if the diagnosis concludes that the disorder is so severe that the member's ability to function effectively in the military environment is significantly impaired. Separation for personality disorder is not appropriate when separation is warranted under chapters 4, 5 (other than section II), 7, 9, 10, 11, 13, 14, and 15; and AR 604-10 and AR 635-40.

d. Nothing in this paragraph precludes separation of a member who has such a condition for other reasons authorized by this regulation, other than section II.

e. Separation processing may not be initiated under this paragraph until the member has been counseled formally concerning deficiencies and has been afforded ample opportunity to overcome those deficiencies as reflected in appropriate counseling or personnel records. (See para 1-18.)

f. When it has been determined that separation under this paragraph is appropriate, the unit commander will take the actions specified in the Notification Procedure (chap 2, sec II).

g. For separation authority, see paragraph 1-21.

h. For characterization of service or description of separation, see paragraph 5-5.

5-14. Concealment of arrest record. *a. Policy.*

An enlisted member who concealed an arrest record (not followed by a civil court conviction and not reflecting charges pending at the time of enlistment) for any (juvenile or adult) offense and such concealment does not amount to a fraudulent entry (chap 7) may be separated. Separation is based on the false statements made in enlistment documents regarding the existence of an arrest record. In determining whether discharge is appropriate, the following will be considered:

(1) Concealing a pattern of arrests more strongly suggests that the member was intentionally attempting to mislead recruiting officials regarding enlistment eligibility. The pattern may include misdemeanors and lesser offenses in addition to a felony.

(2) The age of the individual when enlisted, when arrested, and the period of time that elapsed since the arrest.

(3) The nature and the circumstances surrounding the arrests.

(4) The nature of the member's service since enlistment.

b. Discharge authority. Discharge or retention of the enlisted member will be directed by commanders specified in paragraph 1-21. When retention is authorized, DA Form 2-1 will be

annotated to reflect that concealment of the arrest has been waived. After waiver there will be no further cognizance of the concealment of arrest, nor will any further action be taken.

c. Evidence. When information is received which indicates the member may have concealed an arrest record, an investigation into the circumstances is required. From this investigation, a decision to discharge or retain can be made. To prove an arrest record as required in this paragraph, bona fide evidence must be obtained from the appropriate law enforcement agency. A typical example of bona fide evidence includes the following:

(1) A completed DD Form 1584 (DOD National Agency Check Request) (ENTNAC), with a "rap sheet" listing incidents of arrest. Further contact with agencies or departments which made the arrest may be necessary. An ENTNAC is completed on each individual shortly after entrance into the Army, and should be examined by unit commanders.

(2) A completed DA Form 3286 (Statement for Enlistment) or other evidence which shows clearly that the individual concealed an arrest record.

d. Procedures. The notification procedure will be used (chap 2, sec II).

e. Characterization of service or description of separation. See paragraph 5-5.

Request for Discharge

Data Required by the Privacy Act of 1974
(5 USC 552a)

AUTHORITY: Section 301, Title 5, United States Code and Section 3012, Title 10, United States Code.

PURPOSE: Individual request for discharge when service member has been found to be medically disqualified for flight training and his or her refusal to accept an alternate training course.

ROUTINE USES: Used by personnel activities to process members for discharge and may be used by appropriate Federal agencies and State and local governmental authorities where use of the information is compatible with the purpose for which the information was collected. Member's request is filed in the MPRJ.

Disclosure is voluntary. If information is not provided, the Army will complete processing using information available.

(Date)

SUBJECT: Request for Discharge
(Discharge authority)
(Name)

1. I, _____, enlisted for Warrant Officer Flight Training under the provisions of AR 601-210, table H-12. Having been found by the Commander, United States Army Aeromedical Center to be medically disqualified for Class 1A flying, I request discharge under provisions of AR 635-200, paragraph 5-12.

2. I have been counseled concerning an alternate training course. I do not desire to serve in the US Army.

(Signature of individual)

(Typed name, SSN, and grade)

Figure 5-1.

Request to remain on Active Duty

Data Required by the Privacy Act of 1974

AUTHORITY: Section 301, Title 5, United States Code and Section 3012, Title 10, United States Code.

PURPOSE: Individual request for retention on active duty in an alternate training course when he or she has been found to be medically disqualified for flight training.

ROUTINE USES: Used by personnel activities to process members for assignment to an alternate training course and may be used by other appropriate Federal agencies and State and local governmental authorities where use of the information is compatible with the purpose for which the information was collected. Member's request will be filed in the MPRJ.

Disclosure is voluntary. Failure to provide information results in service member being discharged.

(Date)

SUBJECT: Request to Remain on Active Duty
(Unit Commander)
(Name)

1. I, _____, enlisted for Warrant Officer Flight Training under the provisions of AR 601-210, table H-12. Having been found by the Commander, United States Army Aeromedical Center to be medically disqualified for Class 1A flying, I understand that I have the option of being retained on active duty for the remainder of my enlistment.
2. Being medically qualified for military service under the provisions of AR 40-501, chapter 3, I hereby request retention on active duty in an enlisted status. I have been counseled concerning an alternate training course and understand that I may select a training course for which qualified and for which a quota exists.

(Signature of individual)

(Typed name, SSN, and grade)

Figure 5-2.

CHAPTER 6

SEPARATION BECAUSE OF DEPENDENCY OF HARDSHIP

6-1. General. Separation under this chapter is for the convenience of the Government.

6-2. Separation authority. See paragraph 1-21.

6-3. Criteria. Enlisted members of the Active Army and the Reserve Components serving on AD or ADT may be discharged or released (para 6-10) because of genuine dependency or hardship.

a. Dependency. Dependency exists when death or disability of a member of a soldier's (or spouse's) immediate family causes that member to rely upon the soldier for principal care or support. (See para 6-5 for definition of "immediate family" member.)

b. Hardship. Hardship exists when in circumstances not involving death or disability of a member of the soldier's (or spouse's) immediate family, separation from the Service will materially affect the care or support of the family by alleviating undue and genuine hardship. (See para 6-5 for definition of "immediate family" member.)

(1) *Parenthood of married service women.* A married service woman who becomes a parent by birth, adoption or marriage (stepparent), and whose child (or children) under 18 years of age reside within the household, may apply for separation under hardship. The woman must submit evidence (per para 6-7b(5)) that the roles of parent and service member are incompatible and that she cannot fulfill her military obligation without neglecting the child or children.

(2) *Sole parents.* Service members who are sole parents, and whose children under 18 years of age reside within the household, may apply for separation under hardship. A "sole parent" is defined as a parent who is single by reason of never being married, or is divorced or legally separated and has been awarded child custody

by judicial decree or court order, or is a widow or widower.

(3) *Intent.* It is not the intent of the Army's policy regarding service women who are parents or servicemembers who become sole parents, to arbitrarily allow the separation of an enlisted woman who remained in the service during her pregnancy and then requests release immediately after receiving the medical and monetary benefits related to her confinement (prenatal and postnatal absence) and delivery.

(4) *Supporting evidence.* Supporting evidence will be provided as per paragraph 6-7b(5). Paragraph 6-7b(5) minimizes the supporting evidence for these two policies. However, members must meet the application criteria in paragraph 6-4, in addition to the requirement that there be unexpected circumstances beyond the member's control justifying separation. An example of unexpected circumstances beyond the member's control is the birth of a child with a serious birth defect requiring constant care. Inability to obtain an approved dependent care plan does not qualify the member for separation under this provision.

6-4. Application of criteria. *a.* Separation from the service of enlisted personnel because of dependency will be granted when all the following circumstances exist:

(1) Conditions have arisen or have been aggravated to an excessive degree since entry on AD or ADT.

(2) Conditions are not of a temporary nature.

(3) Every reasonable effort has been made by the enlisted person to alleviate the dependency or hardship conditions without success.

(4) Separation from active military service of the enlisted person is the only readily avail-

able means of eliminating or materially alleviating the dependency or hardship conditions.

b. Circumstances outlined in (1) and (2) below do not justify separation because of dependency or hardship. However, the existence of these circumstances does not prevent separation because of dependency or hardship, provided the application meets the criteria in *a* above.

(1) Pregnancy of an enlisted man's wife is not considered a disability for which his separation is justified. However, this does not prevent separation because of a permanent medical disability resulting from pregnancy.

(2) Undue and genuine hardship does not necessarily exist because of altered income or because the member is separated from his or her family, or must suffer the inconvenience normally incident to military service.

6-5. Conditions affecting determination regarding separation for dependency or hardship.

a. In determining the eligibility for separation, "members of the immediate family" include only spouse, children, father, mother, brothers, sisters, only living blood relative, or any person who stood "in loco parentis" to the service member (or spouse) before entry into the service. "In loco parentis" is any person who has stood in the place of a parent to the service member (or spouse) for a continuous period of at least five years before he or she reached 21 years of age.

b. When an enlisted person is eligible for separation per this chapter, separation will not be disapproved because of the member's indebtedness to the Government or to an individual.

c. When members are eligible for separation, their separation will not be disapproved because their services are needed by their organization.

d. Members will not be separated because of dependency or hardship until proper disposition is made of the case, if they are—

- (1) Under charges.
- (2) In confinement.
- (3) Recommended for elimination per chapters 13 or 14.
- (4) Being processed for discharge per paragraph 5-8 or chapter 9 or 11.
- (5) Being investigated under the military personnel security program.

(6) Being processed for discharge or retirement for physical disability.

However, the application will be accepted and processed to final decision.

e. A sentence to confinement (not including dishonorable or bad conduct discharge) will be fully served unless terminated by proper authority before a separation for dependency or hardship may be given.

f. A member may request withdrawal of application at any time before the effective date. The separation authority, based on the evidence provided by the member, may withdraw approval of separation before its effective date.

g. Commanders authorized to approve separation under this chapter will withdraw approval before its effective date when—

- (1) The separation is being achieved by fraud by the member.
- (2) An error is discovered which would have prevented approval.
- (3) The member who has been approved for separation based on sole parenthood later marries.

(4) The member submits evidence that a hardship no longer exists.

h. The separation authority will insure that this chapter is not used solely to procure a reassignment, a curtailment of assignment, or an avoidance of an assignment. A member whose separation is not approved and requires a new PCS assignment will be reported immediately available for assignment per AR 614-200, paragraph 2-27.

6-6. Application for separation. Separation from the service because of dependency or hardship must be requested in writing by the enlisted person.

a. Submitting the application.

(1) A person serving in the United States or stationed overseas will submit an application to his or her commanding officer. The application must be supported by the evidence required in paragraph 6-7.

(2) A person assigned to an oversea unit who is temporarily in the United States on leave or TDY will submit an application to the commander of the Army installation (except Armed Forces Examining and Entrance Stations and recruiting main stations) nearest the member's

leave address or the installation to which temporarily assigned. In addition, no attachments are authorized for personnel to Army Medical Centers unless the applicant is a patient or being treated at that medical facility, or commuting distance to garrison or troop unit would create additional hardship to the applicant.

(3) A person assigned to a unit or installation within the United States who is temporarily in an oversea command on leave or TDY will submit an application to the commander in which located. The commander specified in paragraph 1-21 will specify the unit to which the member will be attached while the application is being considered. However, attachment to the nonpermanent party element of transfer points or stations is not authorized.

(4) Enlisted personnel on orders for oversea shipment, either as individuals or as members of units, who apply for dependency or hardship separation before departure from unit of assignment will be held at the losing station pending final disposition of the application. (See AR 614-30.)

(5) Enlisted personnel on orders for reassignment from one CONUS installation to another CONUS installation (either as individuals or as members of units) who apply for dependency or hardship separation before departure from unit of assignment will comply with reassignment orders if considered appropriate by the losing commander. The member will be held at the losing installation if the application reflects sufficient grounds for approval. If not, the member will be advised to submit the application upon arrival at the gaining installation.

(6) Applications for dependency or hardship separation from personnel enroute overseas may be accepted at the Army installation (except Armed Forces Examining and Entrance Stations and recruiting main stations) nearest the member's leave address, if an interview reveals information which may justify separation. The member will be attached at that installation until a final decision is made on the application. In addition, no attachments are authorized for personnel to Army Medical Centers unless the applicant is a patient or is being treated at that medical facility, or commuting distance to garrison or troop unit would create additional hardship to the applicant. The losing com-

mander, and the US Army Military Personnel and Transportation Assistance Office at the Aerial Port of Embarkation (APOE) through which the member is scheduled to travel, will be notified of the attachment and any later decision. The US Army Military Personnel and Transportation Assistance Office will notify the gaining commander and the Passenger Liaison Office, MTMC. Members enroute overseas who arrive at the APOE and have not been previously attached to another installation for the same purpose, may be referred to the US Army Military Personnel and Transportation Assistance Office at the APOE, and to the Army installation nearest the port for consideration of the application, if an interview reveals information which may justify separation for dependency or hardship. The member will be attached to the installation nearest the aerial port until final determination is reached on the application.

(7) Members assigned to a CONUS unit who are on leave within CONUS normally will submit their application for separation to their commanding officer per paragraph (1) above. However, when exceptional circumstances require the member's continued presence and if the commanders concerned agree, attachment to an installation to submit an application for separation is authorized. Attachment to the nonpermanent party element at the transfer points or stations is not authorized.

b. Forwarding to the separation authority. Forwarding indorsements prepared by commanders having custody of the applicant's records will contain the following information if it does not appear elsewhere in the inclosures:

(1) Amount and type of allotments the member has in effect, together with the name and relationship of each allottee.

(2) A statement whether a determination of dependency for benefits under the Dependents' Assistance Act of 1950 (DOD Military Pay and Allowances Entitlements Manual) has been requested and the decision of the Allotments and Deposits Operations, US Army Finance and Accounting Center.

(3) Date of current enlistment, entry on AD or ADT, and ETS.

(4) Whether the applicant is under charges, in confinement, or under investigation or con-

sideration for separation per AR 635-40, AR 604-10, or chapters 9, 11, or 13, or 14, or paragraph 5-8.

6-7. Evidence required. The supporting evidence for an application for separation because of dependency or hardship normally will be in affidavit form. The evidence must substantiate the dependency or hardship conditions.

a. The evidence required will depend on the nature of the claimed hardship. The application should include, as a minimum, the following affidavits:

(1) A personal request for separation, explaining the nature of the hardship condition, and what the member intends to do to alleviate it.

(2) An affidavit or statement by or on behalf of the member's dependents substantiating the dependency or hardship claim.

(3) Affidavits by at least two agencies or individuals, other than members of the enlisted person's family, substantiating the dependency or hardship claim.

b. Additional evidence may be required as follows:

(1) When the basis for the application is financial difficulty, a detailed statement is required to establish the monthly income and expenses of the family.

(2) When the basis for the application is death of a member of the soldier's family, a death certificate or other valid proof of death should be furnished.

(3) When the basis for the application is disability of a member of the enlisted person's family, a physician's certificate should be furnished showing the diagnosis, prognosis, and date of disability. Preprinted medical statement forms which require only a physician's signature will not be issued or used for hardship applications. Medical statements and certificates will be prepared by the physician.

(4) When the soldier requests separation to support members of his or her family, other than spouse or children, the application should show the names and addresses of other members of the family. Proof that they cannot aid in the care of their family should be furnished.

(5) When the basis for separation is parenthood of married service women or sole parent-

hood of members, the supporting evidence will be in affidavit form. It will support the applicant's claim that unexpected circumstances, or circumstances beyond his or her control have occurred since acquired parenthood which prevent fulfillment of military obligations without neglect of the child. Affidavits from the member's immediate commander or officer who is the job supervisor, as appropriate, will be considered sufficient to substantiate the applicant's claim. Evidence in *a*(2) and (3) above is not required for these applications. However, sole parenthood resulting from divorce or legal separation will be substantiated by a judicial decree or court order awarding child custody to the military member.

6-8. Procedure. The separation authority (para 1-21) will consider the facts upon which the request is based. Any additional information required to determine the validity of the reason for separation will be requested from the member, or the American National Red Cross (para 6-9). The specific reason for denial of an application will be included in the return indorsement.

a. The personnel officer of an Army installation (para 6-6*a*(2) and (3)), except Armed Forces Examining and Entrance Stations and recruiting main stations, will give all assistance required to any member desiring to apply for separation. In addition, no attachments are authorized for personnel to Army Medical Centers unless the applicant is a patient or is being treated at that medical facility, or commuting distance to garrison or troop unit would create additional hardship to the applicant. Assistance will consist of explaining the requirements of this chapter, assisting in preparing evidence, and notifying the member's parent unit. The commander who authorized leave or TDY will be notified, by electrically-transmitted message, of the date and reason for the attachment and will be requested to reply by message whether or not AR 600-31 is applicable to the member. If a tracer message is required, the theatre commander will be included as an information addressee. If MINIMIZE is in effect, messages will be dispatched by mail. No attachments are authorized for soldiers on leave from or en route to other CONUS installatio-

without prior approval of the individual's commander. In these cases, the coordination will be between the commanders concerned, without referral to MILPERCEN.

b. If the application is approved, the separation authority will—

(1) With the exception of United States Army Europe (USAREUR), Eighth United States Army (EUSA), and Western Command (WESTCOM), notify the commander who authorized leave or TDY of approval by electrically-transmitted message within 24 hours of the approval of hardship separation. Request reassignment orders, personnel and financial records (only after application is approved) be forwarded by MOM/First Class/Priority mail (AR 340-3). Also, expeditious shipment of personal property will be requested. When applicable, the message will contain the name of an individual, if other than unit commander or 1SG, with whom the service member may have left any personal property. The soldier will remain attached pending receipt of reassignment orders. If MINIMIZE is in effect, the message will be dispatched by mail. If a tracer message is required, include the MA-COM as an information addressee. In all cases which involve members of USAREUR, EUSA, or WESTCOM, notification and request for reassignment orders, records, and shipment of personal property will be made by electrically-transmitted message to the following:

(a) *For USAREUR.* Commander, 1st Personnel Command, Schwetzingen, Germany, ATTN: AEUPE-MR-O. (APO NY 09081 to be included if dispatched by mail).

(b) *For EUSA.* Commander, 8th Personnel Command, Yongson, Korea, ATTN: EAPC-MP. (APO SF 96301 to be included if dispatched by mail).

(c) *For WESTCOM.* Commander, WESTCOM, Honolulu, HI, ATTN: APAG (Fort Shafter, HI 96858 to be included if dispatched by mail).

(2) Accomplish the preprocessing procedures (AR 635-10), including the medical examination. If possible, the records interview processing and completion of DD Form 214WS (Worksheet for Certificate of Release or Discharge from Active Duty) will also be accomplished.

(3) Authorize the member to proceed home

on ordinary and/or excess leave (AR 630-5), provided the member so desires. The member will be advised that separation documents and final pay will be mailed to the address furnished. The partially completed records will be suspended pending receipt of the original records.

(4) Upon receipt of the original records, reassign the member to the USA separation transfer point or installation for separation processing.

c. If the application is disapproved, notify the member in writing of the specific reason for denial. The member will then be released from attachment to revert to emergency or ordinary leave for return to his or her assignment. Notify the commander by electrically-transmitted message of the date of departure and forward the disapproved application to the commander for inclusion in the personnel file as a temporary document. If MINIMIZE is in effect, the message will be dispatched by mail.

d. The USA separation transfer point or MILPO commander or chief will—

(1) Upon reassignment, report the member as assigned, and upon separation, submit the SIDPERS separation transaction.

(2) Complete and mail the separation documents to the address furnished by the member.

(3) Dispose of records per AR 635-10.

e. The oversea or CONUS commander will respond immediately to any messages received per a and b above.

f. Procedure 1-1, DA Pam 600-8-11, establishes detailed instructions for processing applications.

6-9. Service of American Red Cross. a. Requests for supplemental factual information pertaining to applications for separation of members because of dependency or hardship may be made to the American Red Cross. Such requests originating within military agencies will be restricted to specific information when probable separation is warranted.

b. The following procedures will be followed when a military agency requests assistance from the American Red Cross:

(1) The military agency requesting assistance will prepare a brief containing sufficient information to identify the applicant for sepa-

ration. The brief will also include the name, address, and relationship of the dependent or dependents on whom the information is desired.

(2) If the Red Cross representative is serving the organization or installation concerned, the brief, together with a request for the specific information will be forwarded to the representative.

(3) If no Red Cross representative is serving the organization or installation, the request will be sent to the following address:

Armed Forces Reporting Unit
National Headquarters
American Red Cross
17th & D Sts., NW
WASH DC, 20006

(4) Contents of reports furnished by the Red Cross will be disclosed only per AR 340-17 and AR 340-21.

c. Members or their dependents may request local chapters of the American Red Cross to assist in obtaining necessary evidence to substantiate applications for separation. The American Red Cross does not, however, make

formal reports to military agencies unless requested by appropriate military commanders.

6-10. Type of separation. The criteria in chapter 1, section VIII, will govern whether members separated for dependency, hardship, or parenthood of married service women or sole parents, will be released from AD or ADT with transfer to the IRR, or discharged. (See para 1-12 for additional instructions on ARNGUS and USAR personnel.)

6-11. Characterization or description of service. If the member is still in Entry Level Status the member will receive an entry level separation. If the member is beyond Entry Level Status, service will be characterized as honorable or under honorable conditions as set forth in chapter 3, section III. Before characterization of service as under honorable conditions, the member shall be notified of the specific factors in the service record that warrant such characterization. The Notification Procedure (chap 2, sec II) will be used.

CHAPTER 7

DEFECTIVE ENLISTMENTS AND INDUCTIONS

Section I. GENERAL

7-1. General. This chapter provides the authority, criteria, and procedures for the separation of enlisted personnel because of minority, erroneous enlistment, induction or extension

of enlistment, defective enlistment agreement, and fraudulent entry.

7-2. Separation authority. See paragraph 1-21.

Section II. MINORITY

7-3. Statutory authorities. *a.* Section 505, Title 10, United States Code.

b. Section 1170, Title 10, United States Code.

7-4. Criteria. *a.* Upon receipt of satisfactory proof of date of birth, a member will be released from the custody and control of the Army because of void enlistment if the member enlisted while under 17 years of age and has not yet attained that age. (See para 1-12*b* for instructions on ARNGUS and USAR personnel.)

b. Unless under charges for a serious offense committed after attaining the age of 17 years, the member will be discharged for minority upon application of the parents or guardian of a regular enlisted member made within 90 days after the member's enlistment if—

(1) There is satisfactory evidence that the member is under 18 years of age, and

(2) The member enlisted without the written consent of his or her parents or guardian.

7-5. Evidence required. *a.* In support of an application for discharge or for release from custody and control of the Army under this chapter, the following evidence of age is required:

(1) A duly authenticated copy of a municipal or other official record of birth of the member, or

(2) If no official record of birth of the member can be obtained, an affidavit of the person

or guardian must be furnished stating specifically why an official record cannot be obtained. The affidavit must be accompanied by one of the following:

(*a.*) A baptismal certificate; a certified copy or photostat of school records, preferably the first term of school; the affidavit of the physician or midwife in attendance at the birth of the member; or a notarized transcript from the records of the hospital in which the member was born, or

(*b.*) Affidavits of at least two persons not related to the enlisted person, testifying from their personal knowledge as to the date of birth.

b. In case of an enlistment under an assumed name, the identification of the member with the person mentioned in the record of birth or the affidavits must be shown by the affidavit of the parents or guardian.

c. Birth or baptismal certificates will be examined carefully for alterations other than those made officially. Care will be taken to note the "date of filing." A delayed birth certificate with date of filing subsequent to the member's enlistment or one with no filing date is not acceptable unless supported by substantial evidence to establish the date and place of filing.

d. If the parents are divorced or otherwise legally separated, the application for discharge must be accomplished by a copy of the court order or other evidence showing that the par-

ent submitting the application has custody of the enlisted person. If either parent has lost control of the enlisted person by judgment of a court, appointment of a guardian, desertion of family, or waiver, an application from such parent for the discharge of the member will not be considered.

e. Although a guardian usually is not recognized as such unless legally appointed, a person who has assumed support of a minor and performed the duties of guardian for 5 years immediately preceding the enlistment will be recognized as a guardian. An affidavit supporting "guardianship" under these conditions will be submitted with the birth certificate.

7-6. Procedure. *a.* When a commander authorized to order minority discharge or release from custody and control of the Army because of minority receives an application from either the parents or guardian, with the supporting evidence required in paragraph 7-5, the commander will take action as specified in the Notification Procedure, chapter 2, section II. The signatures on the application for separation and consent statement will be closely examined to determine whether the applicant actually signed the statement.

b. Applications, together with recommendations, may be forwarded to HQDA(DAPC-EPA-A-S), Alexandria, VA 22331, under the following circumstances:

(1) Any doubtful case.

(2) When additional evidence is required and the final decision for members stationed overseas would be materially expedited by processing the case in CONUS.

7-7. Minors under charges or in confinement. When minors who are otherwise eligible for minority discharge under paragraph 7-4*b*, are under court-martial charges, serving a court-martial sentence, are in military confinement for a serious offense, they will not be discharged for minority until proper disposition has been made in the case. Although the facts indicate that, in other circumstances, the members would be discharged for a reason other than minority (misconduct, unsatisfactory performance, or unsuitability), it is desirable to avoid action by boards of officers, or trial and confinement of a member who otherwise is eligible for minority

discharge. It is quite proper to go to considerable lengths to determine that no board or trial should be held and to remit any sentence imposed. Immediate action will be taken, however, to discharge such members.

7-8. Indebtedness or confinement by civil authorities. Indebtedness to the Government or to a member, or confinement by civil authorities will not prevent discharge or release from custody and control of the Army for minority when a member is eligible therefor.

7-9. Void service. Upon determination that a period of service is void per paragraph 7-4*a*, the discharge authority (para 1-21) will issue an order releasing the member from custody and control of the Army. As a response to the "additional instruction" lead line, the order will state that the member's enlistment is void because of minority. Copies of the order will be issued to the member and will also be filed in the Military Personnel Records Jacket as permanent material. A DD Form 214 will be issued. A discharge certificate will not be issued. (See para 1-12*b* for instruction on ARNGUS and USAR personnel.)

7-10. Minors stationed in area other than area in which enlisted. A member serving in an area other than the area in which enlisted will not be discharged or released from custody and control of the Army until returned to the appropriate territory or area (AR 635-10). As a response to the "additional instructions" lead line, reassignment orders will include the statement, "You are a minor being returned for discharge" or "You are a minor and are being returned for release from custody and control of the Army", as appropriate, so that such separation may be accomplished promptly upon arrival.

7-11. Pay and allowances. *a.* Except as provided in *b* below, a member discharged or released from custody and control of the Army on account of minority—

(1) May retain whatever pay and allowances already received during the period or minority enlistment or period of service. But no pay or allowances may be paid after the date of determination of minority. (See chap 4, DODPM, part 1.)

(2) Is provided transportation in kind to home of record.

(3) May receive a donation of not more than \$25.00 if otherwise without funds to meet immediate needs. (See chap 4, DODPM, part 4).

(4) In addition to (1) through (3) above, a member who is confined in an Army or contract prison at the time of discharge or release from custody and control of the Army on account of minority is also entitled to civilian clothing not to exceed \$40.00 in cost.

b. Members who enlisted in the Regular Army after reaching age 17 and who are discharged for minority before their 18th birthday, are entitled to pay and allowances to include the date of discharge (rule 6, table 1-4-1, DODPM).

7-12. ARNGUS and USAR personnel. *a.* ARN-

GUS personnel will be discharged from their Reserve of the Army status and returned to the control of the appropriate State National Guard authorities for discharge from their State contractual commitment.

b. USAR personnel will be discharged.

7-13. *Type of separation.* A member under paragraph 7-4*a* will receive an order of release from custody and control of the Army. The separation of a member under paragraph 7-4*b* will be described as an entry level separation.

7-14. *Entitlement.* The entitlements portion of this chapter pertaining to pay and allowances has been approved by the Secretary of Defense in accordance with 37 USC 1001.

Section III. ERRONEOUS ENLISTMENTS, OR REENLISTMENTS OR EXTENSIONS

7-15. *Erroneous enlistments, or reenlistments or extensions.* *a.* A member may be separated on the basis of an erroneous enlistment, induction, or extension of enlistment per guidance in chapter 1, Section II. For the purpose of this chapter, the term enlistment means both an original enlistment and any subsequent enlistments (reenlistments). An enlistment, induction, or extension of enlistment is erroneous if—

(1) It would not have occurred had the relevant facts been known by the Government or had appropriate directives been followed.

(2) It was not the result of fraudulent conduct on the part of the member.

(3) The defect is unchanged in material respects.

b. When it is discovered that a member's enlistment or extension was erroneous because he or she failed to meet the qualifications for enlistment (AR 601-210) or reenlistment (AR 601-280), the unit commander will initiate action to obtain authority to retain, discharge, or release the member from AD or ADT, as appropriate (*c* below), based on erroneous enlistment or extension. Correspondence containing the following information will be forwarded through channels to the appropriate separation authority:

(1) Facts relating to and circumstances

surrounding the erroneous enlistment or extension.

(2) The desire of the enlisted member regarding retention or separation.

(3) A specific recommendation for retention or separation, and the reasons, by each commander in the chain of command.

c. The commander specified in paragraph 1-21 will take action as follows:

(1) If doubt exists whether an enlistment or extension was erroneous, forward the case, containing the above information to the Commander, USAEEA, 9700 Page Boulevard, St. Louis, MO 63132, requesting such determination.

(2) If it is determined that the enlistment or extension was erroneous, separation, when deemed appropriate, will be accomplished without referral of the case to the Commander, USAEEA.

(3) If it is determined that the enlistment or extension was erroneous, but retention is determined to be in the best interest of the Service and the disqualification is waivable (AR 601-210 or AR 601-280) by a headquarters other than MILPERCEN, retention may be directed. In such cases, the following statement will be entered in item 27 of DA Form 2-1: "Separation considered and retention is authorized on (date)."

The original copy of the document authorizing retention will be forwarded to the Commander, US Army Enlisted Records and Evaluation Center, ATTN: PCRE-R, Fort Benjamin Harrison, IN 46249. This copy will be included in the member's official personnel record. A copy also will be placed in the member's field MPRJ.

(4) If it is determined that the enlistment or extension was erroneous, but retention is considered to be in the best interest of the Service, and the disqualification is waivable at HQDA or nonwaivable (per AR 601-210 or AR 601-280), forward the case, including the information in *b* above and the reasons for recommending retention to the Commander, USAEEA, 9700 Page Boulevard, St. Louis, MO 63132. Approval will be granted only in exceptionally meritorious cases. Where recommendations are not favorably considered by the Commander, USAEEA, separation will be directed. Where Commander, USAEEA grants a waiver for retention, actions required in paragraph *c*(3) above will be accomplished.

d. Except as provided in *e* and *f* below, Army members will be discharged unless they request transfer to the US Army Reserve, have completed 12 weeks of active duty and have been awarded an MOS. Members discharged under this paragraph will not be held to a 6-year obligation.

e. If, before an enlistee's departure from an AFEES, it is discovered that he or she was erroneously enlisted, the enlistment will be voided by the MEPS commander, if he or she is a separation authority specified in paragraph 1-21. If not, he or she will report the circumstances to the superior commander who is a separation authority, by electronic means, for action. Voidance will be accomplished by the issuance of an order. (See AR 310-10.) The order release the individual from custody and control of the Army. The order reflects that the individual's enlistment is void because of erroneous enlistment and that his or her release from custody and control of the Army is being accomplished because of a void enlistment. Neither a discharge certificate nor DD Form 214 will be furnished. Distribution of the order will be as follows:

(1) One copy will be filed as a permanent document in the member's DA Form 201 (MPRJ).

(2) One copy will be furnished to the member.

(3) One copy will be furnished to the Commander, USAREC, Fort Sheridan, IL 60037.

f. If the member is AWOL, in desertion, or absent in the hands of civil authorities upon discovery and establishment that his or her enlistment was erroneous, because of the two criteria in *e* above, the enlistment may be voided by the commander (para 1-21). The separation authority will issue an order releasing the member from custody and control of the Army and a DD Form 214. The order will reflect that the member's enlistment is void because of erroneous enlistment and that release from custody and control of the Army is accomplished because of a void enlistment. A copy of the orders will be filed as a permanent document in the member's DA Form 201. Pay and allowances entitlement will be as prescribed in DODPM, table 1-4-1. (See para 1-12*b* for instructions on ARNGUS and USAR personnel.) Distribution of DD Form 214 will be as shown in AR 635-5, except that copy number 1 will be placed in the MPRJ when the whereabouts of the member is unknown. See AR 190-9 for action to cancel DA Form 3835 (Notice of Unauthorized Absence From the US Army). When the absent member does not meet the criteria for a void enlistment, discharge action will be taken. The provisions of paragraph 2-15 must be complied with in these cases.

g. If an enlistment is both erroneous per this paragraph and paragraph 7-16, action will be taken first per this paragraph to determine whether the member will be separated or retained. If retention is authorized, action then will be taken per paragraph 7-16.

h. This section is not applicable to—

(1) Members who are eligible for separation per paragraph 5-10 (except erroneously enlisted aliens whose enlistment should be voided under *e* above), paragraph 5-11, or section II of this chapter.

(2) Members who do not meet the medical fitness standards for retention (AR 40-501, chap 3) and who are eligible for processing under AR 635-40.

i. Separation will be processed under the Notification Procedure.

j. Members separated under this paragraph

will be awarded an honorable character of service or order of release from custody and control

of the Army unless an entry level status separation is required under chapter 3, section III.

Section IV. DEFECTIVE OR UNFULFILLED ENLISTMENT OR REENLISTMENT AGREEMENTS

7-16. Defective or unfulfilled enlistment or reenlistment agreements. Claims of defective or unfulfilled enlistment agreements are processed under this section and per AR 601-210, chapter 5, or AR 601-280, chapter 1, section VII.

a. Defective enlistment agreements. A defective enlistment agreement exists when the member was eligible for enlistment in the Army but did not meet the prerequisites for the option for which enlisted. This situation exists in the following circumstances:

(1) A material misrepresentation by recruiting personnel, upon which the member reasonably relied and thereby was induced to enlist for the option, or

(2) An administrative oversight or error on the part of the recruiting personnel in failing to detect that the member did not meet all the requirements for the enlistment commitment, and

(3) The member did not knowingly take part in creation of the defective enlistment.

b. Unfulfilled enlistment commitment. An unfulfilled enlistment commitment exists when the member received a written enlistment commitment from recruiting personnel for which the member was qualified, but which cannot be fulfilled by the Army and the member did not knowingly take part in the creation of the unfulfilled enlistment commitment.

c. Action when discovered during processing and training. When a defective enlistment agreement or unfulfilled enlistment commitment is discovered while an individual is being processed at the reception station or undergoing basic or initial advanced individual training, the CONUS commander exercising special courts-martial jurisdiction, or any higher commander, may approve a request for discharge. Before approving the request for discharge, the following actions should be taken to resolve individual cases and to determine alternate options available.

(1) Maximum use of the United States Army Recruiting Command (USAREC) Liaison Office

is encouraged to obtain information about all options available for which the member is qualified. Alternate options can then be determined and guaranteed to the member.

(2) To obtain waivers of low mental test scores or to obtain assistance in coordinating an alternate option, contact HQDA(DAPC-EPT), Alexandria, VA 22331 (AUTOVON: 221-8478).

(3) Insure that waivers are completed where appropriate.

d. Action when discovered after initial assignment. When it appears to the member's unit commander, after the period prescribed in c above that the member's enlistment commitment was either defective when made or cannot be fulfilled, he or she will submit all pertinent facts in the case to HQDA(DAPC-EPA-A-S), Alexandria, VA 22331, for determination.

e. Procedures. When it is determined by the special court-martial convening authority (c above) or the CG, MILPERCEN (d above) that the enlistment was defective or cannot be fulfilled and the member brought the defect to the attention of his or her commander within 30 days after the defect was discovered or reasonably should have been discovered by the member, separation may be requested by the member as follows:

(1) Nonprior service Regular Army member serving on first enlistment may request immediate discharge.

(2) Regular Army member serving on a second or later enlist, having been discharged from a previous enlistment before ETS to reenlistment, may request separation. The separation will be effective when his or her active service in the current enlistment and last preceding enlistment equals the period stated in the last preceding enlistment contract or agreement.

(3) When members are under charges, in confinement, or have been recommended for separation under other administrative separation proceedings, they will not be separated because of a defective enlistment agreement.

until proper disposition is made of the case. However, the application will be accepted and processed to final decision.

(4) Separation is not authorized when the member fails to bring the defect to the attention of his or her commander within 30 days after the defect was discovered or reasonably should have been discovered by the member.

f. If an enlistment is also erroneous per paragraph 7-15 (failure to meet basic qualifications for enlistment or reenlistment, as distinct from failure to meet the prerequisites for the particular enlistment option), action will be taken first per paragraph 7-15.

If retention is authorized under that paragraph, action then will be taken under this paragraph, if appropriate.

g. This paragraph is not applicable to mem-

bers who do not meet the medical fitness standards for retention in (AR 40-501, chapter 3), and who are eligible for processing under AR 635-40.

h. Army members will be discharged unless they request transfer to the US Army Reserve, have completed 12 weeks of active duty, and have been awarded an MOS. Members discharged under this paragraph will not be held to a 6-year obligation.

i. Commanders specified in paragraph 1-21 are authorized to order the separation of personnel pursuant to the foregoing.

j. Type of separation. Members separated under this paragraph will be awarded an honorable character of service unless an entry level separation is required under chapter 3, section III.

Section V. FRAUDULENT ENTRY

7-17. **Incident of fraudulent entry.** *a.* Fraudulent entry is the procurement of an enlistment, reenlistment, or period of active service through any deliberate material misrepresentation, omission, or concealment of information. If this information had been known and considered by the Army at the time of enlistment or reenlistment, rejection might have resulted. This includes all disqualifying information requiring a waiver. However, if a minor exists with false representations of age without proper consent it will not be considered fraudulent enlistment. The following tests must be applied in each case of suspected fraudulent enlistment or reenlistment. These tests will establish that the enlistment or reenlistment was fraudulent.

(1) *First test.* Commanders will determine if previously concealed information is in fact disqualifying. This information will be evaluated using the criteria for enlistment or reenlistment in AR 601-210 or AR 601-280. Any waivable or nonwaivable disqualification concealed, omitted, or misrepresented constitutes fraudulent entry. This includes concealing information with alleged or actual recruiter connivance. If, however, the newly revealed information does not amount to a disqualification from enlistment or reenlistment under the appropriate regulation, then there is no fraudulent enlistment or reenlistment. Hence, the en-

listment or reenlistment is valid and separation may not be directed.

(2) *Second test.* Commanders must verify the existence and true nature of the apparently disqualifying information. Verification of the actual offense may reveal that the enlistee was not disqualified and, therefore, is not a fraudulent enlistee. For example, if the member alleged that he or she was convicted of burglary and placed on probation, inquiries must be made whether he or she was actually convicted of burglary. In fact, he or she may have initially been charged with burglary but it may have been reduced to trespass which is a minor non-traffic offense for enlistment purposes. If it is the sole record which the member has, he or she is not disqualified for enlistment or reenlistment. Hence, the enlistment or reenlistment is valid and separation may not be directed. To conduct an inquiry using these tests to establish existence of fraud, a delay of 30 days is considered reasonable.

b. Any incident which meets the foregoing two tests may be cause for separation for fraudulent entry. Some examples of fraudulent entry are shown below.

(1) *Concealment of prior service.* The establishment of the identity of Army personnel and verification of prior service in any of the US Armed Forces normally requires only com-

parison of fingerprints and examination of records. Accordingly, commanders will not request field investigations to establish evidence of prior military service. When additional evidence (such as a statement of service or certificate of service) is required from the custodian of the records to establish prior service, an inquiry will be forwarded to the Commander, US Army Enlisted Records and Evaluation Center, Fort Benjamin Harrison, IN 46249. The request will include the name(s), SSN, and all available information concerning the alleged period of service.

(a) To support an administrative action, a statement of service is sufficient evidence.

(b) If trial by court-martial is contemplated (para 162, MCM 1969), a certificate of service is required.

(2) *Concealment of true citizenship status.*

(a) When information is received from the Immigration and Naturalization Service that a warrant for the member's arrest has been issued or that deportation proceedings are pending upon completion of military service, the member will not be considered for retention.

(b) The nearest office of the Immigration and Naturalization Service will be informed when a member will be discharged or released from control of the Army. Arrangements can then be made, if desired, to take him or her into custody.

(c) A report of the facts, together with a report of action taken, will be submitted to HQDA (DAMI), WASH DC 20310, through intelligence channels.

(3) *Concealment of conviction by civil court.* A member who concealed his or her conviction by civil court of a felonious offense normally will not be considered for retention. If information concerning the existence of a civil criminal record is required from the FBI, contact with the FBI must be made by HQDA. Accordingly, the inquiry will be addressed to HQDA (DAPC-EPA-A-S), Alexandria, VA 22331. The inquiry will include fingerprint card, date and place of birth, and complete address. Specific details of case will be obtained by direct communications with the appropriate civil law enforcement agency, other than the FBI, by the commander concerned. When information is re-

quired from both sources, the inquiries will be dispatched concurrently.

(4) *Concealment of record as a juvenile offender.*

(a) A member who concealed his or her adjudication as a juvenile offender for a felonious offense normally will not be considered for retention.

(b) The evidence must clearly show that the member gave a negative answer to a specific question about having a record of being a juvenile offender, or denied that civil custody, as a result of such record, existed at time of entry into the Service.

(5) *Concealment of medical defects.* Concealment of a medical defect or disability is not normally considered fraudulent entry within the scope of this chapter. However, the concealment is fraudulent if it was done to obtain medical treatment or hospitalization, monetary benefits, disability retirement, or veteran's benefits to which the member was not entitled.

(6) *Concealment of absence without leave or desertion from prior service from one of the other Services.* When a member of the Army is discovered to be a deserter from another Service, the commander will report the circumstances to HQDA (DAPC-EPA-A-S), Alexandria, VA 22331, and request disposition instructions. After determining if the Service desires custody of the member, the CG, MILPERCEN will direct that the member be—

(a) Released from control of the Army without a discharge certificate or DD Form 214, or

(b) Considered for discharge per this section.

(7) *Concealment of absence without leave or desertion from prior service from the US Army.*

(a) If trial is not barred by the statute of limitations (Art 48, UCMJ), the member will be dropped from the current period of service and held to his or her first untermiated period of service. When this action is taken, an entry will be made on DA Form 2-1, showing the reason for the drop and the period of service to which held. No discharge certificate will be furnished. Appropriate disposition will be made of the desertion charges for the untermiated period of service.

(b) If trial is barred by the statute of lim-

itations, the member will be discharged from the prior period of service per chapter 2, section IV. The member will be considered for discharge from the current period of service per this section. In accomplishing the discharge from a prior period of service, the member will not be sent to the separation transfer point.

(8) *Procedure when DA Form 3835 (Notice of Unauthorized Absence from US Army) has been circulated.* When the member was the subject of DA Form 3835 a report of action taken will be furnished the US Army Deserter Information Point (USADIP), Fort Benjamin Harrison, IN 46249, when—

(a) Custody reverts to another branch of the Service,

(b) The member is released from control of the US Army, or

(c) The member is discharged from the US Army from prior or current service.

(9) *Concealment of preservice homosexuality.* A member who concealed preservice homosexuality will not be considered for retention. If information concerning the existence of preservice homosexuality is acquired, procedure in paragraph 15-6 will be followed.

(10) *Misrepresentation of intent with regard to legal custody of children.* Service members who were applicants without a spouse at the time of enlistment and who executed the certificate required by AR 601-210, table 2-1, rule F.2a(3), will be processed for separation for fraudulent entry if custody of the children is regained by court decree, as provided at State law, or as a result of the children resuming residency with the servicemember instead of the legal custodian. Because the servicemember certified at enlistment that the custody arrangement was intended to remain in full force and effect during the term of enlistment, the burden is on the servicemember to demonstrate that the regaining of custody is not contrary to statements made at the time of enlistment.

(11) *Concealment of other disqualifications.* A member who conceals other disqualifications, will be considered for discharge per this chapter. This concealment includes assuming the identity of another individual through the use of birth certificate, discharge certificate, or any other record belonging to another. Exceptions to this policy are the concealment

of minority (Sec II) and a concealed true name. However, if a true name is used to conceal a disqualification as outlined in this paragraph, it will be considered fraudulent entry.

7-18. Authority. When court-martial charges are not pending or contemplated, commanders exercising separation authority will take one of the following actions:

a. Void the fraudulent entry by issuing orders releasing the member from Army control in all cases involving desertion from another military service.

b. When a member entered the Army with a waivable disqualification (AR 601-210) and the separation authority personally determines that retention is desired, forward meritorious cases to HQDA (DAPC-EPA-A-S), Alexandria, VA 22331, for approval.

c. Discharge for fraudulent entry under the Notification Procedure if a discharge under other than honorable conditions is not to be issued.

d. Convene a board of officers under the Administrative Board Procedures as specified in chapter 2, when the separation authority considers discharge under other than honorable conditions appropriate.

7-19. Trial by court-martial. This section does not prevent trial by court-martial for violations of UCMJ, Article 83, when in the best interest of the Service. If trial by court-martial is not considered appropriate under any Article of the UCMJ, elimination action as authorized in paragraph 7-18 will be taken.

7-20. Responsibilities. a. The unit commander will—

(1) Initiate action as specified in the Notification Procedure or the Administrative Board Procedure, as appropriate.

(2) Initiate action to obtain substantiating evidence as required. (See para 7-21.)

(3) Request a medical evaluation if such is requested by the member. (See para 1-34a.)

(4) Forward the action and necessary inclosures to the separation authority for a determination whether a fraudulent enlistment had occurred.

b. The separation authority will—

(1) Determine if the incident of fraudulent entry is substantiated.

(2) Insure that the rights of the suspected fraudulent enlistee are protected.

(3) Direct disposition per chapter 2, section II.

(4) When the sole reason for separation is fraudulent entry, suspension of separation is not authorized under paragraph 1-20.

7-21. Unit commander's report. a. When the evidence to support a deliberate misrepresentation, omission, or concealment of facts which might have resulted in rejection has been obtained, the unit commander will forward a military letter through the chain of command to the separation authority. The unit commander will inclose a statement by the member concerning his or her rights (para 2-2 and 2-4). The letter will also include any other statements or evidence submitted by the member and include the following:

(1) Name, grade, SSN, age, date and term of enlistment, and prior service.

(2) Statement whether the member holds Reserve status as a commissioned or warrant officer. If affirmative, show grade and date of appointment.

(3) Primary MOS evaluation score, if available.

(4) Record of trials by court-martial.

(5) Record of other disciplinary action, including nonjudicial punishment.

(6) Recommendation for discharge, voidance of fraudulent entry or retention if it is determined that fraudulent entry did occur. No recommendation will be made as to the type of discharge certificate to be awarded.

(7) Report of medical examination when such examination is requested by the member. (See para 1-34a.)

b. In making recommendations and determinations on retention, the facts should be considered by all commanders:

(1) Seriousness of offense and length of time since last offense. In this regard conviction for murder, rape, forcible sodomy, aggravated arson, sale or traffic in controlled substances, aggravated assault with intent to commit murder, rape or any conviction resulting in confinement for 2 or more years, or commitment to a mental institution are very serious offenses. These

should rarely be waived, and then only with conclusive evidence of rehabilitation.

(2) Evidence of rehabilitation or maturity since conviction of offenses.

(3) Patterns of offenses which indicate member is undesirable for service in a military environment.

(4) Age at time of offenses.

(5) Educational level-High school graduate, GED.

(6) ABC scores.

(7) Performance of military duty and motivation to service. This include recommendation by commanders and others who know of the member's performance of duty and motivation.

c. In each instance in which it is alleged that the fraud was aided by a recruiting official, a copy of the Unit Commander's Report will be forwarded to: Commander, USAREC, ATTN: USARCES-M, Fort Sheridan, IL 60037. For cases of connivance by reenlistment NCO's, a copy of the report will be forwarded to the appropriate general court-martial convening authority.

7-22. Action by separation authority prior to board proceedings. Upon receiving the recommended action, the separation authority will determine whether fraudulent entry has been completely verified and proven. If further substantiating facts and evidence are required, they will be obtained, or confirmed as unobtainable, and final determination made. If fraudulent entry is verified, action will be taken to suspend the member's pay and allowances per DODPM, Chapter 4, Part One. If the fraudulent entry is verified, the separation authority will take one of the following actions:

a. Direct discharge and issuance of an honorable or general discharge certificate.

b. Direct discharge and issuance of a discharge certificate under other than honorable conditions provided the member has waived his or her rights to present the case before a board of officers. (See para 3-7c.)

c. Direct that a board of officers be convened to determine whether the member should be discharged.

d. For retention approval, forward meritorious cases to MILPERCEN (ATTN: DAPC-

EPA-A-S) for member with waivable disqualifications (AR 601-210).

e. Direct that the fraudulent entry be voided as required by paragraph 7-18a. The orders issuing authority will issue orders releasing the individual from custody and control of the Army. (See para 1-12b for instructions for ARNGUS and USAR personnel.) See paragraph 7-24 regarding the DD Form 214. When this individual is in an AWOL status, or in desertion or in hands of the civil authorities, the following additional action will be taken:

(1) A copy of orders will be forwarded to the individual's last known address.

(2) When the member was the subject of DD Form 3835, a report of action taken will be furnished the US Army Deserter Information Point (USADIP), Ft Benjamin Harrison, IN 46249.

7-23. Type of discharge. A member discharged under the provisions of this chapter will be furnished DD Form 256A (Honorable Discharge Certificate), DD Form 257A (General Discharge Certificate), or DD Form 794A (Under Other Than Honorable Conditions Discharge Certificate). In addition to chapter 3, section III, the following factors will be considered in determining the type of discharge certificate to be issued during the current period of service:

a. Evidence of preservice misrepresentation which would have precluded, postponed, or otherwise affected the member's enlistment eligibility.

b. If the fraud involves concealment of a prior separation in which service was not characterized as honorable, characterization normally shall be under other than honorable conditions.

c. The offense of fraudulent enlistment (10 USC 883; Art 83, UCMJ) occurs when the member accepts pay or allowances following enlistment procured by willful and deliberate false representation or concealment of his or her qualifications. Thus, upon receipt of pay and allowances, it becomes an in-service activity by the member and may be considered in characterizing his or her period of service, even though he or she is not tried for the offense.

d. When the individual is in an AWOL status, or in desertion or in the hands of civil authorities, the provisions of chapter 2, section IV, must be followed.

7-24. Preparation of DD Form 214 when service is voided. DD Form 214 will be prepared and distributed per AR 635-5, paragraph 2-7d, on all individuals released from custody and control due to void service, except for those individuals described in paragraphs 7-17b(6) and 7-15e.

CHAPTER 8

SEPARATION OF ENLISTED WOMEN—PREGNANCY

Section I. GENERAL

8-1. Policy. This chapter establishes policy and procedures, and provides authority for voluntary separation of enlisted women because of pregnancy. This chapter applies to all Active Army enlisted women and ARNGUS and USAR enlisted women ordered to AD or ADT.

8-2. Separation authority. Commanders specified in paragraph 1-21 are authorized to order separation per this chapter.

8-3. Characterization of service. If the member is still in Entry Level Status (see glossary) she will be given an entry level separation. If member is beyond Entry Level Status, service will be characterized as honorable or under honorable conditions per chapter 3, section III. Prior to characterization as under honorable conditions, the member shall be advised of the specific factors in the service record that warrant such a characterization and the notification procedure shall be used.

8-4. Type of separation. The criteria in chapter 1, section VIII, will govern whether the member will be released from AD or ADT with transfer to the IRR, or discharged. (See para 1-12 for additional instructions on ARNGUS and USAR personnel.)

8-5. Responsibility of the unit commander. a. The unit commander will direct an enlisted woman who believes that she is pregnant, or whose physical condition indicates that she might be pregnant, to report for diagnosis by a physician at the servicing Armed Forces medical treatment facility.

b. When service medical authorities determine that an enlisted woman is pregnant, she will be counseled and assisted as required by section II.

8-6. Medical examination and diagnosis. a. Examination for pregnancy will be conducted as a complete medical examination. Standard Forms 88 and 98 will be used. If the woman is found to be pregnant, no additional medical examination is required before discharge if separation is accomplished per AR 40-501, chapter 10, section III, and there is no change in the enlisted woman's medical condition other than her pregnancy.

b. The pregnancy diagnosis will be certified in writing by a physician on duty at an Armed Forces medical treatment facility as soon as possible. (This does not prevent observation of the enlisted woman for a reasonable period of time to insure that the diagnosis is correct. In accomplishing the diagnosis, the physician may use biological or other tests for pregnancy without cost to the patient.) The certificate will be sent to the separation authority as an inclosure to the request for separation if the enlisted woman applies for separation.

c. When pregnancy is the only medical condition upon which separation is based, separation will be accomplished without a medical or physical evaluation board. If there are medical conditions which disqualify the enlisted woman for retention, processing will be accomplished per AR 40-3 and AR 635-40.

8-7. Line of duty determination. A line of duty determination is not required for pregnancy.

8-8. Conditions affecting separation for pregnancy. a. Separation will not be accomplished within an oversea command unless the enlisted woman's home is located there.

b. If an enlisted woman believes that she is pregnant while en route overseas, commanders of Military Personnel Transportation Assist-

ance Offices will process her per AR 614-30, chapter 3.

c. If during the processing for separation under another chapter or regulation an enlisted woman is found to be pregnant, she will not be separated under this chapter. Separation will be accomplished under the chapter or regulation under which separation processing was initiated. In such cases, a notation of pregnancy will be made on Standard Form 88.

d. An enlisted woman under investigation, court-martial charges, or sentence of court-martial who is certified by a physician on duty at an Armed Forces medical treatment facility to be pregnant may be separated under this chapter. However, she must have the written consent of the commander exercising general courts-martial jurisdiction over the enlisted woman.

e. It is not the intent of the pregnancy separation policy that enlisted women would be

separated under this chapter when the pregnancy terminates before separation is accomplished. The fact of pregnancy termination should be verified by a medical officer. If the woman is no longer pregnant, authority for separation in this chapter no longer applies.

f. An enlisted woman who elects to remain on AD when counseled (para 8-9) may subsequently request separation. Separation authority must separate the enlisted woman, but may set the separation date. Subsequent request must comply with guidance in paragraph 8-9a.

g. An enlisted woman who requested separation in writing may subsequently request withdrawal of the separation request. The separation authority, based on the circumstances of the case and the best interest of the Army, will determine in writing if the member is to be separated, as previously requested, or is to be retained.

Section II. PREGNANCY COUNSELING

8-9. General. If an enlisted woman is pregnant, she will be counseled by the unit commander using the Pregnancy Counseling Checklist (fig 8-1). The unit commander will explain that the purpose of the counseling is to provide information concerning options, entitlements, and responsibilities and that she may—

a. Upon request, be separated per this chapter. She may request a specific separation date. However, the separation authority and her military physician will determine the separation date. The date must not be later than 30 days before expected date of delivery, or the latest date her military physician will authorize her to travel to her HOR or EOD destination,

whichever is earlier. The separation authority will approve request according to this chapter.

b. Remain on active duty.

8-10. Statement of counseling. a. Figure 8-2, part one, will be signed by the member after counseling.

b. The member will be granted at least 7 days to consider the options available. She will indicate her election by completing part two of the Statement of Counseling.

c. Copies of the completed Statement of Counseling and the Pregnancy Counseling Checklist will be filed in the MPRJ as an action pending document.

PREGNANCY COUNSELING CHECKLIST

Notice: Required by the Privacy Act of 1974 (5 U.S.C. 552a). Prior to soliciting any personal information in the course of counseling a service member, the counselor (see para 8-5) will advise the service member substantially as follows:

In the course of counseling you concerning the decisions you will have to make in connection with your pregnancy, I will request certain personal information from you. My only purpose in requesting this information is to assist you in planning how to meet your responsibilities to the child and to the military, and to determine if there is anything that I or the Army can do to assist you in meeting those responsibilities. Disclosure of your SSN and other personal information is voluntary. You are not required to provide personal information to me, but Army regulations do require that you complete a Statement of Counseling. If you choose not to provide personal information to me, however, I may not be able to effectively assist you. No use of the information will be made outside the Department of Defense. A copy of the Statement of Counseling will be maintained in your MPRJ until this action is completed, at which time it will be destroyed. My authority for requesting this information is Section 8012, Title 10, United States Code.

The purpose of this counseling is to inform you of the options, entitlements, and responsibilities in connection with your pregnancy.

For information on your entitlement to

- | <i>For information on your entitlement to</i> | <i>The basic facts are—</i> | <i>For more information see—</i> |
|---|--|---|
| 1. Retention or separation.... | You may choose to remain in the Service, or separate. | AR 635-200, paragraph 8-9. |
| 2. Maternity care..... | If you remain on active duty, you will receive treatment in a military facility, or in a civilian facility if there is no military maternity care available within 30 miles of your location.
If you separate, you are authorized treatment only in a military facility which has maternity care. You are NOT authorized care in a civilian facility at Government expense. | AR 40-3, paragraph 2-25.1, for care while on active duty; AR 40-3, paragraph 4-46, for care after separation. |
| 3. Leave..... | Normally, you must continue to perform your duties until your doctor says you must stop (not more than 4 weeks prior to delivery), and return to duty when the doctor says you are able (not more than 6 weeks after delivery). | AR 630-5, paragraph 8-5. |
| 4. Maternity clothing and uniforms. | Military maternity uniforms will be provided to enlisted personnel. | AR 670-1, chapter 24, section IV, for maternity uniforms. |
| 5. BAQ and Government quarters. | Availability depends on the status of quarters at your installation. | Post housing office. |
| 6. Assignments..... | You will not normally receive PCS orders directing movement overseas during your pregnancy. However, you will be considered available for unrestricted worldwide assignment upon completion of post-partum care. If overseas, you remain assigned overseas. | AR 614-30, paragraphs 3-2, 3-3, and 3-4 |

Figure 8-1.

For information on your entitlement to

The basic facts are—

For more information see—

7. Separation for unsatisfactory performance, misconduct, or parenthood.

If your performance or conduct warrant separation for unsatisfactory performance or misconduct, or if parenthood interferes with your duty performance, you may be separated involuntarily even though you are pregnant.

AR 635-200, paragraphs 5-8 and 13-2, and chapters 11 and 14.

8. Family care counseling.

You must have an approved Family Care Plan on file stating actions to be taken in the event you are assigned to an area where dependents are not authorized or you are absent from your home on military duty. Failure to develop an approved care plan will result in a bar to reenlistment.

DA Pam 600-8, Procedure 9-8.
AR 601-280, paragraph 1-34.

Should you desire assistance in gathering additional information on the above subjects, I will assist you in locating the appropriate information. Further, if you desire, I will assist you in contacting the American Red Cross or other appropriate agencies.

Figure 8-1.—Continued.

STATEMENT OF COUNSELING

I affirm that I have been counseled by (grade) (name) this date on all items on the attached counseling checklist and I understand my entitlements and responsibilities. I understand that if I elect separation I may receive maternity care at Department of Defense expense, on a space available basis for up to 6 weeks postpartum for the birth of my child *only* in a military medical treatment facility which has maternity care capability and that I may elect a separation date no later than 30 days prior to expected date of delivery, or latest date my physician will authorize me travel, whichever is earlier. Further, I understand that many military medical treatment facilities cannot provide maternity care and that unforeseen circumstances or medical emergency could force me to use civilian medical treatment facilities following separation from active duty. Should this happen, I fully understand that UNDER NO CIRCUMSTANCES can CHAMPUS, any military department, or the Veterans Administration reimburse my civilian maternity care expenses. Such costs will be a matter of my personal responsibility. Further, I understand that the separation authority, in conjunction with my military physician and the needs of the Army, will determine my separation date. I also understand that if I should remain on active duty, I will be expected to fulfill the terms of my enlistment contract. If I elect to remain on active duty, I understand that I must remain available for unrestricted service on a worldwide basis when directed and that I will be afforded no special consideration in duty assignments or duty stations based on my status as a parent.

 (Date)

 (Signature of service member)

TO: Member Concerned FROM: Commander, Unit DATE CMT 1
 Request your election of appropriate option indicated below and return within _____days.

 (Signature)

 (Name (type or printed))

 (Rank, Commanding Branch)

Figure 8-2.

TO: Commander, Unit FROM: Member Concerned DATE CMT 2

_____ During the counseling session there was no coercion on the part of the counselor influencing my decision.

_____ I elect separation for reason of pregnancy per AR 635-200, chapter 8 _____
I desire to remain on active duty until _____ (date) _____.
(In no case later than 30 days prior to expected date of delivery.)

_____ I elect to remain on active duty to fulfill the terms of my enlistment contract.

1 Copy MPRJ
(Action Pending)

(Signature)

1 Copy Member

(Name (typed or printed))

1 Copy File

(Grade, SSN)

Figure 8-2.—Continued.

CHAPTER 9

SEPARATION FOR ALCOHOL OR OTHER DRUG ABUSE

Section I. GENERAL

9-1. Scope. This chapter provides the authority and outlines the procedures for discharging personnel without right to board action. Discharge is based on alcohol or other drug abuse such as the illegal, wrongful, or improper use of any controlled substance, alcohol, or other drug when—

a. The member is entitled to exemption per AR 600-85, table 6-1, columns B and C, Alcohol and Drug Abuse Prevention and Control Program (ADAPCP), and

b. The commander determines that further rehabilitation efforts are not practical, rendering the member a rehabilitation failure. The determination will be made in consultation with the rehabilitation team. (See AR 600-85, para 4-25.)

c. Member has been enrolled in ADAPCP.

Note. Offenses of alcohol or other drug abuse which are not exempt may properly be the basis for discharge proceedings under chapter 14. However, the evidentiary aspect of the exemption policy as expressed in AR 600-85, table 6-1, column D, is applicable to discharge under paragraph 14-12 or other separation authority. Members processed for separation under other provisions of this regulation, who also are or become subject to separation under this chapter and whose proceedings on other grounds ultimately result in their retention in the service, will be considered for separation under this chapter.

d. Alcohol abuse rehabilitation failures shall be reported separately from drug abuse rehabilitation failures. If separation is based on both, the primary basis shall be used for reporting purposes.

Section II. SEPARATION FOR ALCOHOL/DRUG ABUSE

9-2. Basis for separation. *a.* A member who has been referred to the ADAPCP for alcohol/drug abuse may be separated because of inability or refusal to participate in, cooperate in, or successfully complete such a program in the following circumstances:

(1) There is a lack of potential for continued Army service and rehabilitation efforts are no longer practical.

(2) Long-term rehabilitation is necessary and the member is transferred to a civilian medical facility for rehabilitation.

b. Nothing in this section prevents separation of a member who has been referred to such a program under any other provision of this regulation.

9-3. Procedures. The immediate commander will—

a. Take action as specified in the Notification Procedure (chap 2, sec II and fig 9-1 and 9-2) including—

(1) A statement that the commander, in consultation with the rehabilitation team, has determined that further rehabilitative efforts are not practical, rendering the rehabilitation a failure. Documentation indicating this must be included with the statement. However, in the case of alcohol abuse, no reference shall be made to the results of urine tests when such reference is prohibited by AR 600-85.

(2) A chronological history of the member's alcohol/drug abuse.

(3) Circumstances (to include dates) concerning member's referral, initial screening interview, medical evaluation (when conducted), and enrollment in the ADAPCP.

(4) A summary of the rehabilitation efforts

made before and after a member was enrolled in the ADAPCP to include—

- (a) Dates of detoxification (if applicable).
- (b) Extent (to include dates) of counseling and other rehabilitation efforts made by the installation ADAPCP facility.
- (c) Extent (to include dates) of counseling and other rehabilitation efforts made by the unit chain of command.
- (5) Explanation of how criteria in paragraph 9-1 are met.
- (6) A resume of the military record per paragraph 3-8f.

b. Separation action will be initiated only when a member is under military control. The exception is a member confined by civil authorities whose military record indicates that he or she should be processed for separation under this chapter. (See chapter 2, section IV for completing proceedings initiated before a member departs absent without leave.)

9-4. Characterization of service or description of separation. The service of members discharged under this section will be characterized as honorable or under honorable conditions. An honorable or general discharge certificate will be furnished per chapter 3, section III, unless an entry level separation is required.

9-5. Separation authority. a. The commanders specified in paragraph 1-21 are authorized to take final action on cases processed under this chapter.

b. The separation authority will approve separation if the documentation in the file indicates that—

- (1) Required rehabilitative efforts have been made.
- (2) Further rehabilitative efforts are not practical, rendering the member a rehabilitation failure.
- (3) Member's potential for fully effective service is substantially reduced by alcohol/drug abuse.

c. For discharge suspension, see paragraph 1-20.

c. For discharge suspension, see paragraph 1-20.

9-6. Authority for separation. The authority for separation (AR 635-200, para 9-6) will be included in directives or orders directing members to report to the appropriate STP for separation.

9-7. Confidentiality and release of records. Records of separation proceedings and action under this chapter, including separation documents referencing reason and authority for separation, are confidential by operation of Federal law. Records may be disclosed or released only per AR 600-85, chapter 6, sections III and IV.

**Receipt of Letter of Notification of Discharge
for Alcohol and/or Other Drug Abuse Rehabilitation Failure**

**Data Required by the Privacy Act of 1974
(5 U S C 552a)**

AUTHORITY: Section 301, Title 5, United States Code and Section 3012, Title 10, United States Code.

PURPOSE: Information provided is used by processing activities and the approval authority to determine if the member meets the requirements for recommended discharge action.

ROUTINE USES: If separation is approved, information is filed in the MPRJ. Release of any information from this form is subject to the restrictions of 21 USC 1175, as amended by 88 Stat 137; 42 USC 4852, as amended by 88 Stat 131; and Chapter I, Title 42, Code of Federal Regulations. Under these statutes and regulations, disclosure of information that would identify the client as an abuser of alcohol or other drugs is authorized within the Armed Forces or to those components of the Veterans Administration furnishing health care to veterans. AR 600-85 further limits disclosure within the Armed Forces to those individuals having an official need to know (for example, the physician or the client's unit commander). All other disclosures require the written consent of the client except disclosures (1) to medical personnel outside the Armed Forces to the extent necessary to meet a bona fide medical emergency; (2) to qualified personnel conducting scientific research, management for financial audits, or program evaluation; or (3) upon the order of a court of competent jurisdiction.

Submission of a statement for consideration is voluntary. If a statement is not submitted, the Army will determine discharge or retention based on the available information.

(Date)

SUBJECT: Letter of Notification

1. Under the provisions of AR 635-200, chapter 9, I am initiating action to discharge you from the Army. If my recommendation is approved, you will receive an honorable or general discharge certificate, or entry level separation.
2. The reasons for my proposed action are: (state specific, factual details which constitute the basis for the determination that the soldier should be discharged for personal abuse of alcohol and/or drugs, explaining how the criteria of paragraph 9-1 are met.).

Figure 9-1.

3. If you wish to rebut the reasons in paragraph 2 above, you may submit statements in your behalf. They will be considered by the separation authority along with my recommendation for your elimination. If requested, military legal counsel will be made available to assist you in preparation of your comments. My recommendation with your reply will be submitted to the Commander, (cite unit designation of general or special court-martial authority, as appropriate), who will make the final decision in your case.
4. *You are entitled to and must undergo a complete medical examination in accordance with AR 40-501. Arrangements have been made for this examination and you are to report to (location) at (time) on (date).
5. Execute the attached acknowledgement and return it within 48 hours. Any statement you desire to submit in your behalf must reach me within 3 days after you receive this letter, unless you request and receive an extension for good cause shown.
6. You may request treatment in a VA medical center.

(Commander's signature)

(Typed name, grade, branch)

*Not required when enlistment physical is still valid.

Figure 9-1.—Continued.

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(date)

SUBJECT: Receipt of Notification (Your letter dated _____)

TO: (Unit Commander)

1. Letter of notification of action under the provisions of AR 635-200, chapter 9, dated _____ was received at _____ (hours) on (date).
2. I understand that military legal counsel for consultation will be available to assist me upon request. I (do)(do not) desire that military legal counsel for consultation be appointed to assist me.
3. I (will)(will not) submit statements in my behalf for consideration.
4. I (do)(do not) request treatment in a VA medical center.

(Signature of service member)

(Typed name, SSN, grade)

Figure 9-2.

CHAPTER 10

DISCHARGE FOR THE GOOD OF THE SERVICE

10-1. General. *a.* A member who has committed an offense or offenses, the punishment for which, under the UCMJ and the MCM, 1969 (Rev), includes a bad conduct or dishonorable discharge, may submit a request for discharge for the good of the Service. The provisions of the Table of Maximum Punishments, section B, paragraph 127c, MCM 1969 (Rev) do not apply to requests for discharge per this chapter unless the case has been referred to a court-martial authorized to adjudge a punitive discharge. The discharge request may be submitted after court-martial charges are preferred against the member, or, where required, after referral, until final action on the case by the court-martial convening authority. A member who is under a suspended sentence of a punitive discharge may likewise submit a request for discharge for the good of the Service.

b. The request for discharge for the good of the Service does not prevent or suspend disciplinary proceedings. Whether proceedings will be held in abeyance pending final action on a discharge request per this chapter is a matter to be determined by the commander exercising general court-martial jurisdiction over the individual concerned.

c. If disciplinary proceedings are not held in abeyance, the general court-martial convening authority may approve the member's request for discharge for the good of the Service after the member has been tried. In this event, the officer who convened the court, in his or her action on the case, should not approve any punitive discharge adjudged. The officer should approve only so much of any adjudged sentence to confinement at hard labor without confinement as has been served at the time of the action.

10-2. Personal decision. *a.* Commanders will insure that a member will not be coerced into

submitting a request for discharge for the good of the Service. The member will be given a reasonable time (not less than 72 hours) to consult with consulting counsel (para 3-7c(7)) and to consider the wisdom of submitting such a request for discharge.

b. Consulting counsel will advise the member concerning—

- (1) The elements of the offense or offenses charged.
- (2) Burden of proof.
- (3) Possible defenses.
- (4) Possible punishments.
- (5) Provisions of this chapter.
- (6) Requirements of voluntariness.
- (7) Type of discharge normally given under the provisions of this chapter.
- (8) Rights regarding the withdrawal of the member's request.
- (9) Loss of Veterans Administration benefits.

(10) Prejudice in civilian life because of the characterization of the discharge. Consulting counsel may advise the member regarding the merits of this separation action and the offense pending against the member.

c. After receiving counseling (*b* above), the member may elect to submit a request for discharge for the good of the Service. The member will sign a written request, certifying that he or she has been counseled, understands his or her rights, may receive a discharge under other than honorable conditions, and understands the adverse nature of such a discharge and the possible consequences. The consulting counsel will sign as a witness, indicating that he or she is a commissioned officer of the Judge Advocate General's Corps, unless the request is signed by a civilian counsel representing the member. A member may waive consultation with counsel. If the member refuses to consult with counsel, a statement to this effect will be prepared by

the counsel and included in the file. The member shall also state that the right to consult with counsel was waived. Separation action may then proceed as if the member had consulted with a counsel or the general court-martial convening authority may refuse to accept the discharge request.

10-3. Preparation and forwarding. *a.* A request for discharge for the good of the Service will be submitted in the format shown in figure 10-1.

b. The discharge request will be forwarded through channels to the officer who has general court-martial jurisdiction over the member. Commanders through whom the request is forwarded will recommend either approval or disapproval with the reasons for the recommendation. If approval is recommended, the type discharge to be issued also will be recommended.

c. The following data will accompany the request for discharge:

(1) A copy of the court-martial Charge Sheet (DD Form 458).

(2) Report of medical examination, if requested. If medical examination is requested by the member, then the member must also have a mental status evaluation.

(3) A complete copy of all reports of investigation.

(4) Any statement, documents, or other matter considered by the commanding officer in making his or her recommendation, including any information presented for consideration by the member or consulting counsel.

(5) A statement of any reasonable ground for belief that the member is, or was at the time of misconduct, mentally defective, deranged, or abnormal. When appropriate, evaluation by a psychiatrist will be included.

d. When a member is under a suspended sentence of discharge, a copy of the court-martial orders, or a summary of facts which relate to the conduct upon which the request is predicated, will be forwarded.

10-4. Consideration of request. Commanders having discharge authority per paragraph 1-21 must be selective in approving of requests for discharges for the good of the Service. The discharge authority should not be used when

the nature, gravity, and circumstances surrounding an offense require a punitive discharge and confinement. Nor should it be used when the facts do not establish a serious offense, even though the punishment, under the Uniform Code of Military Justice, may include a bad conduct or dishonorable discharge. Consideration should be given to the member's potential for rehabilitation and his or her entire record should be reviewed before taking action per to this chapter. Use of this discharge authority is encouraged when the commander determines that the offense is sufficiently serious to warrant elimination from the Service and the member has no rehabilitation potential.

10-5. Withdrawal of request for discharge. Unless trial results in an acquittal or the sentence does not include a punitive discharge, even though one could have been adjudged by the court, a request for discharge submitted per this chapter may be withdrawn only with the consent of the commander exercising general court-martial jurisdiction. (See chapter 2, section IV for provisions for completing proceedings initiated before a member departs absent without leave.)

10-6. Medical and mental examination. A medical examination is not required but may be requested by the member under AR 10-501, chapter 10. A member that requests a medical examination must also have a mental status evaluation before discharge.

10-7. Discharge authority. The separation authority will be a commander exercising general court-martial jurisdiction or higher.

10-8. Discharge certificate issued. An under other than honorable discharge certificate normally is appropriate for a member who is discharged for the good of the Service. However, the separation authority may direct a general discharge certificate, if such is merited by the member's overall record during the current enlistment (chap 3, sec III). For members who have completed entry level status, characterization of service as honorable is not authorized unless the member's record is otherwise so meritorious that any other characterization clearly would be improper. When characterization of service under other than honorable conditions

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is not warranted for a member in entry level status, the separation will be described as an entry level separation.

10-9. Forwarding fingerprints to the FBI. See paragraph 1-10.

10-10. Disposition of supporting documentation. The request for discharge for the good of the Service will be filed in the MPRJ as per-

manent material and disposed of per AR 640-10. Material should include appropriate documentation (para 10-3c) and the separation authority's decision. Statements by the member or member's counsel submitted in connection with a request per this chapter are not admissible against a member in a court-martial except as authorized under Military Rule of Evidence 410, Manual for Courts-Martial.

Request for Discharge for the Good of the Service

**Data Required by the Privacy Act of 1974
(5 USC 552a)**

AUTHORITY: Section 301, Title 5, United States Code and Section 3012, Title 10, United States Code.

PURPOSE: To be used by the commander exercising general court-martial jurisdiction over you to determine approval or disapproval of your request.

ROUTINE USES: Request with appropriate documentation including the decision of the discharge authority will be filed in the MPRJ as permanent material and disposed of in accordance with AR 640-10, and may be used by other appropriate Federal agencies and State and local governmental activities where use of the information is compatible with the purpose for which the information was collected.

Submission of a request for discharge is voluntary. Failure to provide all or a portion of the requested information may result in your request being disapproved.

SUBJECT: Request for Discharge for the Good of the Service

TO:

1. I, _____ SSN _____ hereby voluntarily request discharge for the good of the Service under the provisions of AR 635-200, chapter 10. I understand that I may request discharge for the good of the Service because of the following charge(s) which has (have) been preferred against me under the Uniform Code of Military Justice, each of which authorizes the imposition of a bad conduct or dishonorable discharge.
2. I am making this request of my own free will and have not been subjected to any coercion whatsoever by any person. I have been advised of the implications that are attached to it. By submitting this request for discharge, I acknowledge that I understand the elements of the offense(s) charged and am guilty of the charge(s) against me or of (a) lesser included offense(s) therein contained which also authorize(s) the imposition of a bad conduct or dishonorable discharge. Moreover, I hereby state that under no circumstances do I desire further rehabilitation, for I have no desire to perform further military service.
3. Prior to completing this form, I have been afforded the opportunity to consult with appointed counsel for consultation (*in addition, I have consulted with (military counsel of my own choice who was reasonably available) (civilian counsel retained at no expense to the Government)).

Figure 10-1.

(**Although I have received a lawful order to see consulting counsel, I persist willfully in my refusal to see him.) (**I have consulted with counsel for consultation who has fully advised me of the nature of my rights under the Uniform Code of Military Justice, (the elements of the offense(s) with which I am charged, any relevant less included offense(s) thereto, and the facts which must be established by competent evidence beyond a reasonable doubt to sustain a finding of guilty; the possible defenses which appear to be available at this time; and the maximum permissible punishment if found guilty) (and of the legal effect and significance of my suspended discharge). (Although he has furnished me legal advice, this decision is my own.))

4. I understand that, if my request for discharge is accepted, I may be discharged under conditions other than honorable and furnished an Under Other Than Honorable Discharge Certificate. I have been advised and understand the possible effects of an Under Other Than Honorable Discharge and that, as a result of the issuance of such a discharge, I will be deprived of many or all Army benefits, that I may be ineligible for many or all benefits administered by the Veterans Administration, and that I may be deprived of my rights and benefits as a veteran under both Federal and State law. I also understand that I may expect to encounter substantial prejudice in civilian life because of an Under Other Than Honorable Discharge. I further understand that there is no automatic upgrading nor review by any Government agency of a less than honorable discharge and that I must apply to the Army Discharge Review Board or the Army Board for Correction of Military Records if I wish review of my discharge. I realize that the act of consideration by either board does not imply that my discharge will be upgraded.

5. I understand that, once my request for discharge is submitted, it may be withdrawn only with consent of the commander exercising court-martial authority, or without that commander's consent, in the event trial results in an acquittal or the sentence does not include a punitive discharge even though one could have been adjudged by the court. Further, I understand that if I depart absent without leave, this request may be processed and I may be discharged even though I am absent.

6. I have been advised that I may submit any statements I desire in my own behalf, which will accompany my request for discharge. Statements in my own behalf (are) (are not) submitted with this request.

7. I hereby acknowledge receipt of a copy of this request for discharge and of all inclosures submitted herewith.

(Signature of respondent)

*To be used when appropriate. Such counseling is not to be used in lieu of consultation with consulting counsel.

**To be used only when a member under military control refuses to obey an order to see consulting counsel. (See para 10-2c.)

***To be used in all cases when a member had consulted with consulting counsel.

Figure 10-1.—Continued.

Having been advised by me of (the basis for his contemplated trial by court-martial and the maximum permissible punishment authorized under the Uniform Code of Military Justice) (the significance of his or her suspended sentence to a bad conduct or dishonorable discharge); of the possible effects of an Under Other Than Honorable Discharge if this request is approved; and of the procedures and rights available to him or her, _____ personally made the choice indicated in the foregoing request for discharge for the good of the Service.

(Signature of counsel)

Figure 10-1.—Continued.

CHAPTER 11

ENTRY LEVEL STATUS PERFORMANCE AND CONDUCT (TRAINEE DISCHARGE PROGRAM)

11-1. General. This chapter sets policy and provides guidance for the separation of personnel because of unsatisfactory performance or conduct (or both) while in entry level status.

11-2. Reasons for separation. When separation of a member in entry level status is warranted by unsatisfactory performance or minor disciplinary infractions (or both) as evidenced by—

- a. Inability,
- b. Lack of reasonable effort, or
- c. Failure to adapt to the military environment,

the member normally will be separated per this chapter. However, nothing in this chapter prevents separation under another provision of this regulation when such separation is warranted.

11-3. Separation policy. *a.* This policy applies to members who—

(1) Were voluntarily enlisted in the Regular Army, ARNG, or USAR.

(2) Have completed no more than 180 days (AD) or (LADT), on current enlistment by the date of separation. Prior service personnel are excluded from this program.

(3) Have demonstrated that they are not qualified for retention for one or more of the following reasons:

(a) Cannot or will not adapt socially or emotionally to military life.

(b) Cannot meet the minimum standards prescribed for successful completion of training because of lack of aptitude, ability, motivation or self-discipline.

(c) Have demonstrated character and behavior characteristics not compatible with satisfactory continued service.

(4) Have failed to respond to counselling (DA Form 4856).

b. During the initial or advanced training,

the training commander with separation authority per this chapter, in coordination with the medical officer (obstetrician), will—

(1) Involuntarily separate the enlisted women when they cannot fully participate in the training required for the MOS concerned because of her physical condition. The training commander will furnish training requirements to the obstetrician.

(2) Retain the enlisted women when they can fully participate unless they request discharge per AR 635-200, chapter 8.

Women discharged under this chapter for pregnancy which occurred after entry on AD or LADT are entitled to maternity care in a military medical facility only, per AR 40-3, paragraph 4-4^a

11-4. Counseling and rehabilitation requirements. Before initiating separation action on a member, commanders will insure that the member receives adequate counseling and rehabilitation. *See chapter 1, section II.* Counseling and rehabilitation requirements are important when entry level performance and conduct are the reason for separation. Because military service is a calling different from any civilian occupation, a member should not be separated when this is the sole reason unless there have been efforts at rehabilitation.

11-5. Separation authority. The commanders specified in paragraph 1-21 are authorized to order separation. Separation will be accomplished within three duty days following approval by the separation authority.

11-6. Type of separation. Entry level separation—uncharacterized is used for separation per this chapter.

11-7. Procedures. The commander will take action as specified in the Notification Procedure (chap 2, sec II).

CHAPTER 12

RETIREMENT FOR LENGTH OF SERVICE

Section I. GENERAL

12-1. Purpose. *a.* This chapter sets policies and procedures for voluntary retirement of enlisted personnel because of length of service.

b. It governs the retirement of Army enlisted members (RA, ARNGUS, and USAR) who are retiring in their enlisted status. AR 635-100, chapter 4, governs the retirement of eligible Regular Army enlisted members in commissioned or warrant officer grades.

c. Prior service enlisted members serving on active duty as officers, who are not qualified for retirement in their commissioned or warrant officer status, may qualify for retirement per this chapter. For procedures, see AR 635-100, chapter 3, section VII.

12-2. Retirement approval authority. *a.* The following officials have the authority to approve or disapprove request for voluntary retirement:

(1) Commanders specified in paragraph 1-21. This authority may be delegated to the commander's deputy or other officer within the headquarters. This delegation must be in writing.

(2) The Commanding General, US Army Military Personnel Center (CG, MILPERCEN). The authority of CG, MILPERCEN covers all units, activities, or organizations which do not come under the jurisdiction of a commander specified in paragraph 1-21 or (3) below.

(3) The Commanding General, US Army Reserve Components Personnel and Administration Center (CG, RCPAC). The authority of CG, RCPAC covers those ARNGUS and USAR members who are not on extended active duty.

b. The above commanders are referred to as "retirement approval authority" or "commander having retirement approval authority."

Section II. STATUTORY AUTHORITY

12-3. General provisions of laws governing retirement. *a.* Enlisted members of the Regular Army must be on active duty when they retire (10 USC 3914 and 2917). There is no statutory requirement that ARNGUS and USAR enlisted members be on AD when they retire.

b. Retirement will be in the regular or reserve grade the member holds on the date of retirement (10 USC 3961). (See para 12-16 for instructions pertaining to former Command Sergeants Major E9, who are serving as Sergeants Major, E9 when they retire.)

c. Years of service for retirement are computed by adding all active Federal service in the Armed Forces and service computed under 10 USC 3683 (10 USC 3925).

d. The date of retirement is the first day of

the month (5 USC 8301). For the Regular Army, ARNGUS, and USAR member retiring from an active duty status, the date of retirement is the first day of the month following the month in which the member is released from active duty. For the ARNGUS and USAR member not on active duty, the date of retirement is the first day of the month following the month in which retirement orders are issued.

12-4. Twenty-year retirement law (10 USC 3914. *a.* An enlisted member of the Regular Army, USAR, or the ARNGUS who has completed 20, but less than 30 years of active Federal service in the US Armed Forces may request to be retired. The member must have completed all required service obligations at the

time of retirement. The Secretary of the Army must approve the request for retirement. The member then belongs to the USAR (Retired). He or she remains in that status until active service before retirement and the period served in the USAR (Retired) after retirement equals 30 years. He or she will perform active duty if prescribed by law.

b. An enlisted member who holds a current commission in the USAR will be transferred to the Retired Reserve in the status he or she elects. Dual status in the USAR as a commissioned officer and as an enlisted member is not authorized. When a member retires in the elected status, the status may not be changed. Transfer to the Retired Reserve to complete obligated service in an enlisted status vacates commissioned status in the USAR.

c. An enlisted member who retires under 10 USC 3914 and has been awarded the Medal of Honor, Distinguished Service Cross, or Navy Cross for Extraordinary heroism will have his or her retired pay increased 10 percent. However, the total retired pay (including the increase) may not exceed 75 percent of the basic pay upon which computed. (A member who is retired per 10 USC 1201 or 1202 and is otherwise eligible for retirement under 10 USC 3914 is entitled to the 10 percent increase in retired pay.) An enlisted member who has been awarded the Distinguished Flying Cross, the Soldier's Medal, or equivalent Navy decoration may be credited with extraordinary heroism. The Secretary of the Army must determine that the heroism was equivalent to that required for award of the Distinguished Service Cross. Each case appearing to reveal extraordinary heroism will be submitted to HQDA(DAPC-MS-A), Alexandria, VA 22332, for determination. A copy of the citation with the award will be included in the information submitted to HQDA (DAPC-MS-A), if available.

12-5. Thirty-year retirement law (10 USC 3917). A Regular Army enlisted member who has completed at least 30 years of active Federal service in the US Armed Forces will, upon request, be placed on the retired list.

12-6. Advancement on the retired list (10 USC 3964). a. Active duty, in this paragraph is full-time duty in the active US military service. Ac-

tive duty does not include active duty for training.

b. Members retired with less than 30 years of active Federal service are considered for advancement on the retired list if active duty plus service on the retired list totals 30 years. They can be advanced to the grade equal to the highest grade (permanent or temporary) in which they served satisfactorily on active duty as determined by the Secretary of the Army. The time periods required for advancement are specified in (1) or (2) below. Upon completing 30 years service, the military personnel records of each member who held a higher grade than that in which retired are reviewed. The review determines whether the member's service in the higher grade was satisfactory. Members advanced to a higher grade will be notified by the CG, RCPAC.

(1) For advancement to a commissioned officer grade, the member must have served on active duty in this grade for at least 185 days or 6 calendar months (10 USC 3963).

(2) For advancement to a warrant officer grade, the member must have served on active duty in this grade for at least 31 days (10 USC 1371).

c. Members retired after completing 30 years active Federal service are advanced on the retired list, at retirement, to the highest grade in which they served satisfactorily. The member must have served on active duty for the period specified in b(1) or (2) above. The Secretary of the Army determines the advancement.

d. Service in the highest grade is satisfactory except when (1) through (3) below apply. All service may be considered to be continuous, or each period of service may be considered separately. Consider the service so that it benefits the member. The criteria in (1) through (3) below do not prevent a member from being considered to have served satisfactorily in any lower grade or rank. When the member served in a grade two or more grades higher than the retirement grade and a determination is made that he or she did not serve satisfactorily in the highest grade, it will be determined that he or she served satisfactorily in the next lower grade. The member will not receive a satisfactory determination in that lower grade in the following events:

(1) When service in the highest grade was not performed during the course of active duty (a above).

(2) When reversion to a lower grade was—

(a) Expressly for prejudice or cause.

(b) Due to misconduct.

(c) Punishment per UCMJ, Article 15, or court-martial action.

(3) When the member's military personnel record reveals that he or she did not serve satisfactorily in the highest grade. This includes the grade in which the member is currently serving.

e. Cases of enlisted members who are eligible for advancement on the retired list at retirement will be sent to HQDA (DAPC-MS-P). The case should be sent for determination at least 75 days before requested retirement date. This will include—

(1) Cases covered in c above.

(2) Cases of members retiring in an enlisted status who have served on active duty in any Armed Force in an enlisted grade higher than their current grade.

f. Members advanced to a higher commissioned grade may be restored to their former enlisted status on the retired list (10 USC 3965). The member must apply to the Secretary of the Army within 3 months of advancement.

g. For personal reasons, members may not want to advance to a higher grade. Before such advancement a member may apply for a defer-

ment and for placement or retention on the retired list in his or her current status. The application for deferment will include the following statement over the member's personal signature:

"I understand that subsequent advancement will not be retroactive and that increased pay or other entitlements accruing therefrom will be based on the actual date of advancement."

(1) Members who are retiring after completion of 30 years active Federal service who are eligible for advancement on the retired list to a higher grade may request deferment. The request should be submitted through channels to the retirement approval authority. That commander must receive the request at least 30 days before the requested retirement date.

(2) Retired members may apply for deferment to the Commander, US Army Reserve Components Personnel and Administration Center, 9700 Page Blvd., St Louis, MO 63132. That headquarters must receive the application at least 30 days before the member completes 30 years service (active Federal service plus service on the retired list).

h. Paragraph 12-16 explains the eligibility of former Command Sergeants Major, E9, for placement on the retired list in that grade title. The difference between SGM, E9, and CSM, E9, is one of grade title only. There is no grade difference. This paragraph does not apply in such cases.

Section III. REQUIREMENTS AND PROCEDURES

12-7. **Eligibility.** a. Unless restricted here, members who have completed 19 years or more of active Federal service may apply for retirement. The request must be made within 12 months of the requested retirement date.

b. The member must complete at least 20 years of active Federal service and all service obligations (para 12-8) by the requested retirement date. (See para 12-12 about applying for retirement.)

c. Members who meet the requirements of AR 600-31 are not prevented from applying for retirement, even if favorable personnel actions are suspended per AR 600-31. Requests for retirement will be considered on a case-by-case basis per AR 600-31, paragraph 5b(3).

12-8. **Service obligations.** a. *General.* This paragraph applies to members retiring under 10 USC 3914. (This includes members who have completed 20, but less than 30, years of active Federal Service.)

b. *Tours.* Members will be required to serve as indicated in (1) and (2) below.

(1) CONUS. The member will serve 1 year in the current assignment or at the current duty station, whichever occurs first. This one year period begins when the member reports for duty. This includes members who have returned from overseas on a permanent change of station.

(2) Overseas. (See AR 614-30.)

(a) Members accompanied by dependents who traveled at Government expense must

complete five-sixths of the prescribed "with dependents" tour or at least 12 months from the date of the arrival of dependents, whichever is longer. Requirements for completing the various types of tours are outlined in AR 614-30.

(b) Unaccompanied married members and members without dependents must complete five-sixths of the prescribed "all others" tour or 12 months, whichever is longer.

(3) The requirements in (1) and (2) above are waived for members whose reenlistment is prevented per AR 600-200, chapter 4, section III. Personnel with DA imposed bars to reenlistment who have at least 20 years of active Federal service at ETS will not extend their active duty commitment to complete a service obligation.

(4) Personnel who have incurred a service obligation and who have reached the retention ineligibility point for their grade will extend their commitment to fulfill the obligation.

c. *Schools.* Members who have attended a military or civilian course of instruction must complete any service obligation voluntarily incurred because of instruction.

d. *Promotions.* Members who have an approved retirement are in a nonpromotable status. They will not be promoted unless a request for withdrawal of their retirement application has been approved. (See para 12-15.)

(1) Members who are promoted to the pay grade E7, E8, or E9 incur a 2-year service obligation (AR 600-200). This obligation will be from the effective date of promotion. It must be completed before voluntary retirement.

(2) The following are excluded from the 2-year service obligation:

(a) Members who have completed 30 or more years of active Federal service on the requested retirement date.

(b) Members who are already eligible through prior service for a higher grade at the time of retirement.

(c) Members who are 55 or older.

(3) A promoted individual may not be administratively reduced only to terminate a promotion service obligation (AR 600-200, para 7-42h).

e. Members whose current ETS is prior to completion of service obligation will be counseled per paragraph 4-3.

12-9. Retirement in lieu of PCS. a. A retirement eligible member receiving an alert or orders for permanent change of station may request retirement. The request is subject to the following conditions:

(1) The retirement application must be submitted and approved within 30 days of receipt of notification of the alert or orders by the member. The member will receive written notification per DA Pam 600-8-10, procedure 3-1.

(2) The member having 19 years, 6 months or more of active Federal service when notified of permanent change of station may request a retirement date. The date will not be later than 6 months from the date of notification, or the first day of the month following the month in which 20 years of active Federal service is completed, whichever is later.

(3) The member having less than 19 years, 6 months of active Federal service when notified of alert or orders, whichever is earlier, is not eligible for retirement. The member will comply with permanent change of station orders.

b. When a member cannot fulfill the service obligations by the requested retirement date, the retirement approval authority will return the member's application.

c. Applications for retirement instead of PCS which are approved will not be withdrawn, nor will the retirement date be changed. The member must retire on the retirement date specified in the application.

d. The retirement approval authority will set up procedures to insure written acknowledgement by members of the notification of alert or orders. The written acknowledgement will be used as confirmation of alert or orders.

e. PCS alert or orders will be deleted because of approved retirement per AR 614-200.

f. A member who requests retirement instead of PCS will normally remain at the same duty station. A move may be necessary to properly use the soldier for such reasons as deletion of position, reorganization, or disciplinary problems. These members will be reassigned within the post, camp or station where they can be properly used. Where this is not possible, members will be reassigned to the closest military installation where they can be used. Members will not be reassigned solely to move them to

the installation nearest their requested place of retirement. Members moved involuntarily under these conditions will not be required to complete the 1-year CONUS service obligation.

12-10. Retirement of Overseas CSM/SGM. CSM and SGM serving overseas on a "with dependents" or "all others" tour must be cleared by HQDA(DAPC-EPZ-E), Alexandria, VA 22331, before the retirement approval authority approves the application. This clearance will be obtained by electrical message. CSM and SGM in this category should submit their requested retirement date. This procedure will insure continuity of senior enlisted leadership in overseas areas. CSM and SGM who apply for retirement less than 8 months from their requested retirement date will be advised that unless HQDA can provide a replacement they may not retire on the date requested. An exception to this policy is a CSM or SGM retiring with 30 years of service or 55 years of age.

12-11. Waivers. *a.* Exceptions to service obligations (paras 12-7 and 12-8) may be granted. They are granted when the best interest of the service is involved or when substantial hardship exists or would result if the member is not retired. Substantial hardship is a situation or circumstance which imposes undue suffering on the member or the immediate family. Requests for exception to service obligation must be submitted by the service member only. The request must be fully defined and documented.

b. Requests for waivers will be forwarded through HQDA (DAPC-EP-(Career Management branch)) to HQDA(DAPC-EPA-A), Alexandria, Va 22331. Attach DA Form 2339 (Application for Voluntary Retirement), with sections I and II completed and signed per paragraph 12-13, to the request. Commanders will comment on the justification submitted and make appropriate recommendation.

12-12. Applying for retirement. *a.* Submit requests for retirement on DA Form 2339 to the appropriate retirement approval authority listed below. See paragraph 12-13 for preparation instructions.

(1) Enlisted members of the Regular Army, US Army Reserve, or Army National Guard on

AD submit requests to the office having custody of their personnel records.

(2) US Army Reservists not on AD submit requests to US Army Reserve Components Personnel and Administration Center.

(3) Army National Guard not on active duty submit requests through the State Adjutant General to the US Army Reserve Components Personnel and Administration Center.

b. Before applying for retirement, the member should be firm in his or her decision to retire on a certain date. (See para 12-15.)

c. The retirement approval authority is authorized to set a minimum time for submission of retirement applications. Enlisted member's retirement application will be submitted at least 2 months before the retirement date.

d. Personnel officers will—

(1) Require each member who wants to apply for retirement to read this chapter.

(2) Insure that each applicant understands section V. This includes the provisions that the member will not be held on active duty beyond the requested retirement date to complete a medical examination.

(3) Furnish a copy of DA Pam 600-5 to each applicant.

12-13. Preparation of DA Form 2339. Each member requesting retirement will, with the help of the personnel officer, complete section I, DA Form 2339, including date and signature. Each item will be completed in full. Not applicable "(N/A)" or "none" will be entered where appropriate. When a waiver to a service obligation is requested, justification will be included as an inclosure.

a. The officer having custody of the applicant's personnel records will assist the member in preparing the application. Special attention will be given to items 4, 6, 14, and 19.

(1) *Item 4.* Enter the first day of desired retirement month *not* the last day of the preceding month.

(2) *Item 6.* Enter the highest grade (permanent or temporary) in which the member served on active duty and the branch of Armed Forces in which served.

(3) *Item 14.*

(*a*) Insure that all service claimed is correct. A member must have at least 20 years of

creditable active Federal service to be eligible for retirement. (See sec IV.)

(b) Enter all uninterrupted service on one line (such as RA enlisted service with no breaks between enlistments, or continuous active Federal service as a commissioned officer, regardless of grade).

(4) *Item 19.* If member elects to be processed for retirement at a location of choice separation transfer point (AR 635-10, para 2-18), enter the complete designation and location of such separation transfer point. (For example: US Army Separation Transfer Point, Fort Sheridan, IL 60037.) The member must check the appropriate election and sign his or her name. This does not apply to enlisted members not on active duty.

b. The personnel officer will complete Section II, DA Form 2339. Each item will be completed in full.

(1) *Item 21.* Enter the complete designation and location of the authorized STP or STA activity where the member will be processed for retirement. (See AR 635-10, chap 2, and app A.)

(2) *Item 31.* Enter the statements from (a), (b), (c), and (d) below. Require the applicant to sign all copies immediately below these statements. Enter the information required by (e), (f), or (g) as applicable.

(a) I have read section V, chapter 12, AR 635-200. I understand that I must undergo a medical examination prior to my retirement. I am responsible for insuring that the examination is scheduled not earlier than 4 months, nor later than 1 month prior to my approved retirement date (subject examination to be arranged through coordination with my unit of assignment). I am aware that the purpose of this examination is to provide a better health assessment of me and, in particular, to continue cardiovascular attention, to record as accurately as possible, my state of health on retirement and to protect my interests and those of the Government. I also understand that my retirement will take effect on the requested date and that I will not be held on active duty to complete this examination.

(b) I have been briefed concerning the Survivor Benefit Plan. I understand that I will automatically be in the plan and will pay the full cost of coverage for my wife and children,

if applicable, unless I submit an election to the contrary prior to my retirement.

(c) I am/am not (strike the inappropriate words) being considered by a HQDA Selection Board for promotion to the next higher grade.

(d) If application is being submitted per paragraph 12-9, enter the following statement: "Approved for retirement in lieu of PCS." This statement will be typed on all copies of the DA Form 2339 and signed by the retirement approval authority or the designated representative.

(e) If the member will be taking terminal leave in conjunction with retirement, enter the following statement:

_____(rank) _____(name) has requested and had approved _____days of terminal leave (DDALV) to be taken in conjunction with the requested retirement action. This leave will commence _____(date) and conclude on _____(date).

(f) If the member currently is serving as a SGM, E9, but formerly served as CSM, E9, enter whichever of the following statements is applicable (see para 12-16):

SGM, E9 _____(name) served satisfactorily as CSM, E9, from _____(date) to _____(date). He/she was released from the CSM Program solely because of assignment limiting physical condition incurred in LD.

SGM, E9, _____(name served as CSM, E9, from _____(date) to _____(date). He/she (was released from the CSM Program due to inadequate performance of duty) or (voluntarily withdrew from the CSM Program for reasons other than an assignment limiting physical condition incurred in LD).

(g) If member is currently serving in the grade of MSG, E8, but formerly served as 1 SG E8, enter the following statement (see para 12-1):

"MSG E8 _____(name) served satisfactorily as 1 SG E8 from _____(date) to _____(date)."

c. The personnel officer will send a signed copy of the application as soon as section I and section II are completed to HQDA(DAPC-EP-(Career Management Branch), ALEX VA 22331. Enlisted members of the USAR on active duty will submit a signed copy of the application to RCPAC (AGUZ-PML-E), US Army National

Guard members on active duty will submit a signed copy of the application to the State Adjutant General. For Regular Army members who are being considered by HQDA Selection Board for promotion to the next higher grade, an additional copy will be sent to HQDA (DACA-MS-PE), ALEX VA 22332. The submission of these copies of the application will not be delayed until the medical examination or verification of service are completed.

d. The personnel officer will verify the member's service (para 12-28).

e. The personnel officer will insure that the member's enlistment does not expire before the requested retirement date. If the enlistment will expire before requested date of, or eligibility for, voluntary retirement, the retirement approval authority may extend it through the last day of the month preceding the requested retirement date. Enlistment will not be extended more than 12 months, per AR 601-280, chapter 3, and AR 600-9. For example:

(1) Members who have reached retirement eligibility (20 years of active Federal service) may be extended up to 12 months if the member qualifies for such extension per AR 601-280.

(2) Members who have reached retirement eligibility, but are not qualified for extension per AR 601-280 and AR 600-9, may be extended through the last day of the month during which ETS occurs.

(3) Members who, at ETS, will have completed 19 years of active Federal service, but less than 20 years, may be extended to reach retirement eligibility. The member's eligibility per AR 601-280 does not matter except as shown below. The period of extension will be only through the last day of the month in which the member becomes retirement eligible. When a request is to be approved, the approval and oath of extension will be completed before retirement orders are issued. Members in the following categories are not eligible to extend for retirement without a waiver from HQDA:

(a) Persons refusing to act to meet length of service requirements per AR 601-280, paragraph 3-3.

(b) Persons not meeting retention standards of AR 600-9.

(c) Persons denied further service per AR 600-200, chapter 4, section III.

(d) Persons with a locally initiated bar to reenlistment approved by HQDA per AR 601-280, paragraph 1-35c(3).

f. The personnel officer will send the application to the retirement approval authority as soon as section II is completed and signed.

g. After retirement orders are issued, the personnel officer will notify the retirement approval authority and HQDA if a waiver has been granted. The officer will get the decision of that commander or HQDA either to revoke the orders or to let them stand. The officer will notify the member of the decision before the effective date of retirement.

12-14. Responsibility of retirement approval authority. Commanders specified in paragraph 1-21 will insure that—

a. No member is retired who has not completed at least 20 years of active Federal service which is creditable for retirement (sec IV).

b. Members who submit applications instead of PCS are not permitted to withdraw their applications or change the requested retirement date.

c. Retirement orders are issued as far in advance of the retirement date as possible. This gives the member ample time to arrange for movement of dependents and transportation of household goods.

d. Paragraph 12-13b(2) (d) and c is complied with.

e. HQDA (DAPC-EPA-A), State Adjutant Generals, and RCPAC (AGUZ-RAD) are notified of any change in member's status which would prevent retirement.

12-15. Request for withdrawal of application or change in retirement date. a. An eligible member's application will not be withdrawn unless it is established that retaining the member on active duty will be for the convenience and best interest of the Government, or will prevent an extreme hardship to the member or immediate family. The hardship must have been unforeseen at the time of application. An application for retirement may not be withdrawn after travel has been performed for retirement.

b. The retirement date will not be changed unless extenuating circumstances arise after the application is submitted. These circumstances must justify a change in the retirement

date to prevent an extreme hardship to the member or immediate family.

c. Requests for withdrawal of applications or change in retirement date must be fully documented. The request will be forwarded with one copy of the DA Form 2339, through channels, to reach the retirement approval authority at least 30 days before the previously requested retirement date. The retirement approval authority will disapprove those requests which clearly do not meet established criteria or which are not fully documented. When the retirement approval authority recommends approval, the request will be forwarded to reach HQDA (DAPC-EPA-A-R) at least 20 days before the previously requested retirement date. The retirement approval authority will inform the unit commander of this referral. Approval or disapproval action should be received by the unit commander by the third day before the date that applies in (1), (2), or (3) below. If not received, the unit commander will query the retirement approval authority or HQDA (DAPC-EPA-A-R) by telephone (even when Condition MINIMIZE is in effect).

(1) Date member is to depart oversea command for return to CONUS or area of residence.

(2) Date member is to depart his or her duty station for authorized or location of choice transfer activity.

(3) Previously requested retirement date when the retirement approval authority has approved a request for retirement in the oversea command.

12-16. Grade title on retired list of former Command Sergeants Major. a. Noncommissioned officers holding the grade of Sergeant Major, E9, at retirement will be placed on the retired list in the grade title "Command Sergeant Major" if—

(1) They were released from the Command Sergeants Major Program on or after 13 July 1967 only because of an assignment limiting physical condition incurred in the line of duty. (This includes members who voluntarily request release for this reason.)

(2) They served satisfactorily as Command Sergeants Major.

b. Members released from the Command Sergeants Major Program because of the following

reasons cannot be placed on the retired list in the grade title of Command Sergeant Major. When information in field records is insufficient to determine the member's eligibility for such grade title, inquiry will be made to HQDA (DAPC-EPZ-E).

(1) Members released because of inadequate performance of duty.

(2) Members who voluntarily withdrew for reasons other than indicated in a above.

(3) Members holding grade E8 or below on date of retirement.

c. Retirement orders on eligible members will show active duty as SGM, E9, and placement on the retired list as CSM, E9.

12-17. Grade title on retired list of former First Sergeants. Noncommissioned officers holding the grade of Master Sergeant, E8 at retirement, whose records show successful service as First Sergeant, E8, will be placed on the retired list in the grade title "First Sergeant." The following are the only criteria for such placement on the retired list:

a. Soldier must be serving in, and retiring in grade E8.

b. Soldier must possess Special Qualification Identifier "M."

c. Soldier must have served as First Sergeant in pay grade E8. No minimum time period is specified. Service in the duty position of First Sergeant while in grade E7 does not meet this requirement.

12-18. Retirement orders. a. The retirement approval authority or the agency which normally issues orders on personnel of the member's unit of assignment, may issue retirement orders. When MILPERCEN, HQDA, is the retirement approval authority, retirement orders will be issued by the normal orders issuing agency for the member's unit of assignment. The following standard orders formats contained in AR 310-10, will be used to retire enlisted members for length of service.

(1) Format 602: to announce the retirement under 10 USC 3917 of members with 30 or more years active Federal service.

(2) Format 600: to announce the retirement under 10 USC 3914 of members with 20 or more, but less than 30 years active Federal service.

b. Retirement orders direct relief from active duty on the last day of the month and placement on the retired list on the first day of the following month. Relief from active duty and retirement occur on the dates specified in the orders unless the orders are amended or revoked by proper authority. If the orders are amended or revoked, this must take place before 2400 hours (local time) on the date of relief from active duty.

c. Once an order has been issued, it will not be amended or revoked except for extreme compassionate reasons, the definitely established convenience of the Government, or when a change in the member's status prevents retirement on the specified date. Orders may not be modified, amended, or revoked on or after the effective date of retirement in the absence of fraud, mathematical miscalculation, or substantial new evidence affecting the member's basic eligibility for retirement. The following cases will be expeditiously forwarded to HQDA (DAPC-EPA-A) with full substantiating information:

(1) When circumstances require that retirement orders be revoked before the effective date of retirement.

(2) When circumstances require that retirement orders be amended before the effective date of retirement and the member has been reassigned outside the jurisdiction of the retirement approval authority who issued the orders.

(3) When it appears that retirement orders require modification, amendment, or revocation after the effective date of retirement.

d. The member must have the retirement orders, or copy of verification message containing the retirement order number. The member's MPRJ must contain copies of the retirement orders, before his or her departure from the overseas command or CONUS station of assignment for retirement processing.

12-19. Date of retirement. Members retiring for service may be placed on the retired list only on the first day of a month, with release from active duty on the last day of the preceding month (5 USC 8301). A member will be retired on the date requested, or on the first day of the month thereafter, provided he or she is medically and otherwise qualified for retirement.

12-20. Place of retirement. *a.* Except as provided in *b* and *c* below and DA Pam 620-81-11, table 2-12, members are required to be processed for retirement at the authorized and directed STP or STA specified in AR 635-10. Exceptions are provided in *b* and *c* below and DA Pam 600-8-11, table 2-1-2.

b. A member may elect, per AR 635-10, paragraphs 2-18 and 2-19, to be processed for retirement at a location of choice STP. If a member later wishes to retire at the authorized and directed place of retirement, he or she will submit justification for this change to the retirement approval authority. The member will submit the justification before leaving the unit of assignment. If retirement orders have been issued and the member's retirement approval authority approves the request, that commander will immediately advise the STP chiefs or commanders at the location of choice and the authorized and directed STP or STA of this change. The retirement orders need not be amended. Format 434, AR 310-10, will not be used. The member who has elected to be processed for retirement at a location of choice may later decide to be processed from the authorized and directed STP or STA. A change from one location of personal choice to another location of choice is not authorized.

c. See AR 630-5 for guidance on being absent from the home station in a leave status on the date of retirement.

d. A member serving on foreign service who wants to retire in the overseas area of assignment (subject to approval of overseas commander) must mark this in the retirement application. If required, the retiree should secure a passport from the nearest United States Consulate.

12-21. Certificates. The STP or STA will prepare and issue the following certificates per AR 635-5 to each member upon retirement. These certificates are sensitive items. They will be transmitted, stored, and destroyed to prevent their unauthorized use. The certificates are available through normal publications supply channels from the USAAGPC, Baltimore, MD. Requisitions will be honored only from STP listed in AR 635-10 and from approval authorities shown in paragraph 12-2.

- a. DD Form 363A (Certificate of Retirement).
- b. DA Form 3891 (Certificate of Appreciation for Wives of Retirees).
- c. DA Form 3891-1 (Certificate of Appreciation for Husbands of Retirees).

12-22. Career Recognition. Appropriate ceremonies will be set up per AR 600-25, paragraph 3-4. When the installation or duty station decides that the retiring soldier's career merits special recognition, the commander can issue an additional extended retirement order. This citation should have the same number on it as the retirement order plus the prefix EXT. It should highlight the key career events. The information can be gathered from field documents and by interview. This announcement may be placed on bulletin boards, included in the retiree's file, read at ceremonies, and presented to the member in an appropriate binder. A sample order is at figure 12-1.

12-23. Data for Retired Pay (DA Form 3713). The office having custody of the member's personnel records will prepare DA Form 3713 on each member for whom retirement orders are issued. This includes those members for whom MILPERCEN, HQDA is the retirement approval authority.

a. This form is essential to the Retired Pay Operation, Department 90, US Army Finance and Accounting Center. The information is used to set up the member's retired pay account and the Retired Personnel Master Tape Record maintained in HQDA, on each retired member of the Army. Each item on the form must be completed fully and accurately. The following items do not apply to enlisted personnel retiring for length of service: Items 5, 9, 13, 23, 24, 25, 26, 27, 28, the right-hand portion of item 29 (if member not eligible for concurrent advancement to commissioned retired pay grade 0-1, 2 or 3), 30, 31, 32 and 33. Items that do not apply do not have to be completed.

(1) *Item 3.* Enter the member's active duty grade (para 12-3) or the grade to which advanced on the retired list at retirement (para 12-6b).

(2) *Item 8.* Enter the highest grade (permanent or temporary) in which the member has served on active duty in the Armed Forces.

(3) *Item 10.* Enter the grade entered in item 3.

(4) *Item 11.* Enter the full designation and address of the headquarters issuing the retirement orders.

(5) *Item 14.* Enter order number announcing retirement of member.

(6) *Item 16.* For all retirements under this chapter—

(a) The type of retirement is "nondisability."

(b) The Finance Allotment Code is "2."

(7) *Item 17.* Enter the date member enters into a retired status (para 12-18b).

(8) *Item 18.* Enter "RA, USAR, ARNGUS."

(9) *Item 20.* Enter "10 USC 3914" or "10 USC 3917," as applicable.

(10) *Item 21.* Enter "10 USC 3961." In cases of retirement under 10 USC 3917 with concurrent advancement to a higher grade on the retired list, enter "10 USC 3961 and 3964."

(11) *Item 22.* Enter the total service creditable for retirement per 10 USC 3925 (para 12-26).

(12) *Item 29.* Enter total service creditable for basic pay.

(13) *Item 36.* See b below.

b. Additional information is required by the USA Finance and Accounting Center to compute the member's retired pay (Public Law 94-106). This information consists of the member's status as of 30 September 1974, 30 September 1975, 30 September 1976, 30 September 1977, and 30 September of each successive year.

(1) Information will be prepared on 8 1/2" x 11" bond paper in the format below. It will be attached as an addendum to the DA Form 3713. Item 36 (Remarks) of the DA Form 3713 will indicate that this information is attached as follows: "See attached addendum":

NAME:
 SSN:

1. Status 30 September 1974 (if over 20 years of service on that date)

Statute:

Retired Pay Grade:

Years of Service for percentage purposes:

Years of Service for basic pay purposes:

Other: (Over 4 years enlisted service) (heroism pay)

2. Status 30 September 1975 (if over 20 years of service on that date)

Statute:

Retired Pay Grade:
 Years of Service for percentage purposes:
 Years of Service for basic pay purposes:
 Other: (Over 4 years' enlisted service) (heroism pay)

(2) A member might be excluded from the provisions of PL 94-106 due to lack of retirement eligibility. A statement of the exclusion will be entered in Item 36 (Remarks) of the DA Form 3713 as follows: "Excluded from provisions of PL 94-106." Item 36 will also contain the following statement: "Member attained 20 years active Federal service on (enter appropriate date)." Item 36 will not be left blank.

c. DA Form 3713, and addendum, if appropriate, will be distributed as indicated below. Copy 2 of this form will not be distributed later than the second workday following the issuance of retirement orders. The copies will be mailed if retirement orders are issued during the member's last duty month.

(1) Copy 1 (original) will be kept with retirement packet and furnished to the Finance Officer making final payment. The Finance Officer will send the form with other necessary finance documents to the Commander, Retired Pay Operations, Department 90, US Army Finance and Accounting Center, Indianapolis IN 46249, with one copy of the retirement or amended orders.

(2) Place copy 2 in the Military Personnel Records Jacket with the retirement orders and papers specified in paragraph 12-24.

(3) Keep copy 3 for local use as required.

d. Each group of DA Forms 3713 will be transmitted by a cover letter. The letter will contain the full organization designation and address of the organizational element sending the forms. The letter will list separately—

(1) The number of DA Forms 3713 enclosed.

(2) The number of revocation orders enclosed.

e. When information on DA Form 3713 must be corrected after the form has been distributed, a new DA Form 3713 will be prepared and distributed per c above. The item numbers being changed will be shown on the line for that purpose (upper right corner of the form). Items 1, 2, 3, 4, 11, 12, 14, 15 and 17, plus the items being changed, will be completed in each case. All other items will be left blank.

f. When retirement orders are revoked after DA Form 3713 is distributed, a copy of the revocation order will be distributed per c above. These orders will be sent to the addressee with the normal distribution of DA Forms 3713.

12-24. Disposition of retirement papers. One copy of the retirement orders (including any amendments or revocations) will be placed in the Military Personnel Records Jacket, with the following essential papers:

a. The original DA Form 2339 (Application for Voluntary Retirement).

b. The complete medical examination report (para 12-31).

c. Verification of service, if any obtained (para 12-28).

d. Determinations of extraordinary heroism (para 12-4c).

e. Grade determinations for concurrent advancement on the retired list (para 12-6c).

f. Approved or disapproved requests for waiver or of exception to service obligations (para 12-11).

g. Approval or disapproval action on requests for withdrawal of application or change in retirement date (para 12-15).

h. Determinations concerning grade title of former Commander Sergeants Major (para 12-16).

i. Copy 2, DA Form 3713 and addendum, if appropriate.

*Note. As this copy is used to determine eligibility for advancement to a higher grade, it must be in the MPRJ when MPRJ is forwarded to USA Enlisted Records and Evaluation Center, ATTN: PCRE-RP-R, Fort Benjamin Harrison, IN 46249.

j. Other essential papers showing actions and reasons for actions taken.

12-25. References. Additional information concerning retirement is contained in the following publications:

Decorations and Awards	AR 672-5-1
Identifications and Dependents'	
Privilege Cards	AR 606-5
Preparation of DD Form 214	AR 635-5
Preretirement leave	AR 630-5
Records disposition.....	AR 635-10
Retirement ceremony	AR 600-25
Retirement processing	AR 635-10
Selection of home	Paragraph M4158, JTR
Shipment of household goods	Paragraph M8280, JTR
Transportation of dependents.....	Paragraph M7010, JTR

Section IV. COMPUTATION OF SERVICE

12-26. Service creditable for retirement. Years of service creditable for retirement are computed by adding all active service in the US Armed Forces and service computed under 10 USC 8683 (10 USC 3925). All service below is creditable for retirement under this chapter and is creditable for basic pay purposes. For other service creditable for basic pay, see Department of Defense Military Pay and Allowances Entitlements Manual. Whenever "active Federal service" is specified, it includes active duty for training and other full-time training duty (37 USC 101(18)). Service below is creditable for retirement if performed as a commissioned officer, commissioned warrant officer, warrant officer, Army field clerk, flight officer, or enlisted member unless otherwise specified.

a. Army.

- (1) US Army (Regular).
- (2) Women's Army Corps.
- (3) Active Federal service in the—
 - (a) Regular Army Reserve.
 - (b) Army of the United States.
 - (c) US Army Reserve.
 - (d) Organized Reserve Corps.
 - (e) Officers Reserve Corps.
 - (f) Enlisted Reserve Corps.
 - (g) Army National Guard.
 - (h) Army National Guard of the United States.

(i) Army Nurse Corps as it existed before 16 April 1947.

(4) All active service performed under an appointment under the act of 22 December 1942 (chapter 805, 56 Stat. 1072) or the act of 22 June 1944 (chapter 272, 58 Stat. 324).

(5) All active full-time service, except as a student or apprentice, with the Medical Department of the Army as a civilian employee—

(a) In the dietetic or physical therapy categories, if the service was performed after 6 April 1917 and before 1 April 1943.

(b) In the occupational therapy category, if the service was performed before appointment in the Army Nurse Corps of the Women's Medical Specialist Corps and before 1 January 1949.

(6) Cadet, US Military Academy.

(7) Women's Army Auxiliary Corps (active

service performed after 13 May 1942 and before 20 September 1943).

(8) Phillippine Scouts.

(9) Officer Training Camp as an enlisted member.

(10) Fraudulent enlistment, if enlistment was not voided.

(11) Civilian Conservation Corps (active duty as commissioned officer).

b. Navy.

(1) US Navy (Regular).

(2) Active Federal service in the—

(a) US Naval Reserve.

(b) Naval Militia.

(c) Naval Reserve Force.

(d) Navy Nurse Corps as it existed before 6 April 1947.

(3) V-12 Program of World War II (service in dual status as enlisted member on active duty as midshipman in the program).

(4) Midshipman, US Naval Academy.

c. Air Force.

(1) US Air Force (Regular).

(2) Active Federal service in the—

(a) Air Force of the United States.

(b) US Air Force Reserve.

(c) Air National Guard.

(d) Air National Guard of the United States.

(3) Aviation Cadet.

(4) Cadet, US Air Force Academy.

d. Marine Corps.

(1) Marine Corps (Regular).

(2) Active Federal service in the—

(a) US Marine Corps Reserve.

(b) Marine Corps Reserve Force.

e. Coast Guard.

(1) US Coast Guard (Regular).

(2) Active Federal service in the US Coast Guard Reserve.

(3) Midshipman, US Coast Guard Academy.

f. Public Health Service. Active Federal service as commissioned officer in the Reserve Corps of the Public Health Service.

g. Minority service. All service performed under an enlistment or induction entered into before reaching the age prescribed by law for

that enlistment or induction when such service is otherwise creditable.

12-27. Periods not creditable for retirement. None of the following periods are creditable for retirement under this chapter:

a. All time required to be made good (10 USC 972). See paragraph 1-23.

b. Periods of service voided by the Government other than those voided because of minority.

c. Time in a nonpay (noncasualty) status under 37 USC 552(C).

d. Service in a Reserve Component not on—

(1) Active duty.

(2) Active duty for training.

(3) Other full-time training duty.

12-28. Verification of service. a. Each enlisted member of the Regular Army will be interviewed by the officer having custody of his or her records when the member completes 18 years' service for basic pay. The interview determines if the member has had service (active Federal service or inactive service in any branch of the Armed Forces) in addition to that shown in the Military Personnel Records Jacket (DA Form 201) or Personal Financial Records, US Army (DA Form 3716). Further verification is not required for members whose only claimed service is Army service which is clearly substantiated in their MPRJ or PFR.

b. Army service claimed by the member which is not clearly substantiated in his MPRJ or PFR will be verified as follows:

(1) Claimed National Guard service will be verified with the Adjutant General of the State or territory. (See app A for list of addresses.)

(2) If breaks in the applicant's Army service or periods of prior Army service have been previously verified, one copy of DA Form 2839 will be submitted to the Commander, US Army Enlisted Records and Evaluation Center, ATTN: PCRE-RP-R, Fort Benjamin Harrison, IN 46249, requesting verification. It is important that inclusive dates for all service claimed, both active Federal service and inactive service, be furnished.

c. Other service claimed by the applicant will be verified by certified statements of service and other official statements. These statements will be furnished from the addresses below. Statements will contain all dates of active duty, active duty for training or other full-time training duty, and all time lost. The original or certified copies will be attached as enclosures to an application for retirement.

(1) Navy. Military Personnel Records Center, GSA (Navy) 9700 Page Boulevard, St. Louis, MO 63132.

(2) Air Force. Military Personnel Records Center, GSA (Air Force), 9700 Page Boulevard, St. Louis, MO 63132.

(3) Marine Corps. Military Personnel Records Center, GSA (Marine Corps), 9700 Page Boulevard, St. Louis, MO 63132.

(4) Coast Guard. Military Personnel Records Center, GSA (Coast Guard), 9700 Page Boulevard, St. Louis, MO 63132.

(5) National Guard. Adjutant General of the State concerned.

d. The signature of the commander or personnel officer at the close of section II, DA Form 2339 certifies that the service claimed by the member in items 14 through 18, DA Form 2339, is correct. Exceptions are indicated in items 25 or 31.

Section V. MEDICAL EXAMINATION

12-29. General. a. Active Army members retiring after more than 20 years active duty are required to undergo a medical examination. This includes Army Reserve and Army National Guard members on active duty. The examination will provide a better health assessment of the member and continue the cardiovascular attention. The examination will also record the

member's state of health and protect the interest of the member and the Government.

b. Examination will be accomplished not earlier than 4 months and not later than 1 month before the scheduled date of retirement.

c. The examining physician will inform the member of the results of the medical examination, either verbally or in writing. A copy of

the SF 88 may be furnished on request on an individual basis.

d. The immediate commander of each enlisted member requesting retirement will insure that medical examination procedures are followed per AR 40-501 and DA Pamphlet 600-8-9.

12-30. Hospitalization/Physical Evaluation Board proceedings. If a member who has requested retirement becomes hospitalized or has an identified medical problem, he or she might be referred to a physical evaluation board. The commander of the medical treatment facility, or a senior medical officer who has detailed knowledge of medical fitness and unfitness standards, disposition of patients, and disability separation processing to whom the commander has delegated such authority will make this decision. If referral to a physical evaluation board will result, the medical treatment facility commander or designated representative will notify HQDA(DAPC-EPA-A), 2461 Eisenhower Avenue, Alexandria, VA 22331 by mail or message as soon as possible. The notification will request a change of retirement date if appropriate and furnish a copy of the request to the retirement approval authority. If the physical evaluation board is not necessary, but additional medical care is, the retirement will be

processed as a nondisability retirement. Continuing medical problems will be treated up to and after the retirement date. Retirement dates will not be changed to continue medical treatment that will extend past the approved retirement date. If referral to a physical evaluation board results, approved retirement dates will not be changed until approved by HQDA (DAPC-EPA-A-R).

12-31. Reports of medical examination. a. A medical examination report for retirement will consist of the originals of the following:

- (1) Report of Medical Examination (SF 88).
- (2) Report of Medical History (SF 93).
- (3) Electrocardiogram properly mounted and identified on clinical record-Electrocardiographic Report (SF 520).
- (4) Report of any consultation accomplished.
- (5) Complete report of medical board proceedings, if accomplished (AR 40-3)—Medical Board Proceedings (DA Form 3947), Clinical Record-Narrative Summary (SF 502) and Report of Medical Examinations (SF 88).

b. One copy of the complete report of medical examination of medical board proceedings will be filed in the Health Record (DD Form 3444 series). Additional copies will be placed in the Health Record for distribution by the transfer activity per AR 635-10.

EXT-ORDERS S121-23

20 June 1982

ANNOUNCEMENT OF RETIREMENT

The retirement of Command Sergeant Major John J. Smith, (duty position), is announced with the deepest regret but with greatest appreciation for his long and distinguished career of 30 years.

Sergeant Major Smith was born in 1930 in Fairfax, Georgia. He enlisted in 1952 and completed basic combat training at Fort Jackson, South Carolina. He participated as a member of the Third Infantry Division in the first United Nations counter-offensive campaigns of the Korean War. Following, and until 1963, he served in a diversified range of command and staff positions with the Second, Fourth, and Eighth Infantry Divisions. Between troop assignments, Sergeant Major Smith graduated from the Non-Commissioned Officers Academy, and served three years at Fort Jackson as a Drill Instructor. A two-year tour in Taiwan with the Military Assistance Advisory Group ended in 1965. Sergeant Major Smith graduated from the Sergeants Major Academy and was assigned to The Infantry Career Branch, Enlisted Personnel Management Directorate, United States Military Personnel Center. Vietnam duty followed, with assignments in the First Infantry Division and Headquarters, USARV. He participated in four Vietnam campaigns, including the 1969 Tet counter-offensive. From 1969 to 1972, Sergeant Major Smith was assigned as an Enlisted Advisor in the Office of the Joint Chiefs of Staff and served in several top-level Non-Commissioned Officer positions. In 1972 he was selected as a Command Sergeant Major and served as the Command Sergeant Major of the Ninth Infantry Division and Headquarters, TRADOC. During his illustrious career, Sergeant Major Smith has been honored for valor on the battlefield and for meritorious service in positions of great responsibility. His many awards and decorations include the Silver Star, four awards of the Meritorious Service Medal, two awards of the Army Commendation Medal, and two awards of the Combat Infantryman Badge. Command Sergeant Major Smith's many friends and fellow soldiers join together on this day in wishing him the best of health and happiness in his well-earned retirement.

PAUL A. DOE
Major General, USA
Commanding

Figure 12-1.

CHAPTER 13

SEPARATION FOR UNSATISFACTORY PERFORMANCE

Section I. GENERAL

13-1. Policy. A member may be separated per this chapter when it is determined that he or she is unqualified for further military service because of unsatisfactory performance. (See chap 1, sec II.) This reason will not be used if the member is in entry level status.

13-2. Criteria. *a.* Commanders will separate a member for unsatisfactory performance when it is clearly established that—

(1) In the commander's judgment, the member will not develop sufficiently to participate satisfactorily in further training and/or become a satisfactory soldier, or

(2) The seriousness of the circumstances is such that the member's retention would have an adverse impact on military discipline, good order, and morale, and

(3) It is likely that the member will be a disruptive influence in present or future duty assignments, and

(4) It is likely that the circumstances forming the basis for initiation of separation proceedings will continue or recur, and

(5) The ability of the member to perform duties effectively in the future, including potential for advancement or leadership, is unlikely, and

(6) The member meets retention medical standards (AR 40-501). See paragraph 1-34.

b. Commanders will initiate separation action only when the member is under military control. As an exception, commanders may initiate this action when a member is confined by civil

authorities and his or her military record indicates that he or she should be processed for separation by reason of unsatisfactory performance. (See chapter 2, section IV for completing proceedings initiated before a member departs absent without leave.)

c. When a member has committed serious acts of misconduct, commanders will not take action per this chapter instead of disciplinary action solely to spare him or her harsher penalties which may be imposed under the UCMJ.

d. This provision applies to members who are pregnant and whose substandard duty performance is not caused solely by pregnancy. Substandard duty might include failure to report to duty without medical or military authorization or refusal of CONUS reassignment during the first 6 months of pregnancy.

13-3. Separation authority. The commanders specified in paragraph 1-21 are authorized to take final action in cases processed under this chapter.

13-4. Counseling and rehabilitation requirements. Before initiating separation action against a member, commanders will insure that the member has received adequate counseling and rehabilitation. Because military service is a calling different from any civilian occupation, a member should not be separated when unsatisfactory performance is the sole reason unless there have been efforts at rehabilitation. Paragraph 1-18 prescribes the counseling and rehabilitation requirements.

Section II. PROCEDURES

13-5. Action by unit commander when member is under military control. When separation for unsatisfactory performance is appropriate, the unit commander will—

a. Take action specified in the Notification Procedure (chap 2). Also, see figure 2-2.

b. Forward the case recommending separation for unsatisfactory performance.

c. Insure that an appropriate medical evaluation is obtained per paragraph 1-34.

d. When appropriate, forward the case recommending that the member be processed through medical channels. This is required when UCMJ action is not initiated and when the member has an incapacitating physical or mental illness which was the direct or substantial contributing cause of the conduct for which action is being considered.

13-6. Action by commanding officer when member is confined. See chapter 2, section IV.

13-7. Commanding officer's report. When the immediate commander determines that separation for unsatisfactory performance is in the best interest of the Service, he or she will report the fact. It will be reported in letter form to the separation authority specified in paragraph 1-21 through the appropriate intermediate commander. The letter will include the following:

a. Name, grade, SSN, age, date of enlistment, length of term for which enlisted (if applicable), and prior service. (Reduction in grade is not a prerequisite to board action.)

b. Statement indicating whether the member has a Reserve commission or a warrant. (If so, show grade and date of appointment.)

c. The specific factual reason for action recommended. General, nondescriptive terms will not be used.

d. Aptitude area scores and duty military occupational speciality (MOS).

e. Results of MOS evaluation testing, to include MOS in which evaluated and evaluation score.

f. Record of counseling.

g. Description of rehabilitation attempts. (List assignments and duties under different officers and noncommissioned officers in each organization or unit. Include duration of each assignment.)

h. Statement indicating why commander does not consider it feasible or appropriate to accomplish other disposition.

i. Record of trials by court-martial.

j. Record of other disciplinary action. (Include record of nonjudicial punishment.)

k. Report of mental status evaluation (fig 1-2) or psychiatric report if applicable. (Include

probable effectiveness of further rehabilitation efforts.)

l. Report of medical examination per AR 40-501, chapter 10, if applicable.

m. A statement by the member indicating that he or she has been advised of his or her rights (chap 2).

n. Any other information pertinent to the case.

13-8. Action by intermediate commander. The intermediate commander will take one of the following actions:

a. Disapprove the recommendation and direct reassignment of the member to another organization, or direct disposition by other means. In case of reassignment, forward the commanding officer's report to the new organization's commander for information.

b. Forward the report recommending approval. No recommendation will be made as to the characterization of the separation.

c. Disposition through medical channels is required if the member does not meet medical retention standards and action under the UCMJ is not initiated.

13-9. Action by the separation authority. On receiving a recommendation for separation for unsatisfactory performance, the commander exercising special court-martial jurisdiction, or higher commander, will take one of the following actions:

a. Disapprove the recommendation and direct reassignment of the member to another organization. In this case the commanding officer's report will be forwarded to the new organization commander for information.

b. Disapprove the recommendation and return the case to the originator for disposition by other means. The return indorsement will include reasons for considering separation for unsatisfactory performance inappropriate.

c. Take other appropriate action under this regulation.

d. If the member has less than 6 years of total active and/or reserve military service, or has properly waived his or her right to consideration by a board—

(1) Approve separation for unsatisfactory performance, or

(2) Approve separation for unsatisfactory

performance and suspend execution of the separation (para 1-20).

e. If the member has 6 or more years of total active and/or reserve military service and has not executed a waiver, convene a board of officers, as prescribed in chapter 2, to determine whether the member should be separated for *unsatisfactory performance*.

13-10. Separation authority action after board hearings. See chapter 2.

13-11. Characterization of service. The service of members separated because of unsatisfactory performance will be characterized as honorable or under honorable conditions as warranted by their military record. (See para 3-5 and 3-7.)

13-12. Type of separation. The criteria in

chapter 1, section VIII, will govern whether the member will be released from AD or ADT with transfer to the IRR, or discharged. (See para 1-12 for additional instructions on ARNGUS and USAR personnel.)

13-13. Reentry into Army. *a.* To prevent reentry into the Army unless authorized by appropriate authority, the DD Form 214 (appropriate copies) of members with less than 18 years of active Federal service, who are separated per this chapter, will be coded "RE-3" (AR 601-210 and AR 601-280).

b. All members who have completed 18 or more years active Federal service who are discharged per this chapter are not eligible for reenlistment. DD Form 214 (appropriate copies) will be coded "RE-4". (See AR 601-210 and AR 601-280.)

CHAPTER 14

SEPARATION FOR MISCONDUCT

Section I. GENERAL PROVISIONS

14-1. General. This chapter establishes policy and prescribes procedures for separating personnel for misconduct because of minor disciplinary infractions, a pattern of misconduct, commission of a serious offense, and conviction by civil authorities.

14-2. Policy. *a.* Action will be taken to separate a member for misconduct when it is clearly established that—

(1) Despite attempts to rehabilitate or develop him or her as a satisfactory soldier, further effort is unlikely to succeed.

(2) Rehabilitation is impracticable or member is not amenable to rehabilitation (as indicated by the medical or personal history record).

(3) An unfit medical condition (AR 40-501) is not the direct or substantial contributing cause of his or her conduct. See paragraph 1-34.

b. Separation action may be taken when a member is not under military control (per para 1-33 and chapter 2, section IV, as applicable).

c. Commanders will not take action prescribed in this chapter instead of disciplinary action solely to spare an individual who may have committed serious misconduct the harsher penalties which may be imposed under the UCMJ.

d. Before taking action against a member under section III because of minor disciplinary infractions or a pattern of misconduct, commanders will insure that the member has received adequate counseling and rehabilitation. See paragraph 1-18.

e. To prevent reentry into the Army unless authorized by appropriate authority, the DD Form 214 of the member will be coded "RE-3" and AR 601-210, appendix C applies" will be entered in item 27. Members who have com-

pleted 18 or more years of active Federal service who are discharged under the provisions of this chapter are *not* eligible for reenlistment. DD Form 214 will be coded "RE-4" and "AR 601-210, appendix A, applies" will be entered in item 27.

f. Misconduct involving fraudulent entry will be considered under chapter 7.

14-3. Characterization of service, or description of separation. *a.* An under other than honorable conditions certificate is normally appropriate for a member discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the member's overall record (chap. 3, sec III). When the sole basis for separation is a separate offense which resulted in a conviction or court-martial that did not impose a punitive discharge, the member's service may not be characterized under other than honorable conditions unless approved by HQDA (DAPC-EPA-A-S).

b. When a member has completed entry level status, characterization of service as honorable is *not* authorized unless the member's record is otherwise so meritorious that any other characterization clearly would be inappropriate. The separation must be approved by the commander exercising general court-martial jurisdiction or higher authority.

c. If characterization of service under other than honorable conditions is *not* warranted for a member in entry level status (chap 3, sec III) the separation will be described as an entry level separation (uncharacterized).

14-4. Authority for discharge or retention. *a.* The separation authority is authorized to order

discharge or direct retention in military service when disposition of a member has been made by a domestic court of the United States or its territorial possessions.

b. Upon determination that a member is to be separated with a discharge certificate under other than honorable conditions, the separation authority will direct reduction to the low-

est enlisted grade by the reduction authority. (See AR 600-200, chap 8, sec IV.)

c. The separation authority is authorized to suspend execution of an approved administrative discharge to afford a highly deserving member a probationary period not to exceed 6 months to demonstrate successful rehabilitation. See paragraph 1-21 for delegation of authority.

Section II. CONVICTION BY CIVIL COURT

14-5. Conditions which subject member to discharge. An individual will be considered for discharge and the case initiated and processed through the chain of command to the general court-martial convening authority when initially convicted by civil authorities, or action is taken which is tantamount to a finding of guilty. This includes similar adjudication in juvenile proceedings. For consideration of separation, the specific circumstances of the offense must warrant separation and the following conditions are present:

a. A punitive discharge would be authorized for the same or a closely related offense under the MCM, 1969 (Rev), as amended; or

b. The sentence by civil authorities includes confinement for 6 months or more, without regard to suspension or probation. Adjudication in juvenile proceedings includes adjudication as a juvenile delinquent, wayward minor, or youthful offender.

14-6. Appeals. A member will be considered as having been convicted, or adjudged a juvenile offender, even though an appeal is pending or is subsequently filed. A member subject to discharge under this regulation will be considered and processed for discharge even though he or she has filed an appeal or has stated his or her intention to do so. However, execution of the approved discharge will be withheld until the member has indicated in writing that he or she does not intend to appeal the conviction or adjudication as a juvenile offender, or until the time an appeal may be made has expired, whichever is earlier. If an appeal has been made, discharge will be withheld until final action has been taken. Upon request of the member, or when the member is present for duty and the

commander believes his or her presence is detrimental to good order and discipline or the member presents a threat to the safety and welfare of other members of the organization, it may be appropriate to discharge a member prior to final action on an appeal. In such cases, the entire file will be forwarded to HQDA(DAPC-EPA-A-S), Alexandria, VA 22331, for final decision. The recommendation of the general court-martial authority for immediate discharge as an exception will fully substantiate the circumstances.

14-7. Retention action. Cases often arise which warrant consideration with a view toward retaining the member in the service.

a. In deciding whether retention should be recommended or approved, consider the gravity of the offense, related events, and any matters in extenuation. The military record of the member before the offense should be considered, as well as prospects for rehabilitation.

b. If retention is desired and civil custody exists, such as parole or probation, which would interfere with the member's military duties, the civil authorities will be requested to relinquish such custody during the member's term of military service. If the civil authorities decline to relinquish custody, as a general rule, the member will be discharged. The member will also be discharged if the conditions for relinquishment of custody are a burden to the Army.

14-8. Action following disposition by domestic courts. a. *When discharge is contemplated.* When a member is under military control, the unit commander will take action as specified in the Administrative Board Procedure. Chapter 2, section IV, prescribes action to be taken when member is confined.

b. Board hearing waived or completed. The separation authority may—

(1) Disapprove recommendation for discharge and direct retention.

(2) Approve recommendation for retention.

(3) Approve recommendation for discharge, and approve the type discharge certificate recommended by the board or a more favorable one than that recommended. He or she may not direct a discharge of a lesser character than that recommended by the board. When the board has been properly waived, the type of discharge certificate to be issued will be determined per paragraph 14-3.

(4) Approve recommendation for discharge and suspend execution of the discharge.

14-9. Procedure for civil court cases in foreign countries. *a.* Discharge of members convicted by a foreign tribunal may be approved by major oversea commanders. This authority may be delegated to a general officer with a JAG on his or her staff. Every action taken in such delegation will state the authority. When a member is convicted by a foreign tribunal, and the member returns to the United States before the initiation or completion of discharge proceedings per this paragraph, discharge proceedings will be initiated or completed per paragraph 14-5. The proceedings will be completed as if the member had been convicted by the domestic court of the United States or its territorial possession. (See paras 14-4 and 14-8.) However, the recommendation for discharge will include the items specified in paragraph 14-9b(1) through (4). In such cases, the authorities specified in paragraph 1-21 may approve and order discharge under this paragraph if the member has been assigned to their command. However, HQDA authorization is required before members who have completed 18 or more years of active Federal service may be discharged. This provision is not intended to relieve overseas commanders of their responsibility to promptly initiate and process civil court cases on members of their command.

b. Commanders will forward the board proceedings, or waiver, through channels to the major oversea commander. Cases will be processed through the chain of command to the

commander in the United States authorized to approve discharge. In both situations, the recommendation regarding discharge will include—

(1) Information concerning the civil record and military service of the member.

(2) A statement from the court indicating that the member has been initially convicted.

(3) A statement as to the character of discharge desired (include statement as to whether para 2-4 has been complied with).

(4) A report of the trial proceedings submitted by the official US observer, if any, attending the trial or a transcript of the record of trial, if obtainable.

c. Army personnel confined in foreign prisons will not be discharged from military service until the term of imprisonment is completed and they return to the United States. Normally, members disposed of by a foreign tribunal, but not confined, or who are confined but whose release from confinement is imminent will be returned to the United States, or its territorial possessions for discharge. It is general policy that the member will be returned to CONUS. Very unusual cases may be forwarded through command channels to HQDA (DAPC-EPA-A-S), Alexandria, VA 22331, with supporting reasons as to why a member should be authorized discharge in a foreign country. Only most unusual situations will be considered. If discharge in a foreign country is desired, either by the commander or the member concerned, this paragraph and chapter 1, section X will be complied with before such requests are submitted to HQDA.

d. If HQDA authorizes discharge in a foreign country, the oversea commander accomplishing the discharge will inform the nearest US diplomatic or consular mission of such action.

e. A member may not be retained in the service beyond ETS without his or her consent (para 1-29) to complete board action under chapter 2, section III. When the member has not requested retention per paragraph 1-29 and chapter 2, section III, cannot be accomplished before the member's ETS, the case with full details will be submitted through channels to HQDA (DAPC-EPA-A-S), Alexandria, VA 22331. The case will be submitted in time to permit appropriate consideration before the

member's ETS. There is no authorization to begin last minute administrative discharge action and then to request special consideration or retention beyond ETS to complete board action.

14-10. Pay and allowances. See AR 37-104-3.

14-11. Detainers and Strength Accountability. *a. Detainers.* When a detainer is lodged with the civil authorities with a view toward having the member returned to military control upon release from confinement, the communication to the civil authorities will clearly show the reason for the detainer. A mere statement that the individual is wanted by the Army can lead to erroneous conclusions. The absence of detailed information may deprive the member of parole consideration. Civil authorities may believe that the member is wanted for trial when the Army only wants to restore the member to duty. When a detainer has been lodged with civil authorities and a decision is subsequently made to ac-

complish administrative discharge, the civil authorities will be notified, in writing, to remove the detainer and that such detainer be cancelled. Notification will be made when discharge is accomplished. Verbal notification may be made, but must be confirmed in writing at the earliest date.

b. Strength accountability

(1) An individual sentenced to confinement for 6 months or more in a domestic, civil, or foreign institution will be dropped from military strength when his or her sentence begins (AR 680-1, para 13). However, the individual's chain of command retains administrative responsibility for processing separation action.

(2) When discharge is approved by separation authority but suspended due to appellate action in paragraph 14-6, the individual will be administratively reassigned to the nearest Personnel Control Facility per AR 600-62. The individual's MPRJ and DA Form 201 will be forwarded to the Commander of the PCF.

Section III. ACTS OR PATTERNS OF MISCONDUCT

4-12. Conditions which subject members to discharge. Members are subject to separation per this section for the following:

a. Minor disciplinary infractions. A pattern of misconduct consisting solely of minor military disciplinary infractions. If separation of a member in entry level status is warranted solely be reason of minor disciplinary infractions, the action should be processed under Entry Level Status Performance and Conduct (chap 11).

b. A pattern of misconduct. A pattern of misconduct consisting of—

(1) Discreditable involvement with civil or military authorities.

(2) Conduct prejudicial to good order and discipline. Discreditable conduct and conduct prejudicial to good order and discipline includes conduct violative of the accepted standards of personal conduct found in the UCMJ, Army regulations, the civil law, and time-honored customs and traditions of the Army.

c. Commission of a serious offense. Commission of a serious military or civil offense, if the specific circumstances of the offense warrant separation and a punitive discharge would be

authorized for the same or a closely related offense under the MCM.

14-13. Procedures. The administrative board procedures (chap 2, sec III) shall be used, except that the use of the notification procedure (chap 2, sec II) is authorized if separation is based upon paragraph 14-12a or b and characterization of service under other than honorable conditions is not warranted under paragraph 3-7c.

14-14. Separation authority. Commanders specified in paragraph 1-21 are authorized to convene boards and order separation under this chapter.

14-15. Commanding officer's report. See paragraph 13-7 for submission of commanding officer's report.

14-16. Action by intermediate commanders. Intermediate commanders may take one of the following actions in cases of misconduct:

a. Disapprove the recommendation and direct reassignment of the member to another organization or direct disposition by other means.

In case of reassignment, the commanding officer's report will be sent to the new organization commander for information.

b. Approve the commanding officer's recommendation and send the report to the separation authority. Disposition through medical channels is required if the member has an incapacitating physical or mental illness which was the direct or substantial contributing cause of the conduct for which action prescribed in this regulation is being considered, and action under the UCMJ is not initiated.

c. Recommend separation for unsatisfactory performance, if the reason for separation is determined to be a pattern of misconduct and it is caused by the conditions in paragraph 13-2a, and unsatisfactory performance was stated as a basis for separation in the initial letter of notification. Commanders exercising special court-martial jurisdiction may disapprove the recommendation relating to misconduct and take further action per paragraph 13-9.

14-17. Action by the separation authority. On receiving a recommendation for separation for misconduct, the separation authority may take one of the following actions:

a. Disapprove the recommendation and direct reassignment of the member to another organization. In case of reassignment, the commanding officer's report will be forwarded to the new organization commander for information.

b. Disapprove the recommendation and return the case to the originator for disposition by other means. Include the reasons for considering separation for misconduct inappropriate, or in the alternative, take other appropriate action under this regulation.

c. Disapprove the recommendation relating to misconduct and take action himself or herself. The case can be referred to the commander exercising special court-martial jurisdiction to determine whether the member should be separated for unsatisfactory performance. If the reason for separation is determined to be based substantially on any of the conditions described in paragraph 13-2a and the misconduct is not so serious that a discharge under other than honorable conditions appears appropriate. Unless unsatisfactory performance was stated as a basis for separation in the initial letter of notification, new proceedings per chapter 13 must be initiated to accomplish such separation.

d. Convene a board of officers as prescribed in chapter 2, section III, to determine whether the member should be separated for misconduct.

e. When the board hearing has been properly and effectively waived, direct separation of the member for misconduct.

f. When the board hearing has been waived approve separation of the member for misconduct and suspend execution of the separation (para 1-20).

g. Direct that the case be processed through medical channels, if appropriate. Such disposition is required if the member has an incapacitating physical or mental illness which was the direct or substantial contributing cause of the conduct and action under the USMJ is not initiated. A copy of the signed decision of the GCMA will be included with the records. Authority to determine that a case will be referred for disability processing instead of other administrative processing will not be delegated.

CHAPTER 15

SEPARATION FOR HOMOSEXUALITY

Section I. GENERAL

15-1. Policy. *a.* Homosexuality is incompatible with military service. Military members who engage in homosexual conduct or who, by their statements, demonstrate a tendency to engage in homosexual conduct, seriously impair the accomplishment of the military mission. The presence of such members adversely affects the ability of the armed forces to maintain discipline, good order, and morale; to foster mutual trust and confidence among members; to insure the integrity of the system of rank and command; to facilitate assignment and worldwide deployment of members who frequently must live and work under close conditions affording minimal privacy; to recruit and retain members of the armed forces; to maintain the public acceptability of military service; and to prevent breaches of security.

b. Nothing in this chapter prevents separation in appropriate circumstances for another reason.

c. The provisions of this chapter do not prevent trial by court-martial in appropriate cases.

15-2. Definitions. For the purpose of this chapter the following apply:

a. Homosexual means a person, regardless of sex, who engages in, desires to engage in, or intends to engage in homosexual acts.

b. Bisexual means a person who engages in, desires to engage in, or intends to engage in homosexual and heterosexual acts.

c. A homosexual act means bodily contact, actively undertaken or passively permitted, between members of the same sex for sexual satisfaction.

15-3. Criteria. The basis for separation may include preservice, prior service, or current service conduct or statements. A member will

be separated per this chapter if one or more of the following approved findings is made:

a. The member has engaged in, attempted to engage in, or solicited another to engage in a homosexual act unless there are approved further findings that—

(1) Such conduct is a departure from the member's usual and customary behavior.

(2) Such conduct is unlikely to recur because it is shown, for example, that the act occurred because of immaturity, intoxication, coercion, or a desire to avoid military service.

(3) Such conduct was not accomplished by use of force, coercion, or intimidation by the member during a period of military service.

(4) Under the particular circumstances of the case, the member's continued presence in the Service is consistent with the interest of the Service in proper discipline, good order, and morale.

(5) The member does not desire to engage in or intend to engage in homosexual acts.

Note: To warrant retention of a member after finding that he or she engaged in, attempted to engage in, or solicited another to engage in a homosexual act, the board's findings must specifically include all five findings listed in a(1) through (5) above. In making these additional findings, boards should reasonably consider the evidence presented. For example, engagement in homosexual acts over a long period of time could hardly be considered "a departure from the member's usual and customary behavior." The intent of this policy is to permit retention only of nonhomosexual soldiers who, because of extenuating circumstances (as demonstrated by findings required by para 15-3a(1) through (5)) engaged in, attempted to engage in, or solicited a homosexual act.

b. The member has stated that he or she is a homosexual or bisexual, unless there is a further finding that the member is not a homosexual or bisexual.

c. The member has married or attempted to

marry a person known to be of the same biological sex (as evidenced by the external anatomy of the persons involved) unless there are further findings that the member is not a homosexual or bisexual (such as, where the purpose of the marriage or attempt to marry was the avoidance or termination of military service).

15-4. Characterization of service. *a.* When the sole basis for separation is homosexuality, a discharge under other than honorable conditions may be issued only if such characterization is warranted in accordance with chapter 3, section III, and if there is a finding that during the current term of service the member attempted, solicited, or committed a homosexual act—

- (1) By using force, coercion, or intimidation.
- (2) With a person under 16 years of age.
- (3) With a subordinate in circumstances that

violate customary military superior-subordinate relationships.

- (4) Openly in public view.
- (5) For compensation.
- (6) Aboard a military vessel or aircraft.
- (7) In another location subject to military control if the conduct had, or was likely to have had, an adverse impact on discipline, good order, or morale due to the close proximity of other members of the Armed Forces.

b. In all other cases, the type of discharge will reflect the character of the member's service (chap 3, sec III).

15-5. Separation authority. *a.* Commanders specified in paragraph 1-21 are authorized to order separation for homosexuality.

b. HQDA approval is required before members who have completed 18 or more years of active Federal service may be discharged.

Section II. PROCEDURES

15-6. Action by unit commander. If there is any credible evidence to believe that a basis for separation exists, as outlined in paragraph 15-3, the unit commander of the member will—

a. Inquire thoroughly and comprehensively about the matter. Learn all the facts in the case, bearing in mind that such cases are susceptible to possible malicious charges. A case may be referred to the local provost marshal for investigation and recording on DA Form 2800 (CID Report of Investigation). The facts and circumstances of each case will govern the commander's decision as to the appropriate agency of investigation. Suspension of favorable personnel action will be initiated per AR 600-31, unless the appropriate commander determines the allegation is baseless.

b. If the immediate commander determines, based on his or her inquiry, that probable cause for separation exists, he or she will report the fact, in letter form, to the separation authority, through the intermediate commanders. The report will include the following:

- (1) Name, grade, SSN, age, date of enlistment, length of term for which enlisted (if applicable), and prior service.
- (2) Reason for action recommended. General, nondescriptive terms will not be used.

(3) Statement indicating whether the member has a Reserve commission or a warrant. (If so, show grade and date of appointment.)

(4) Aptitude area scores, and duty military occupational specialty (MOS).

(5) Record of trials by court-martial.

(6) Record of other disciplinary action. (Include record of nonjudicial punishment.)

(7) A report of medical examination as prescribed by AR 40-501, chapter 10.

(8) A statement by the member indicating that he or she has been advised of his or her rights (chap 2, sec III).

(9) Any other information pertinent to the case.

c. Take action as specified in chapter 2, section III (Administrative Board Procedure). See figure 2-2.

d. Insure that mental status evaluation is obtained per paragraph 1-34 when a member is to be processed for separation.

e. If the information available is sufficiently credible to warrant investigation, take necessary action to protect the security of his or her command. This includes suspending the member's security clearance (if any) and denying the member access to classified defense informa-

tion pending completion of the case. When the report of investigation substantiates such allegations, the commanding officer will report the circumstances of the case to the Commander, US Army Central Personnel Security Clearance Facility (CCF), ATTN: PCCF-P, Fort Meade, MD 20755. The commander will determine whether the member's clearance should be revoked per AR 604-5. Suspension and recommendation for revocation of security clearance will conform to instructions contained in CCF Letter of Instruction (LOI) 80-1.

15-7. Action by intermediate commanders. The intermediate commanders may take one of the following actions:

a. Disapprove the recommendation because there is no sufficient evidence that one or more of the circumstances authorizing separation under paragraph 15-3 has occurred.

b. Approve the commanding officer's recommendations and forward the report to the separation authority.

15-8. Action by separation authority. On receiving a recommendation for separation for homosexuality, the separation authority may take one of the following actions:

a. Disapprove the recommendation because there is not sufficient evidence that one or more of the circumstances authorizing separation under paragraph 15-3 has occurred or, in the alternative, take other appropriate action under this regulation.

b. Disapprove the recommendation relating to homosexuality. The commander will then convene a board of officers to determine whether the member should be separated for another reason of which the member has been duly notified.

c. Convene a board of officers as prescribed in chapter 2, section III. The board will determine whether the member should be separated for homosexuality.

d. When the board hearing has been properly and effectively waived

(1) If the separation authority determines that there is not sufficient evidence to support separation (para 15-3), the discharge authority will direct retention unless there is another basis for separation of which the member has been duly notified.

(2) If the separation authority determines that one or more of the circumstances authorizing separation (para 15-3) has occurred, the member will be separated unless retention is required under the limited circumstances described in paragraph 15-3.

15-9. Recommendations of the board. The board convened to determine whether a member should be separated for homosexuality will follow the procedures authorized in paragraph 2-12b, except as shown below.

a. If the board finds that one or more of the circumstances authorizing separation under paragraph 15-3 is supported by the evidence, the board will recommend separation unless the board finds that retention is required under the limited circumstances described in paragraph 15-3.

b. If the board does not find that there is sufficient evidence that one or more of the circumstances authorizing separation (para 15-3) has occurred, the board will recommend retention unless the case involves another basis for separation of which the member has been duly notified.

c. The burden of proving that retention is required under the limited circumstances described in paragraph 15-3 rests with the member. Excepted are cases where the member's conduct was solely the result of a desire to avoid or terminate military service.

d. Findings regarding the existence of the limited circumstances requiring a member's retention as set forth in paragraph 15-3 are required only if—

(1) The member clearly and specifically raises such limited circumstances.

(2) The board or discharge authority relies upon such circumstances to justify the member's retention.

15-10. Separation authority action after board hearings. The separation authority will follow the procedures authorized under paragraph 2-6. Exceptions are shown below.

a. If the board recommends retention—

(1) Approve the finding and direct retention; or

(2) Forward the case to HQDA (DAPC-EPA-A-S), Alexandria, VA 22331, when the board has recommended retention and he or

she believes discharge is warranted and in the Army's best interest. HQDA may authorize discharge per paragraph 5-3.

b. If the board recommends separation—

(1) Approve the finding and direct separation, or

(2) Disapprove the finding on the basis that—

(a) There is insufficient evidence to support the finding, or

(b) Retention is required under the limited circumstances described in paragraph 15-3.

(3) Return the case to the board for com-

pliance with the regulation if findings required by paragraph 15-3a have not been made.

15-11. Assignment action for personnel en route to an overseas area. a. When action prescribed in this chapter has been initiated against a member assigned to an overseas replacement station, he or she will be transferred to the Army garrison at that or another installation to await final action on the case.

b. If the discharge authority disapproves the recommendation for separation, the member will again be assigned to the overseas replacement station for compliance with his or her original order.

CHAPTER 16

SELECTED CHANGES IN SERVICE OBLIGATIONS

16-1. Order to active duty or active duty for training as a commissioned or warrant officer.

a. Enlisted personnel may be discharged for the purpose of—

(1) Being ordered to active duty as a commissioned or warrant officer in any branch of the Armed Forces.

(2) Being ordered to an AD Guard/Reserve tour with the Army as a USAR commissioned or warrant officer. The tour will be for at least 1 year.

b. Before such discharge, the separation authority (para 1-21) must have documentary evidence from the proper authority. The evidence must prove that member *will* be ordered to AD if discharged from his or her enlisted status. Discharge will be effective the day preceding the date of entry on duty as a commissioned or warrant officer.

c. The service of a member discharged per this paragraph will be characterized as honorable unless an entry level separation is required under chapter 3, section III.

16-2. Acceptance into an ROTC Program. a. Enlisted personnel may be discharged for the purpose of—

(1) Acceptance into a Senior ROTC Program (Military Science III-IV), OCS, or another program requiring enlistment in a Reserve Component of the Army or any component of another branch of the Armed Forces. These programs must lead to a commission or appointment with immediate order to AD in such status upon successful completion of the program. Discharge from Active Army status for acceptance into the advanced course of SROTC is dependent on immediate enlistment in the USAR for assignment to a Control Group (ROTC) and presentation of a letter of acceptance from an ROTC host institution. Enlistment will be accomplished under AR 145-1, paragraph 3-19,

by the commander effecting discharge. To be eligible for separation to participate in the advanced course of the SROTC program, a member must have—

(a) Completed at least 1 year of AD as of date of discharge for enrollment in the program.

(b) Satisfactorily completed at least 2 years of college work or received credit therefore.

(2) Acceptance into, and participation in an ROTC 2- or 3-year scholarship program for AD enlisted personnel per AR 145-1, paragraph 3-54. The provisions of AR 145-1, paragraphs 3-49a and 3-54b, will be met before approval of the request for separation.

b. Before such discharge, separation authority (para 1-21) must have documentary evidence from the proper authority. The evidence must prove that the member has been accepted into the advanced course of the SROTC Program, OCS, subject to discharge from his or her enlisted status. For a(1) above, discharge will be effective the day preceding the date of enlistment in the appropriate armed force. For a(2) above, discharge will be effective the day preceding the date of enlistment in the USAR.

c. The service of a member discharged per this paragraph will be characterized as honorable unless an entry level separation is required under chapter 3, section III.

16-3. Discharge for the purpose of immediate enlistment or reenlistment. Enlisted personnel who are accepted for enlistment or reenlistment as set forth below will be discharged. Members so discharged will be enlisted or reenlisted on the day following discharge. The discharge certificate will not be delivered to the member until after enlistment or reenlistment is accomplished.

a. Commanders specified in paragraph 1-21

are authorized to order discharge for reenlistment per AR 601-280.

b. The service of a member discharged per this paragraph will be characterized as honorable unless entry level separation is required under chapter 3, section III.

16-4. Discharge of members of Reserve Components on active duty. a. Commanders specified in paragraph 1-21 are authorized to discharge members of the Reserve Components on AD who are precluded from attaining eligibility for retirement with pay per 10 USC 1331. Commanders will examine the facts of the applicant's ability to complete the service required for retirement under cited law. If a member cannot complete the required service for retirement eligibility during the current enlistment or permissible extensions, and further enlistment in the Reserve Component is barred under Federal or State law, because of age, discharge may be directed if requested by the member. This paragraph applies only to those members who can substantiate that they were unaware of their inability to obtain retirement eligibility at the time of current entry.

b. The service of a member discharged per this paragraph will be characterized as honorable unless an entry level separation is required per chapter 3, section III.

16-5. Early separation of personnel denied reenlistment. Enlisted personnel may be discharged before ETS by commanders specified in paragraph 1-21 when they have received a bar to reenlistment and the provisions of a or b below have been met.

a. *DA imposed bars to reenlistment.*

(1) Members who perceive that they will be unable to overcome an HQDA bar to reenlistment will be allowed to be discharged immediately. Members may request immediate discharge within 60 days from receipt of the HQDA bar to reenlistment (AR 600-200, para 4-13) from unit commanders. Discharge must be accomplished no later than 6 months from the date of request in spite of any existing service obligation which will not be fulfilled by such early release date. Approved requests for discharge will be irrevocable. Oversea tours may be curtailed to the extent necessary to permit early separation under this section.

(2) The member's request for early separation will include the following statement:

"I understand that I am being separated before my normal ETS for my own convenience. I understand that recoupment of unearned portions of Enlistment Bonus (EB)/Selective Reenlistment Bonus (SRB) is required. I also understand that once separated I will not be permitted to reenlist at a later date."

b. *Locally imposed bars to reenlistment.*

(1) Members who perceive that they will be unable to overcome a locally imposed bar to reenlistment may apply for immediate discharge. They must complete the review procedure outlined in AR 601-280, paragraph 1-35h(2), before they apply. The soldier will not be allowed to submit for separation earlier than 6 months from date of imposition of the bar.

(2) Should the service member receive PCS orders before completing the 6-month period, his or her records will be annotated to indicate that a review of the bar to reenlistment will take place 6 months after arrival in his or her new unit. Discharge must be accomplished no later than 6 months from the date of request in spite of any existing service obligation which will not be fulfilled by such early release. Oversea tours may be curtailed to the extent necessary to permit early separation under this section. Approved requests for discharge will be irrevocable.

(3) The member's request for early separation will include the following statement:

"I understand that I am being separated before my normal ETS for my own convenience. I understand that recoupment of unearned portions of Enlistment Bonus (EB)/Selective Reenlistment Bonus (SRB) is required. I also understand that once separated I will not be permitted to reenlist at a later date."

c. *Separation for other reasons.* Nothing in this paragraph prevents separation of a member for other appropriate action authorized per this regulation other than chapter 5, section II.

d. *Characterization of service or description of separation.* The service of a member discharged per this paragraph will be characterized as honorable unless an entry level separation is required under chapter 3, section III.

16-6. Oversea returnees. Commanders specified in paragraph 1-21 are authorized to order separation of enlisted personnel returned to the United States, a possession of the United States,

or area of residence in which enlisted or ordered to active duty.

a. Enlisted personnel in the United States or area of residence on TDY or emergency leave from oversea organization who, upon completion of TDY or leave, are within 60 days of ETS, will be discharged or released as appropriate. Those who desire to extend or reenlist can do so as an exception to policy in AR 601-280, paragraph 4-3g, provided they are otherwise eligible.

(1) Affected members will be reassigned to a separation transfer point (STP) nearest their home for separation processing. Separation processing will not be accomplished before completion of leave or TDY. Records and allied papers will be forwarded to such STP.

(2) Affected members will be instructed that upon completion of leave or TDY they will report to the STP to which assigned for separation processing.

b. This paragraph is not to be construed as authority for early return. It authorizes separation for the purpose stated only, to preclude nonproductive reassignments for short periods of time.

c. The service of a member separated under this paragraph will be characterized as honorable unless an entry level separation is required by chapter 3, section III.

16-7. Physical disqualification for duty in MOS.

a. Members whose physical profiles prevent them from further duty in their primary, secondary, or additional MOS without retraining and who do not intend to reenlist will be separated when all the following criteria apply:

(1) The member has 6 months or less service remaining until discharge or release from AD. The member must sign a statement that he or she is willing to accept separation under this paragraph.

(2) The member has been determined by appropriate medical authority to have assignment limitation due to physical impairments. These impairments will prevent duty in his or her primary, secondary, or additional MOS for more than 60 days.

(3) The member cannot be reclassified into another MOS without retraining. Excluded from this category are individuals who can be re-

trained within a period of 30 days either by on-the-job training or formal training conducted at the installation to which they are currently assigned.

b. This paragraph does not apply to the following:

(1) Personnel who have a medical condition which warrants processing under AR 635-40.

(2) Reserve Component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963.

c. Separation per this paragraph will not be executed more than 90 days before the scheduled date of discharge or release from AD.

d. Commanders specified in paragraph 1-21 are authorized to order the separation of eligible personnel under this paragraph.

e. The service of a member separated per this paragraph will be characterized as honorable.

16-8. Reduction in authorized strength. Enlisted personnel may be discharged or released from AD, as appropriate, prior to the expiration of their terms of service or periods for which ordered to AD (10 USC 1169) when specifically authorized as set forth below.

a. When budgetary or authorization limitation requires a reduction in enlisted strength, the Secretary of the Army, or his designee, will authorize such reduction. The Secretary of the Army will accomplish this by directing the CG, MILPERCEN to issue separation instructions pertaining to an individual or to all members of a specified class of personnel.

b. Personnel to be separated per this paragraph will be notified through channels by commanders specified in paragraph 1-21. Notification is based on information and instructions furnished by MILPERCEN. These commanders are responsible for the timely separation of enlisted personnel notified of involuntary separation.

c. Personnel designated for separation per this paragraph will be discharged or relieved from AD not later than 3 months after receipt of notification. A date will be set for separation within this period which will work the least hardship on the member. If the member becomes a disciplinary problem following his or her receipt of notification of separation, the commander exercising GCM jurisdiction may order his or her immediate separation.

d. Members who are within 2 years of qualifying for retirement per chapter 12 on the scheduled separation date will not be processed per this paragraph unless such action is directed by the Secretary of the Army.

e. The service of members separated per paragraph will be characterized as honorable unless an entry level separation is required by chapter 3, section III.

16-9. Reserve Component personnel ordered to IADT under Reserve Enlistment Program (REP 63). a. Commanders of training installations who are separation authorities (para 1-21) are authorized to release Reserve Component personnel ordered to IADT under REP 63 upon completion of MOS training. The training must be completed prior to the period of time specified in IADT orders, provided at least 12 weeks IADT has been completed.

b. REP 63 trainees will be considered for early release from initial tours of IADT based on eligibility for leave for cogent reasons such as death or serious illness of a member of the reservist's immediate family. Commanders of training activities, including Army service schools, who are separation authorities (para 1-21) may authorize early release from IADT in lieu of granting leave, if the reservist has completed at least 12 weeks IADT and the training benefits which will result from return to the training center upon completion of leave are not substantial enough to justify return to duty in lieu of early release from IADT.

c. The service of members separated per this paragraph will be characterized as honorable unless an entry level separation is required by chapter 3, section III.

16-10. Separation of enlisted members of medical holding detachments/companies. a. Hospital commanders who are separation authorities (para 1-21) may order separation of those enlisted personnel assigned to medical holding detachments or companies who have less than 3 months to serve to ETS following completion of hospitalization. Members must

sign a statement that they are willing to accept separation under this paragraph. Reserve Component personnel ordered to IADT under REP 63 are not eligible for separation under this paragraph.

b. The service of members separated per this paragraph shall be characterized as honorable.

16-11. Separation of personnel assigned to installations or units scheduled for inactivation or permanent change of station. Enlisted personnel of all components assigned to units scheduled for PCS, inactivation or demobilization, or to installations scheduled for inactivation, who cannot be effectively utilized within other units at the same station, will be separated from service as set forth below. The exception is indicated in c below.

a. Those having 90 days or less to serve beyond effective date of inactivation or change of station may be separated from AD by a commander specified in paragraph 1-21, provided the member desires separation. Separation will be accomplished during the 30-day period preceding the effective date of inactivation or change of station, but in no case will a member be separated more than 90 days before ETS.

b. Those whose normal term of service expires during the 90-day period preceding the effective date of activation or change of station may be separated by a commander specified in paragraph 1-21 any time during the 90-day period, provided the member desires a separation.

c. Combining this paragraph with other separation programs to effect separation more than 90 days before ETS is not authorized.

d. Oversea commanders returning personnel to the United States for separation per this authority may add normal travel time required to the 90 days. However, care will be taken to insure that members do not arrive in the United States with more than 90 days remaining in their term of service. This paragraph is not to be construed as authority for early return. It authorizes separation only to prevent nonproductive reassignments for short periods of time.

e. The service of members separated per this paragraph shall be characterized as honorable.

APPENDIX A
ADDRESSES OF THE STATE ADJUTANTS GENERAL

<i>State or Territory</i>	<i>Address</i>
Alabama	1720 Federal Dr. P.O. Box 1311, Montgomery, AL 36102
Alaska	610 Mackay Bldg., 338 Denali St., Anchorage, AK 99501
Arizona	5636 East McDowell Rd., Phoenix, AZ 85008
Arkansas	Fort McAlister, P.O. Box 678, North Little Rock AR 72115
California	P.O. Box 214405, Sacramento, CA 95821
Colorado	300 Logan St., Denver, CO 80203
Connecticut	360 Broad St., Hartford, CT 06115
Delaware	First Regiment Rd. Wilmington, DE 19808
District of Columbia	NG Armory, 2001 East Capitol St., WASH DC 20003
Florida	State Arsenal, St Augustine, FL 32084
Georgia	P.O. Box 17965, Atlanta, GA 31316
Hawaii	3949 Diamond Head Rd., Fort Ruger, Honolulu, HI 96816
Idaho	P.O. Box 45, Boise ID 83707
Illinois	1301 North MacArthur Blvd., Springfield, IL 62702
Indiana	P.O. Drawer AO, Indianapolis, IN 46241
Iowa	R.F.D. 1, Camp Dodge, Grimes, IA 50111
Kansas	P.O. Box C-300, Topeka, KS 66601
Kentucky	Boone National Guard Center, Frankfort, KY 40601
Louisiana	HQ Bldg., Jackson Barracks, New Orleans, LA 70146
Maine	Camp Keyes, Augusta, ME 04333
Maryland	5th Regiment Armory, Baltimore, MD 21201
Massachusetts	905 Commonwealth Ave., Boston, MA 02215

<i>State or Territory</i>	<i>Address</i>
Michigan	2500 South Washington Ave., Lansing, MI 48913
Minnesota	Veterans Service Bldg., St Paul, MN 55155
Mississippi	P.O. Box 5027, Fondren Station, Jackson, MS 39216
Missouri	1717 Industrial Dr. NE., Jefferson City, MO 65101
Montana	P.O. Box 4789, Helena, MT 59601
Nebraska	1300 Military Rd., Lincoln, NE 68508
Nevada	2525 South Carson St., Carson City, NV 89701
New Hampshire	State Mil Res, Airport Rd., Concord, NH 03301
New Jersey	P.O. Box 979, Trenton, NJ 08625
New Mexico	P.O. Box 4277, Santa Fe, NM 87502
New York	Public Security Bldg., State Campus, Albany, NY 12226
North Carolina	P.O. Box 26265, Raleigh, NC 27611
North Dakota	P.O. Box 1817, Bismarck, ND 58505
Ohio	2825 West Granville Rd., Worthington, OH 43085
Oklahoma	3501 Military Circle, NE., Oklahoma City, OK 73111
Oregon	2150 Fairgrounds Rd., NE., Salem, OR 97303
Pennsylvania	Department of Military Affairs, Annville, PA 17003
Puerto Rico	P.O. Box 3786, San Juan, PR 00904
Rhode Island	1051 North Main St., Providence, RI 02904
South Carolina	1225 Bluff Rd., Columbia, SC 29201
South Dakota	P.O. Box 2150, Rapid City, SD 57790
Tennessee	NG Armory, Sidco Dr., Nashville, TN 37204
Texas	P.O. Box 5218, Austin, TX 78763
Utah	P.O. Box 8000, Salt Lake City, UT 84108
Vermont	Bldg. #1, Camp Johnson, Winooski, VT 05404
Virginia	401 East Main St., Richmond, VA 23219
Virgin Islands	P.O. Box 3240, Christiansted, St Croix, US VI 00820
Washington	Camp Murray, Tacoma, WA 98430
West Virginia	1703 Coonskin Dr., Charleston, WV 25311
Wisconsin	P.O. Box 8111, Madison, WI 53708
Wyoming	5500 Bishop Blvd., P.O. Box 1709, Cheyenne, WY 82001

APPENDIX B
SAMPLE REPORT OF PROCEEDINGS OF BOARD OF OFFICERS*

DEPARTMENT OF THE ARMY
 COMPANY A
 4th BATTALION, 96th INFANTRY
 FORT JACKSON, SC 29207

15 May 1982

SUBJECT: Discharge for Misconduct Under Chapter 14, AR 635-200

THRU Commander
 4th Battalion, 69th Infantry
 Fort Jackson, SC 29207

TO: Commander
 118th Infantry Division and Fort Jackson
 Fort Jackson, SC 29207

1. It is recommended that Private (E2) John A. Doe, 000-00-0000, be required to appear before a board of officers convened under the provisions of AR 635-200, chapter 14, paragraph 14-12a and (b), for the purpose of determining whether he should be discharged before the expiration of his term of service.

2. In support of the recommendation, the following information concerning Private Doe is provided:

a. He enlisted 15 March 1981 for a term of 3 years and has no prior service. He is 20 years old.

b. He has no Reserve commission or warrant.

c. Discharge is recommended because of frequent incidents of a discreditable nature with military authorities and habitual shirking. (Include narrative statement of basis for discharge and results of counseling sessions.)

d. His duty MOS is 11B, and his MOS evaluation score is 85. His aptitude area scores are as follows:

APT	SCORE
CO	A-92; B-89
EL	79
GM	105
MM	89

* This is an example of a recommendation for discharge for misconduct. If individual is being recommended for discharge for unsuitability, sample will be changed accordingly. All documents which are not evidence will be numbered consecutively with Roman numerals and made inclosures. Items which are evidence will be numbered consecutively (or lettered if submitted by respondent) (AR 15-6, paras 3-15 and 3-16).

APT	SCORE
CL	85
GT	87
FA	100
ST	85
OF	70
SC	76

e. During the period 1 August 1981, to date, this soldier has been assigned to various duty assignments (three different companies) in the battalion commensurate with his training and ability and has served under different superior officers and noncommissioned officers. In each instance, his performance of duty has been unsatisfactory. His military superiors and the psychiatric examiner agree that further rehabilitative efforts would be useless. His assignments in this battalion have been as listed below.

- (1) 1 August 1981-3 November 1981—Company C.
- (2) 4 November 1981-1 March 1982—Company B.
- (3) 2 March 1982-Date—Company A.

f. He has been counseled as indicated below.

- (1) 8 September 1981 and 8 October 1981, by Captain Winfield M. Elrod, Commanding Officer, Company C, 4th Battalion, 96th Infantry.
- (2) 19 December 1981, by Lieutenant Titus L. Moody, Executive Officer, Company B, 4th Battalion, 96th Infantry.
- (3) 3 March 1982, by Captain William P. Peters, Commanding Officer, Company A, 4th Battalion, 96th Infantry.
- (4) 2 April 1982, by Captain (Major) Howard X. Cross, Headquarters 118th Infantry Division.

g. As discharge is recommended for the reasons stated in *c* above, elimination for unsuitability is not considered appropriate. Private Doe's performance is characterized by intentional shirking of his duties and by behavior rendering him repeatedly subject to punitive action. His behavior is not due to an incapacity to become a satisfactory soldier within the meaning of misconduct. There appear to be no grounds for other disposition.

h. Private Doe has two convictions by summary court-martial and one by special court-martial. He was convicted by summary court on 8 September 1981, for 7 days' AWOL and on 23 April 1982, for damaging US property through neglect. He was convicted by special court-martial on 10 May 1982, for 6 days' AWOL and disrespect to a noncommissioned officer while in execution of office. Private Doe has been punished in this company on three separate occasions under the provisions of Article 15, UCMJ (Incl 5).

5 Incl	(Name)
1. Ltr of notification	Captain,
	Infantry
2. Ltr of acknowledgement	Commanding

1 October 1982

AR 635-200

- 5 Incl (Name)
3. Med exam (SF 88, SF93, DA Form 3822-R)
 4. Extract of prev convictions (DD Form 493)
 5. Rec of Art 15 proceedings (DA Form 2627)

Note. The first three inclosures must be included in all cases. Inclosures 4 and 5 must be included if appropriate. Other inclosures may be added as desired.

AR 635-200

1 October 1982

AJ Doe, John A. (Enl) 000-00-0000 (15 May 82) 1st Ind
SUBJECT: Discharge for Misconduct Under AR 635-200, Chapter 14
HQ, 4th Battalion, 96th Infantry, 118th Infantry Division, Fort Jackson,
SC 29207 18 May 82

TO: Commander, 118th Infantry Division, Fort Jackson, SC 29207

Recommend approval.

FOR THE COMMANDER:

5 Incl	(Name)
nc	Captain, Infantry
	Adjutant

Note. See AR 15-6, appendix A, for sample letter of appointment of board of officers and referral of a respondent to a continuing board for a hearing under AR 635-200.

1 October 1982

AR 635-200

HEADQUARTERS
118th INFANTRY DIVISION
FORT JACKSON, SC 29207

25 May 82

SUBJECT: Notification to Appear Before Board of Officers

TO: Private John A. Doe, 000-00-0000
Company A, 4th Battalion, 96th Infantry
Fort Jackson, SC 29207

1. Under the provisions of Army Regulation 15-6, paragraph 5-5, and Army Regulation 635-200, notice is hereby given that a Board of Officers appointed by letter of appointment, this Headquarters, dated 1 May 1982, will hold a hearing at Building T-4321 at 0900 hours on 15 June 1982, to determine whether you should be discharged because of misconduct before the expiration of your term of service. If you fail to appear before the board due to being absent without leave, you may be discharged from or retained in the service by the discharge authority without personal appearance before the board.

2. The following witness are expected to be called:

Captain Winfield M. Elrod
Company C, 4th Battalion, 96th Infantry
Fort Jackson, SC 29207

1Lt Titus L. Moody
Company B, 4th Battalion, 96th Infantry
Fort Jackson, SC 29207

Sergeant Robert H. Brown
Company C, 4th Battalion, 96th Infantry
Fort Jackson, SC 29207

Sergeant First Class Robert F. Jones
Company A, 4th Battalion, 96th Infantry
Fort Jackson, SC 29207

Captain William P. Peters
Company A, 4th Battalion, 96th Infantry
Fort Jackson, SC 29207

3. The recorder will endeavor to arrange for the presence of any reasonably available and necessary witnesses whom you may desire to call, upon written request from you for such action.

4. Attached is a copy of a deposition from Captain Duane Evans, who will be unable to appear in person at the board hearings.

1 Incl ALBERT A. FAKIAN

as 2Lt, Artillery

Recorder

1 October 1982

I hereby certify that the above is a true and correct copy of the original notification and was delivered by me personally to the individual concerned on 25 May 1982.

ALBERT A. FAKIAN
2Lt, Artillery
Recorder

Note. Include Privacy Act Statement concerning respondent as inclosure (see AR 15-6, para 3-8e).

SUMMARY OF PROCEEDINGS

The board was appointed by letter of appointment, Headquarters, 118th Infantry Division and Fort Jackson, SC, dated 1 May 1982, a copy of which is attached.

The respondent was referred to this board for a hearing by letter, Headquarters, 118th Infantry Division and Fort Jackson, SC, dated 15 May 1982.

The board convened at Fort Jackson, SC, on 15 June 1982. The board met pursuant to the forgoing letter of appointment at 0900 hours on 15 June 1982.

PERSONS PRESENT:

Major Walter C. Brown, 000-00-0000, Infantry, President
Major Robert Johnson, 000-00-0000, Infantry, Member
Captain Lewis B. Johnson, 000-00-0000, Infantry, Member
Second Lieutenant Albert A. Fakian, 000-00-0000, Infantry (Recorder)
First Lieutenant George F. Huffnagle, 000-00-0000, JAGC (Counsel of Respondent)
Captain James R. Cronkhite, 000-00-0000, Infantry (Counsel for Respondent)

PERSONS ABSENT:

None.

Private John A. Doe, 000-00-0000, Company A, 4th Battalion, 96th Infantry, appeared before the board with his counsel (1LT George F. Huffnagle) (Captain James R. Cronkhite).

The letter appointing the board and the applicable substance of the regulations under which it was convened were read aloud by the recorder.

Private John A. Doe was asked if he desired to challenge any member of the board for cause; he replied he did not.

A true copy of written advance notification to Private John A. Doe, dated 25 May 1982, was received and read and is hereto appended.

1 October 1982

AR 635-200

Private John A. Doe was present during all open sessions of the board with his counsel and was afforded full opportunity to cross-examine adverse witnesses, to present evidence in his own behalf, and to testify in person or submit a written statement.

A letter, subject; Discharge for Misconduct Under AR 635-200, Company A, 4th Battalion, 96th Infantry, with two indorsements (inclosures withdrawn), was offered in evidence by the recorder. There being no objection, the letter was admitted in evidence.

A certificate of 1LT Paul O. Macy, dated 12 May 1982, was offered in evidence by the recorder. There being no objection, the certificate was admitted in evidence.

A duly authenticated extract copy of the respondent's service record containing record of convictions by court-martial was offered in evidence by the recorder. There being no objection, the document was admitted in evidence.

True copies of summarized records of proceedings under Article 15, UCMJ (DA Form 2627) pertaining to nonjudicial punishment imposed upon the respondent on 10 April 1982, 18 March 1982 and 29 March 1982, were offered into evidence by the recorder, and admitted into evidence.

The following witnesses called by the board were sworn and testified in substance as follows:

Captain Winfield M. Elrod, Company C, 4th Battalion, 96th Infantry.

I am the company commander of Company C, 4th Battalion, 96th Infantry. Private Doe was assigned to my company from 1 August 1981 until 5 November 1981. Before his assignment to my company, he had been in basic training. I initially assigned Doe to a squad in the company, and apparently he performed satisfactorily for the first month. About that time, he went AWOL for 7 days. Thereafter, Doe developed a bad attitude toward his job and the Army. I assigned Doe to another platoon as assistance supply clerk, and then as assistant to the company clerk where the first sergeant could keep an eye on him, but he performed unsatisfactorily in all of them. I then assigned Doe as an armorer-artificer's helper under the direct supervision of Sergeant Brown, and that is where Doe remained until his transfer out of my company. I gave him nonjudicial punishment under Article 15 two times, once for being late to formation, and once for insubordination to a noncommissioned officer. As time passed, he became more sullen and uncooperative.

CROSS-EXAMINATION

I counseled Doe several times, but he refused to say what was bothering him. I counseled him the first time when he was punished for his AWOL. About a month later, I counseled him again and explained to him that he was going to have to change his ways for his own good and for the good of the Army. I counseled him in those instances when I imposed nonjudicial punishment upon him. I told him that his prior record indicated that he could perform the duties required of him and that his tour would be much better if he did his job. He did not respond to my counseling.

Note. All subsequent testimony should be recorded similarly. After all testimony has been recorded, continue

A statement signed by the respondent, dated 14 May 1982, to the effect that he had been advised of the basis of this action, desired to have a board hearing, and desired counsel, was offered in evidence by the recorder. There being no objections, the document was admitted in evidence.

The recorder stated that he had nothing further to offer. The rights of the respondent were explained to him by the president of the board. The respondent elected to take the stand as a witness. He was sworn and testified in substance as follows.

DIRECT EXAMINATION

I have been in the Army since 15 March 1981. I am 20 years old. I lived in Jersey City, NJ, and went to school there up to the 9th grade. Before I finished the 9th grade, I was 16 years old, so I quit. I got mixed up with a bad crowd. So to improve my chance in life, I enlisted in the Army in 1981. At first, I liked the Army, but then I got tired of being bossed around all the time. The sergeants gave me a bad time. Everything was jump, jump, jump. At first I did my work, but I didn't make PFC, so I figured it was no use and wanted out. I guess I don't want a bad discharge, but I don't want all those rotten details either.

CROSS-EXAMINATION

I have heard what the officers and sergeants have said about me. The only way I can explain it is that they don't understand me. They were always pushing me around.

The recorder made an argument.

Counsel for the respondent made an argument.

Then the recorder made a closing statement.

Neither the recorder nor the respondent having anything further to offer, the board was closed.

Attached is the verbatim record of the findings and recommendations of the board.

The board adjourned at 1400 hours on 15 June 1982.

VERBATIM FINDINGS AND RECOMMENDATIONS

FINDINGS: In the board proceedings concerning Private (E2) John A. Doe, 000-00-0000, the board carefully considered the evidence before it and finds:

1. Private Doe is undesirable for further retention in the military service because of frequent incidents of a discreditable nature with military authorities.
2. Private Doe is undesirable for further retention in the military service because of habitual shirking.
3. His rehabilitation is not deemed possible.

RECOMMENDATIONS:

In view of the findings, the board recommends that Private Doe be dis-

1 October 1982

charged from the Service because of misconduct with issuance of a under other than honorable conditions discharge certificate (DD Form 794A).

President

Member

Member

Recorder

EXTRACT OF MILITARY RECORDS OF PREVIOUS CONVICTIONS AR 635-200			
IDENTIFICATION			
LAST NAME - FIRST NAME - MIDDLE INITIAL	SERVICE NO. (MOS)	GRADE	DESIGNATION
Doe, John A.	000-00-0000	Private	Co A, 4th Bn, 96th Inf
RECORD OF PREVIOUS CONVICTIONS BY COURTS-MARTIAL ¹			
TYPE OF COURT-MARTIAL	IN ORDER OR SCMN NO	HEADQUARTERS	ARTICLE(S)
Summary	#16	4th Bn, 96th Inf	86
SYNOPSIS OF SPECIFICATION(S) INCLUDING DATE OF OFFENSE			
O/a 1 Sep 81 AWOL to 7 Sep 81 from Co. C, 4th Bn, 96th Inf, Ft Jackson, South Carolina			
SENTENCE AS FINALLY APPROVED			
HL w/o Conf for 15 days, Restr for 15 days and forf of \$25.00			
DATE SENTENCE ADJUDGED	DATE SENTENCE FINALLY APPROVED	CERTIFY THE FOREGOING IS CORRECT?	
8 Sep 81	8 Sep 81	(Signed) <u>C. W. Brown</u> <small>(Type or print name and grade of person signing original entry in military record)</small> <u>C. W. Brown, CWO, W-2, USA, Hq 4th Bn, 96th Inf</u> <small>(Type or print organization of person signing original entry in military record)</small>	
TYPE OF COURT-MARTIAL	IN ORDER OR SCMN NO	HEADQUARTERS	ARTICLE(S)
Summary	#4	4th Bn, 96th Inf	108
SYNOPSIS OF SPECIFICATION(S) INCLUDING DATE OF OFFENSE			
O/a 23 Apr 82 did through neglect damage military property of U.S. at Fort Jackson South Carolina			
SENTENCE AS FINALLY APPROVED			
HL w/o conf 10 days and forf of \$25.00			
DATE SENTENCE ADJUDGED	DATE SENTENCE FINALLY APPROVED	CERTIFY THE FOREGOING IS CORRECT?	
23 Apr 82	23 Apr 82	(Signed) <u>C. W. Brown</u> <small>(Type or print name and grade of person signing original entry in military record)</small> <u>C. W. Brown, CWO, W-2, USA, Hq 4th Bn, 96th Inf</u> <small>(Type or print organization of person signing original entry in military record)</small>	
TYPE OF COURT-MARTIAL	IN ORDER OR SCMN NO	HEADQUARTERS	ARTICLE(S)
Special	SPCMO # 10	4th Bn, 96th Inf	86, 91
SYNOPSIS OF SPECIFICATION(S) INCLUDING DATE OF OFFENSE			
O/a 27 Apr 82 AWOL to 2 May 82 from Co A, 4th Bn, 96th Inf, Fort Jackson, South Carolina Disrespect to noncommissioned officer while in the execution of his office at Fort Jackson, South Carolina, on or about 2 May 82			
SENTENCE AS FINALLY APPROVED			
CHL 3 mos; forf of \$50.00 per mo for 3 mos			
DATE SENTENCE ADJUDGED	DATE SENTENCE FINALLY APPROVED	CERTIFY THE FOREGOING IS CORRECT?	
10 May 82	10 May 82	(Signed) <u>C. W. Brown</u> <small>(Type or print name and grade of person signing original entry in military record)</small> <u>C. W. Brown, CWO, W-2, USA, Hq 4th Bn, 96th Inf</u> <small>(Type or print organization of person signing original entry in military record)</small>	
ATTESTING CERTIFICATE			
ORGANIZATION OF CUSTODIAN	PLACE OF ORGANIZATION	DATE	
Hq, 4th Bn, 96th Inf	Ft Jackson, South Carolina	10 Jun 82	
I CERTIFY THAT I AM THE OFFICIAL CUSTODIAN OF THE MILITARY PERSONNEL RECORDS PERTAINING TO PREVIOUS CONVICTIONS BY COURTS-MARTIAL OF THE ABOVE-NAMED PERSON, AND THAT THE FOREGOING IS A TRUE COPY OF THE ENTRIES CONTAINED THEREIN.			
TYPED NAME, GRADE, AND OFFICIAL CAPACITY OF CUSTODIAN		SIGNATURE	
Harold C. James, 1LT, AGC, Personnel Officer		Harold C. James	
<small>1 Only admissible previous convictions will be listed. To determine admissibility, see rules on the reverse hereof. For Army personnel, the extract will be prepared from the Service Record or DA Form 26. For Air Force Personnel, the extract will be prepared from AF Form 1226. For Navy personnel, the extract will be prepared from NAVPERS Form 602-6. For Marine Corps personnel, the extract will be prepared from MCMC Form 118137PD.</small>			
<small>2 If the service record certification block being extracted fails to contain the requested: (a) signature of the personnel records custodian, request that officer to take immediate corrective action; (b) grade and organization of the custodian of the conviction record, enter remarks such as "None"; "Grade not shown"; "(Organization not shown)", as appropriate, on the second line of this block of the extract.</small>			

DD FORM 493

REPLACES DD FORM 493, 1 MAY 62, WHICH IS OBSOLETE.

Figure B-1

RULES FOR DETERMINING ADMISSIBILITY OF PREVIOUS CONVICTIONS

(See MCM, 1969 (Rev.), Paragraphs 68d and 75N(2))

Previous convictions must relate to offenses committed during the six years next preceding the commission of any offense of which the accused stands convicted. In computing the six-year period, periods of unauthorized absence as shown by the findings in the case or by the evidence of previous convictions should be excluded.

Evidence is only admissible as evidence of a previous conviction when the accused has been tried for an offense within the meaning of Article 44(b), UCMJ. Therefore, no proceeding in which an accused has been found guilty by a court-martial upon any charge or specification shall, as to that charge or

specification, be admissible as a previous conviction until the finding of guilty has become final after review of the case has been fully completed. However, a pending request to the Judge Advocate General to vacate or modify the findings and sentence of a court-martial on grounds of newly discovered evidence, fraud on the court, lack of jurisdiction over the accused or the offense, or error prejudicial to the substantial rights of the accused is not a part of the review within the meaning of Article 76, UCMJ and it does not affect the admissibility of that court-martial as a previous conviction. A vacation of a suspended sentence does not itself qualify as a previous conviction and will not be entered on this form.

INTRODUCING EVIDENCE OF PREVIOUS CONVICTIONS

NOTE: To be considered by a court-martial, previous convictions must be ADMITTED in evidence. Ordinarily, they are proved by introducing in evidence a duly authenticated extract copy of accused's military personnel record (DD Form 493). They may also be proved by the record of previous convictions or by the order promulgating the results of trial. After the Record of Previous Convictions has been marked for identification (See page AB-26, MCM, 1969 (Rev.)) and shown to the defense counsel, the introduction proceeds as follows:

TC: Prosecution Exhibit _____ for identification, a duly authenticated extract copy of the accused's military personnel record of previous conviction(s) by court-martial, is offered in evidence as Prosecution Exhibit _____.

DC: (No objection). (The accused objects to _____ on the grounds that _____.)

MJ (Pres): Prosecution Exhibit _____ for identification is (is not) admitted in evidence as Prosecution Exhibit _____.

Figure B-1.—Continued.

SEE NOTES ON REVERSE BEFORE
COMPLETING FORM

AR 635-200

RECORD OF PROCEEDINGS UNDER ARTICLE 15, UCMJ			
For use of the form, see AR 27-16. The command agency is the Officer or The Judge Advocate General. <input checked="" type="checkbox"/>			
NAME AND GRADE	SSN	UNIT	PAY GRADE AND PAYPOINT
Doe, John A. Pvt E-2	000-00-0000	Co A, 4th Bn, 96th Inf	9618.30

PART I - INITIAL ACTION

1. I am considering whether you should be punished under Article 15, UCMJ, for the following misconduct:
On 28 March 1982, you failed to report for afternoon formation, in violation of Article 86, UCMJ.

2. You have several rights under this Article 15 procedure. First, I want you to understand that I have not yet made a decision whether or not you will be punished, and I will not impose any punishment unless I am convinced beyond a reasonable doubt that you committed the offense. You may ordinarily have a public hearing before me. You may bring a person to speak on your behalf. You may present witnesses and other evidence to show why you shouldn't be punished at all, or why the punishment should be very light. Matters of mitigation and mitigation. I shall consider everything you present before deciding whether I will impose punishment or the type and amount of punishment I will impose. You are not required to make any statements at all, but if you do, they may be used against you in this Article 15. If you do not want me to dispose of this report of misconduct under Article 15, you have the right to demand trial by court martial instead.
In deciding what you want to do you have the right to consult with a lawyer located at _____

You now have _____ hours to decide what you want to do.

DATE AND TIME	NAME, GRADE AND ORGANIZATION OF COMMANDER	SIGNATURE
1930 29 Mar 82	William P. Peters, CPT, Inf	/s/ William P. Peters

(Fill out only if it is in your interest, and both)

3. Trial by Court Martial is demanded _____
OR _____
4. Trial by Court Martial is not demanded and in the Article 15 proceedings:
a. An open hearing is is not requested.
b. A person to speak on my behalf will will not accompany me.
c. Matters in defense and/or extenuation:
 are not presented. are attached hereto. will be presented in person.
/s/ John A. Doe 29 Mar 82
(Signatures and Dates)

5. I have considered all matters presented in defense and/or extenuation and mitigation. The following punishment is being imposed:
Extra duty under the supervision of the company first sergeant for five days, at three hours per day.

6. You are advised of your right to appeal this punishment to Commander, 4th Bn, 96th Inf the next superior authority. An appeal made more than 15 days after the punishment was imposed may, in the absence of unusual circumstances, be considered as not being made within a reasonable time and be rejected. The next superior authority will decide whether an appeal is timely or not.

DATE	NAME, GRADE AND ORGANIZATION OF COMMANDER	SIGNATURE
30 Mar 82	William P. Peters, CPT, Co A, 4th Bn, 96th Inf	/s/ William P. Peters

PART II - APPELLATE ACTION

7. I do not appeal. I appeal and do not submit matters for consideration by the next superior authority.
 I appeal and submit the matter attached hereto for reconsideration by the next superior authority.

DATE	NAME AND GRADE OF SERVICE MEMBER	SIGNATURE
2 Apr 82	Doe, John A., Pvt E-2	/s/ John A. Doe

8. I have considered the appeal and it is my opinion that:

DATE	NAME AND GRADE OF JUDGE ADVOCATE	SIGNATURE OF JUDGE ADVOCATE

9. After consideration of all matters presented in appeal, the appeal is granted granted granted in part as follows:

DATE	NAME, GRADE AND POSITION	SIGNATURE

10. I have seen the action taken on my appeal.

DATE	NAME AND GRADE OF SERVICE MEMBER	SIGNATURE

PART III - ATTACHMENTS AND/OR COMMENTS

Figure B-2

NOTES

- 1/ See Appendix E, AR 27-10, for further guidance.
- 2/ Insert a concise statement of each offense in terms stating a specific violation of the UCMJ. If additional space is needed, use Part III and/or continuation sheets as described in Note 10 below.
- 3/ If the individual is attached to or embarked in a vessel, he is not permitted to refuse Article 15 punishment. In such cases, all reference to a demand for trial will be lined out and an appropriate remark will be made in Part III indicating the official name of the vessel and that the individual was attached to or embarked in the vessel at the time punishment was imposed.
- 4/ Give the individual an information copy of this form. Keep all other copies together until Item 10 is completed. Under ordinary circumstances, 72 hours is a reasonable time within which to require the individual to make a decision.
- 5/ Check appropriate box.
- 6/ If, after presentation of matters in defense and in extenuation and mitigation, the commander decides not to impose Article 15 punishment, the individual should be so notified and all copies of this record destroyed.
- 7/ Strike out inapplicable words. The amount of any forfeitures or detention of pay should be expressed in whole dollar amounts. Odd dollar amounts should be rounded off to the next lower whole dollar amount. If a punishment is suspended, the following statement should be added after it: To be automatically remitted if not vacated before (date). If punishment includes a written admonition or reprimand, it will be attached to this form and listed in Part III.
- 8/ If the individual appeals, this form and attached sheets should be transmitted immediately to the next superior authority. All witness statements, official records, and other documentary evidence considered by the commander in imposing punishment also should be transmitted.
- 9/ Before acting on an appeal, it must be referred to a judge advocate for advice when the punishment, whether or not suspended, includes reduction of one or more pay grades from the fourth or a higher pay grade, or is in excess of one of the following: 7 days arrest in quarters, 7 days correctional custody, 7 days forfeiture of pay or 14 days of either extra duties, restriction or detention of pay. (See Article 15e (1) to (7), UCMJ)
- 10/ In this space, provide a brief list of attachments. Such attachments should include all witness statements, all documentary and other evidence, all statements presented by the accused, any evidence or statements presented on appeal, and copies of any supplementary actions on the punishment that are taken. The list of supplementary actions should indicate the date of the action and provide a brief description of its nature. Supplementary actions include each action in suspension, mitigation, remission, or setting aside of punishment, or vacation of suspension. Attachments of such supplementary actions must include the date of the action and the name, grade, and position of the officer taking it. The officer taking each action, or his authorized representative, will sign below the description of the action. When a representative signs such a supplementary action, he will state his own name, grade, and position, in addition to those of the commander. Distribution of supplementary actions should be made as in the original action. If additional space is needed for completion of any item(s), continuation should be accomplished on plain bond paper and listed herein as "Continuation Sheet 1," "Continuation Sheet 2," etc.
- 11/ Applicable portions of the following suggested formats may be used to accomplish supplementary actions: (Appropriate language should be entered in Part III or, if necessary, on continuation sheet).
 - a. Suspension, Mitigation, Remission, or Setting Aside Other than by Superior Acting on Appeal

DATE: _____

On (date) _____, the punishment(s) of _____ imposed on (date of punishment) against (name of offender) (unit) (vax) (uerv) (suspended and will be automatically remitted if not vacated before (date)) (mitigated to) (set aside, and all rights, privileges, and property affected restored) (by my order) (by order of) (the officer who imposed the punishment) (the successor in command to the officer who imposed the punishment) (as superior authority).

(Typed name, grade, and position) _____ /s/ _____
 - b. Vacation of Suspension

DATE: _____

The suspension of the punishment(s) of _____ imposed on (date of punishment) against (name of offender) (unit) and suspended, to be automatically remitted if not vacated before (date), (u) (are) hereby vacated. The unexecuted portion(s) of the punishment(s) will be duly executed.

(Typed name, grade, and position) _____ /s/ _____

Figure B-2.—Continued.

APPENDIX C

REFERENCES

Section I. REQUIRED PUBLICATIONS

- | | |
|--|---|
| <p>AR 40-501 (Standards of Medical Fitness)</p> <p>AR 310-10 (Military Orders)</p> <p>AR 600-85 (Alcohol and Drug Abuse Prevention and Control Program)</p> <p>AR 635-5 (Separation Document)</p> <p>AR 635-5-1 (Separation Program Designators)</p> | <p>AR 635-10 (Processing Personnel for Separation)</p> <p>AR 635-40 (Physical Evaluation for Retention, Retirement or Separation)</p> <p>DA Pam 600-8-11 (Military Personnel Office Separation Processing Procedures)</p> |
|--|---|

Section II. RELATED PUBLICATIONS

- | | |
|---|---|
| <p>AR 18-12-4 (Catalog of Standard Data Elements and Codes: Personnel)</p> <p>AR 37-104-3 (Military Pay and Allowances Procedures: Joints Uniform Military Pay System, Army (JUMPS-Army))</p> <p>AR 40-3 (Medical, Dental, and Veterinary Care)</p> <p>AR 40-121 (Uniformed Services Health Benefits Program)</p> <p>AR 135-91 (Service obligations, Methods of Fulfillment, Participation Requirements, and Enforcement Procedures)</p> <p>AR 135-175 (Separation of Officers)</p> <p>AR 190-9 (Military Absentee and Deserter Apprehension Program)</p> <p>AR 190-10 (Security of Government Officials)</p> <p>AR 190-47 (The United States Army Correctional System)</p> <p>AR 340-3 (Official Mail)</p> <p>AR 340-17 (Release of Information and Records from Army Files)</p> <p>AR 340-18-7 (Maintenance and Disposition of Military Personnel Functional Files)</p> <p>AR 340-21 (The Army Privacy Program)</p> | <p>AR 600-4 (Remission or Cancellation of Indebtedness—Enlisted Members)</p> <p>AR 600-31 (Suspension of Favorable Personnel Actions for Military Personnel in National Security Cases and other Investigations or Proceedings)</p> <p>AR 600-200 (Enlisted Personnel Management System)</p> <p>AR 601-210 (Regular Army Enlistment Program)</p> <p>AR 601-280 (Army Reenlistment Program)</p> <p>AR 604-5 (Clearance Personnel for Access to Classified Defense Information and Material)</p> <p>AR 604-10 (Military Personnel Security Program)</p> <p>AR 612-201 (Processing Procedures at US Army Reception Stations and Training Centers and Control and Distribution of Trainees)</p> <p>AR 614-30 (Oversea Service)</p> <p>AR 614-200 (Selection of Enlisted Soldiers for Training and Assignment)</p> |
|---|---|

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AR 630-5 (Leave, Passes, Permissive Temporary Duty, and Public Holidays)

AR 640-10 (Individual Military Personnel Records)

AR 670-1 (Wear and Appearance of Army Uniforms and Insignia)

AR 680-29 (Military Personnel, Organization, and Type of Transaction Codes)

DA Pam 600-8 (Military Personnel Office Management and Administrative Procedures)

Joint Travel Regulation (JTR)

Uniform Code of Military Justice (UCMJ)

GLOSSARY

Active duty for training (ADT).

Includes initial active duty for training (IADT) and special active duty for training (special ADT).

Administrative Board Procedure.

The process of an administrative separation action where the respondent will have a right to a hearing before a board of officers. It is initiated in the same manner as the Notification Procedure.

Administrative Separation Board.

A board of officers, or officers and NCOs, appointed to make findings and to recommend retention in the service or separation. The board states the reason and recommends the type of separation or discharge certificate to be furnished.

Administrative separation.

Discharge or release from AD upon expiration of enlistment or required period of service, or before, as prescribed by the Department of the Army (DA) or by law. If one of the bases for separation includes a continuous unauthorized absence of 180 days or more, the consulting counsel will advise the member that a discharge under other than honorable conditions is a conditional bar to benefits administered by the Veterans Administration, notwithstanding any action by a Discharge Review Board. Separation by sentence of a general or special court-martial is not an administrative separation.

Appointed counsel for consultation.

A qualified counsel who is a commissioned officer of the Judge Advocate General's Corps. The officer is appointed to consult with and advise, at the outset of any initiated elimination proceedings, per this regulation, other than chapters 4 and 12 and other administrative separation proceedings where required by applicable Army

regulations. Nonlawyer counsel may be appointed when the member is deployed aboard a vessel or his or her place of assignment is more than 250 miles from sufficient judge advocate resources. When a nonlawyer counsel is appointed, appropriate authority will certify on the permanent record that a lawyer with these qualifications is not available and states the qualifications of the substituted nonlawyer counsel. (See fig 2-1 for example of certificate of nonavailability.) This officer will advise the member concerning the basis for his or her contemplated separation and its effect, the rights available and the effect of any action taken by him or her, in waiving such rights. A member will also be advised that enlistment may be voided if he or she is being considered for separation for fraudulent entry. Consulting counsel may advise the member regarding the merits of the contemplated separation action when the counsel believes such advice is proper. The member should be informed that the counsel cannot represent the member before a board of officers unless also appointed as counsel for representation. Counsel will advise the member that if he or she receives a less than honorable discharge certificate or a character of service that is under other than honorable conditions, there is no automatic upgrading by any government agency. Upgrading is considered only upon application to the Army Board for Correction of Military Records or the Army Discharge Review Board. Consideration by either of these boards does not guarantee upgrading of a discharge certificate that is less than an honorable discharge certificate or of a character of service that is under other than honorable conditions. Communications between the member and consulting counsel regarding the merits of the separation action are privileged communications between the attorney and client.

Appointed counsel for representation.

A counsel appointed to represent a member who is being processed for separation during the course of any hearing before a board of officers. Such counsel will be a lawyer per Article 27(B)(1), Uniform Code of Military Justice, unless—

(1) The respondent expressly declines appointment of counsel qualified under Article 27(b)(1) of the UCMJ and requests a specific nonlawyer counsel; or

(2) The separation authority assigns a nonlawyer counsel as assistant counsel. The appointed counsel for representation and the appointed counsel for consultation need not be the same individual.

Basic training (BT).

Initial entry training which provides non-prior service personnel instructions in basic skills common to all soldiers. BT precedes advanced individual training (AIT).

Character of Service for Administrative Separation.

A determination reflecting a member's military behavior and performance of duty during a specific period of service. The three characters are: Honorable; Under Honorable Conditions (General Discharge); and Under Other Than Honorable Conditions.

Contractually obligated member.

A member who is serving under enlistment contract or extension (has completed statutory service obligation, or has not acquired one). (See AR 135-91, paras 1-3a and 2-2.)

Convening authority.

(1) The separation authority, or

(2) A commanding officer who is authorized by this regulation to process the case except for final action and who otherwise has the qualifications to act as a separation authority.

Detainer.

A written notice to civil authorities that the person in their custody is a member of the Army. The notice states that military authorities desire to take custody when the person is released.

Discharge.

Complete severance from all military status gained by the enlistment or induction concerned.

Entry level status.

The first 180 days of continuous active military service. For members of a Reserve Component who have not completed 180 days of continuous active military service and who are not on active duty, entry level status begins upon enlistment in a Reserve Component (including a period of assignment to a delayed entry program) and terminated 180 days after beginning an initial period of entry level active duty training. For purposes of characterization of service or description of separation, the member's status is determined by the date of notification to the member as to the initiation of separation proceedings.

Juvenile offender.

A person judged guilty of an offense by a domestic court of the United States or its territorial possessions, or by a foreign court. It does not matter whether a sentence has been imposed or suspended, or any other subsequent proceedings in the case. The law of the jurisdiction of the court will be determinative of whether a given proceeding constitutes an adjudication of guilt. Adjudication as a juvenile offender includes adjudication as a juvenile delinquent, wayward minor, or youthful offender.

Member, enlisted person.

An enlisted man or woman of the Army. This includes all persons enlisted in any component of the Army, in active Federal service, or active duty for training unless otherwise indicated or obviously inappropriate.

Military behavior.

The conduct of the individual while a member of the Army.

Military record.

An account of a member's behavior while in military service. This includes personal conduct and performance of duty.

Minority group.

A segment of the population that has com-

mon traits that are transmitted by descent or common characteristics and a cultural heritage significantly different from that of the general population. Such groups include but are not limited to Negroes, American Indians, Mexican Americans, Puerto Ricans, Eskimos, Aleuts, Asian Americans, and Spanish-surnamed Americans. The DOD standard data elements "race" and "ethnic group" (defined in AR 18-12-4) are used for Army military personnel information data reporting for minority group information per AR 680-29.

Notification Procedure.

The initiation of an administrative separation process in which the respondent is notified in writing of the proposed separation, the basis of it, the results of separation, and his or her rights. This term is commonly used when the respondent does not have a right to a hearing before a board of officers.

One station unit training (OSUT).

Initial entry training in which elements of BT and AIT are provided in the same unit, under one cadre for the total period of training. In OSUT, elements of BT and AIT are either integrated (provided simultaneously) or are nonintegrated (provided in distinct BT/AIT phases).

Preponderance of the Evidence.

Evidence which, after a consideration of all of the evidence presented, points to a certain conclusion as being more credible and probable than any other conclusion. Where the evidence is equally consistent with two or more opposing propositions, it is insufficient.

Prior enlistment or period of service.

Service in any component of the Armed Forces that ends with the issuance of a discharge certificate or certificate of service.

Recruiting official.

As used in this regulation includes recruiter, recruiting guidance counselor, reenlistment NCO, and any other personnel that

process individuals for enlistment or reenlistment in the Army.

Release from active duty.

Termination of AD status and transfer or reversion to an ARNGUS or to inactive duty status. Personnel enlisted or inducted who have a Reserve obligation under Title 10 of the United States Code, the Military Selective Service Act of 1967, as amended, or any other provision of law are transferred to a US Army Reserve (USAR) Control Group. Unit members of the ARNGUS and USAR revert from an AD or ADT status to their components to complete unexpired enlistments or unfulfilled obligations.

Respondent.

A member who has been notified that action has been initiated to separate him or her under this regulation.

Separation.

An all inclusive term applied to personnel actions resulting from release from active duty, discharge, retirement, dropped from the rolls, release from military control of personnel without a military status, or death.

Separation authority.

The officer authorized by Army regulations to take final action on specified types of separations.

Separation Transfer Activity (STA).

An activity designated to accomplish separation processing of military members assigned to that installation only.

Separation Transfer Point (STP).

A centralized activity at an installation listed in AR 635-10, appendix A, to accomplish separation processing of military members assigned to—

(1) Activities at the same installation or satellited on the same installation.

(2) That activity from another installation specifically for separation.

Statutorily obligated member.

A member who is serving by reason of law. (See paras 1-3d and 2-1, AR 135-91.)

1 October 1982

AR 635-200

The proponent agency of this regulation is the Office of the US Army Military Personnel Center. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) direct to HQDA (DAPC-EPA-AST), ALEX VA 22331.

By Order of the Secretary of the Army:

E. C. MEYER
General, United States Army
Chief of Staff

Official:

ROBERT M. JOYCE
Major General, United States Army
The Adjutant General

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