Army Regulation 135–178

Army National Guard and Army Reserve

Enlisted Administrative Separations

Headquarters
Department of the Army
Washington, DC
3 December 2001

UNCLASSIFIED

SUMMARY of CHANGE

AR 135–178
Enlisted Administrative Separations

This change--

- o Changes medical examination requirements for separations under Chapter 1 paragraph 1-8. Medical examinations are required only for soldiers being processed for separation under Chapter 6 (paragraphs 6-3, 6-6 and 6-7).

- o Changes mental status evaluation to better comply with DoD guidance. Mental status evaluation is required for soldiers being processed for separation under Chapter 6, paragraph 6-7b and Chapter 10.

- o o Changes paragraph 3-17a(2) for better clarification. Boards with ARNGUS respondents shall include at least one ARNGUS officer as a voting member. Boards with USAR respondents shall include at least one USAR officer as a voting member.

This revision

- o Supersedes AR 135-178, 1 January 1983 that was previously published in the Reserve Components Personnel handbook UPDATE Issue Number 23, 1 September 1994.

- o Requires commanders referring soldiers for a mental status evaluation to comply with the provisions of DOD Directive 6490.1 and AR 600-20 unless a mental status evaluation is required by this regulation (para 1-8a) and the reason for separation is not based on the soldier’s mental status. (para 1-8, 6-7)

- o Prescribes a new form DA Form 7423, Consulting Counsel’s Checklist. (chap 3)

- o Requires that a soldier who has completed 18, but less than 20 years of qualifying service for retired pay (10 USC 12732) will not be involuntarily separated without the approval of the Secretary of the Army or his designated representative. Cases involving voluntary separation of soldiers in this category will not be referred to HQDA for approval. (para 1-11)

- o Added para 3-3 (Counsel for respondent).

- o Adds under the Hearing procedure (para 3-17) under presiding officer, that Judge Advocate Officers including Military Judges may be appointed presidents of boards. In these cases, legal advisors are not appointed. (para 3-17 b)

- o Significantly revises previous chapter 5 and is currently chapter 8 in new revision.

- o AR 135-178 is governed by DOD Directive 1332.14, and to ensure compliance and compatibility with the directive, has been formatted by subject, chapter and paragraph to match the format of the DOD Directive.

- o Extensive minor changes throughout.

Headquarters
Department of the Army
Washington, DC
3 December 2001

*Army Regulation 135–178

Effective 3 January 2002

Army National Guard and Army Reserve

Enlisted Administrative Separations

By Order of the Secretary of the Army:

ERIC K. SHINSEKI
General, United States Army
Chief of Staff

Official:

JOEL B. HUDSON
Administrative Assistant to the
Secretary of the Army

History. This printing publishes a revision of this publication. Because this publication has been extensively revised the changed portions have not been highlighted.

Summary. This regulation establishes policies, standards, and procedures governing the administrative separation of certain enlisted soldiers of the Army National Guard of the United States (ARNGUS) and the United States Army Reserve (USAR) as directed by DOD Directive 1332.14, December 1993 Subject: Enlisted Administrative Separations.

Applicability. This regulation applies to all enlisted soldiers of the ARNGUS and the USAR who are not performing full-time active duty in the U.S. Army. Applicability includes ARNGUS and USAR soldiers performing annual training (AT) (except as indicated below) and ARNGUS soldiers serving on full-time National Guard Duty (FTNGD) under title 32, US Code. Discharge of ARNGUS soldiers from the Army National Guard is governed by NGR 600-200. This regulation does not apply to ARNGUS or USAR enlisted soldiers serving on active duty under title 10, US Code, which includes extended active duty (EAD), active duty for training (ADT), full-time active duty in AGR status, active duty for special work (ADSW), temporary tours of active duty (TTAD), and order to active duty for contingency operations or under mobilization conditions. Administrative separation of these soldiers is governed by AR 635-200 and other appropriate Active Army regulations. As an exception, administrative discharge in lieu of trial by court-martial of USAR soldiers performing AT is governed by AR 635-200.

Proponent and exception authority. The proponent of this regulation is the Deputy Chief of Staff for Personnel (DCSPER). The DCSPER has the authority to approve exceptions to this regulation that are consistent with controlling law and regulation. The DCSPER may delegate this authority in writing to a division chief under his/her supervision within the proponent agency in the grade of colonel or the civilian equivalent.

Army management control process. This regulation contains management control provisions and identified key management controls that must be evaluated. A checklist for conducting management control reviews is located in appendix B.

Supplementation. Supplementation of this regulation and establishment of command and local forms are prohibited without prior approval from HQDA, ODCSPER. Submit your request to Office of the Chief Army Reserve, ATTN: DAAR-PEP, 2400 Army Pentagon, Washington, DC 20310-2400.

Suggested Improvements. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to HQDA, Office of the Chief Army Reserve, ATTN: DAAR-PEP, 2400 Army Pentagon, Washington, DC 20310-2400.

Distribution. This publication is available in electronic media only and is intended for command levels B for Active Army, A for Army National Guard, and U.S. Army Reserve. and A for USAR.

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*This regulation supersedes AR 135-178, 29 December 2000.

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Glossary

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Chapter 1
General Provisions

Section I
General

1–1. Purpose and scope

a. This regulation sets policies, standards, and procedures to ensure the readiness and competency of the U.S. Army while providing for the orderly administrative separation of Army National Guard of the United States (ARNGUS) and U.S. Army Reserve (USAR) enlisted soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance. The separation policies in this regulation promote the readiness of the Army by providing an orderly means to:

(1) Judge the suitability of persons to serve in the Army on the basis of their conduct and their ability to meet required standards of duty performance and discipline.

(2) Maintain standards of performance and conduct through characterization of service in a system that emphasizes the importance of honorable service.

(3) Achieve authorized force levels and grade distribution.

(4) Provide for the orderly administrative separation of enlisted soldiers in a variety of circumstances.

b. Department of the Army separation policy is designed to strengthen the concept that military service is a calling different from any civilian occupation.

(1) The acquisition of military status involves a commitment to the United States, the Army, fellow citizens, and soldiers to successfully complete a period of obligated service. Early separation for failure to meet required standards of performance or conduct represents a failure to fulfill that commitment.

(2) Millions of Americans from diverse backgrounds and with a wide variety of aptitudes and attitudes upon entering military service have served successfully in the Reserve Components of the Army. It is the policy of the Department of the Army to provide soldiers with the training, motivation, and professional leadership that inspires the dedicated soldier to emulate his or her predecessors and peers in meeting required standards of performance and conduct.

(3) 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. Consequently, attrition is an issue of significant concern at all levels of responsibility within the Reserve Components of the Army. Reasonable efforts should be made to identify soldiers who are likely to be separated early, and to improve their chances for retention through counseling, retraining, and rehabilitation prior to initiation of separation proceedings. Soldiers who do not conform to required standards of conduct and performance and soldiers who do not demonstrate potential for further military service should be separated to avoid the high costs of continued service in terms of pay, administrative efforts, degradation of morale, and substandard mission performance.

c. This regulation provides—

(1) The authority for separation of soldiers upon expiration of their military service obligation.

(2) The authority and general provisions governing the separation of soldiers before the expiration of their service obligation to meet the needs of the Reserve components of the Army and its soldiers.

(3) The criteria for characterizing or describing military service as being honorable, general (under honorable conditions), or under other than honorable conditions, and when the service is not characterized.

1–2. References

Required and related publications and prescribed and referenced forms are listed in appendix A.

1–3. Explanation of abbreviations and terms

Abbreviations and special terms used in this regulation are explained in the glossary located in the back of this regulation.

1–4. Responsibilities

a. The Deputy Chief of Staff for Personnel (DCSPER). Headquarters, Department of the Army (HQDA), has Army General Staff responsibility for the enlisted separation program.

b. Chief, National Guard Bureau (CNGB). CNGB has special staff responsibility for ARNGUS soldiers. The CNGB will monitor the ARNG enlisted separations process.

c. Chief, Army Reserve (CAR). CAR has special staff responsibility for USAR soldiers. The CAR will monitor the USAR enlisted separations process.

d. With respect to reserve enlisted soldiers under their respective commands, the Commander AR-PERSCOM, Area Commanders, Commander, ROTC Cadet Command, Commander, Total Army Personnel Command (TAPC-OPD-RD),

Commander, U.S. Army Aviation Center and Fort Rucker, Commander, U.S. Army Reserve Readiness Training Center, and Commanding General, U.S. Army Recruiting Command will ensure that the policies, standards and procedures of this regulation are applied consistently, that fact-finding inquiries are conducted properly, that no abuse of authority occurs, and that failure to follow the provisions of this regulation results in appropriate corrective action.

1–5. Statutory authority

The following provisions of law contained in Title 10, United States Code, pertain to the separation of Reserves of the Army.

a. Section 654 provides policy concerning homosexuality in the armed forces including separation based on homosexual conduct.

b. Section 1176(b) provides for the retention of Reserve enlisted soldiers in an active status on completion of 18, but less than 20, years of qualifying service for retired pay.

c. Section 10206 provides that members of the Ready Reserve not on active duty will undergo a medical examination every 5 years and execute and submit annually a certificate of physical fitness.

d. Section 12106 provides that an enlisted member of the ARNGUS who is discharged from the ARNG but not concurrently discharged as a Reserve of the Army automatically becomes a member of the USAR.

e. Section 12641 provides for regulatory directives pertaining to standards and qualifications for retention in the Reserve Components and for the disposition of those soldiers who fail to comply with such standards and qualifications.

f. Section 12644 provides for the disposition of those soldiers determined to be physically unfit for active duty.

g. Section 12681 provides that the Secretary of the Army will prescribe regulations for discharge of Reserves of the Army.

h. Section 12682 provides that Reserves of the Army who become regular or duly ordained ministers of religion will be discharged upon their request.

i. Section 12684 describes the circumstances under which Reserves of the Army may be dropped from the rolls of the Army.

j. Section 12685(1) precludes the discharge of Reserves of the Army for cause, except under 12684, under other than honorable conditions unless such discharge is the result of an approved sentence of a court-martial or approved findings of a board of officers.

k. Section 12685(2) describes other circumstances when a reserve soldier separated for cause may receive a characterization of service other than under honorable conditions.

1–6. Separation processing goals

a. The separation process will be conducted efficiently and in a manner which will afford each soldier being separated the courtesy, recognition, and consideration deserved by the nature of the service performed. Separation processing must be accomplished in a manner which will enhance the dignity of the individual and leave the departing soldier with a favorable attitude toward the Army.

b. Processing time for separations when the Notification Procedure is used will not exceed 45 days. Processing time when the Administrative Board Procedure is used will not exceed 90 days. Time will be measured from the date of notification to the soldier of the proposed separation to the date of separation. Shorter processing times are encouraged. Failure to process an administrative separation within these time frames does not create a bar to separation or characterization of service.

1–7. Separation Action Control Sheet (DA Form 5138-R)

a. To ensure separation processing goals are met, commanders initiating separation actions under the Notification Procedure (chap 3, sec II), or the Administrative Board Procedure (chap 3, sec III), will initiate, maintain, and file DA Form 5138-R (Separation Action Control Sheet).

b. On final disposition of the proceedings, a copy of DA Form 5138-R will be filed with each copy of the proceedings.

1–8. Medical processing and evaluation

a. Medical examinations are required for soldiers being processed for separation under Chapter 6 (paragraphs 6-3, 6-6, and 6-7 only). Medical examinations incident to separation under other provisions of this regulation are not required; however, examinations will be administered if requested in writing by the soldier or the soldier's commander considers it necessary based on the circumstances of the case or when the soldier's fitness is in doubt. (See AR 40-501, para 8-23 and table 8-2). Completion of the physical will not delay separation.

b. In addition to a medical examination, a mental status evaluation is required for soldiers being processed for separation under Chapter 6, paragraph 6-7b, and Chapter 10.

(1) The mental status evaluation for soldiers being processed for separation under Chapter 6, paragraph 6-7b, must have the diagnosis of personality disorder established by a psychiatrist or doctoral-level clinical psychologist with

necessary and professional credentials, who is privileged to conduct mental health evaluations for DoD components. The mental status evaluation will be documented in the soldier's medical record on SF 600 (Medical Record-Chronological Record of Medical Care).

(2) The mental status evaluation for soldiers being processed for separation under Chapter 10 will be conducted by a psychologist, or master-level, licensed clinical social worker. The mental status evaluation will be documented in the soldier's medical record on SF 600 (Medical Record-Chronological Record of Medical Care).

(3) Commanders referring a soldier for mental status evaluation that is not required, as specified above, must comply with the provisions of DoDD 6490.1, DoDI 6490.4, and AR 600-20, paragraph 5-4b.

c. Detailed information about the reasons for considering a soldier for separation will be provided to attending medical personnel to permit a thorough understanding of the considered action. Medical personnel will not be used in an investigative capacity to determine facts relative to a soldier's behavior.

d. Except as provided in b above, specific responsibilities and procedures for conducting medical examinations and mental status evaluations will be prescribed in pertinent regulatory guidance issued by The Surgeon General.

e. Soldiers being processed for separation under those chapters cited in paragraph 1-8a above, who refuse to undergo a medical evaluation or mental status evaluation when required will be processed as follows:

(1) The soldier will be advised in writing that failure to undergo such examination or evaluation will be the basis for the separation action to proceed, despite the absence of such information. Reasonable effort should be made to furnish copies of the notice to the soldier through personal contact by a representative of the command. If the soldier cannot be contacted or refuses to acknowledge receipt of the notice, the notice will be sent by registered or certified mail to the most recent address furnished by the soldier as an address for receipt or forwarding of official mail. A return receipt will be requested. The individual who mails the notification will prepare an Affidavit of Service by Mail (fig 1-1). This will be inserted in the soldier's personnel file together with PS Form 3800 (Receipt for Certified Mail).

(2) Except for a separation based on personality disorder (para 6-7b), when a soldier has failed or refused to comply after notification in (1) above, or if the notification was mailed and the soldier fails to acknowledge receipt, or to submit a reply within 30 days, separation action may be taken without a medical examination or mental status evaluation. A soldier may not be separated based on personality disorder (para 6-7b) without the required psychiatric evaluation. Copies of communications remaining unanswered or returned unclaimed along with the dates and addresses will be included in the recommendations for discharge. Also, a brief description of any other means used to locate or communicate with the soldier concerned will be included. If a board is required, these documents will be furnished to the board of officers. They will be made a part of the board proceedings.

(3) Soldiers being processed for separation under Chapter 6, paragraph 6-7b, will necessarily have already had the appropriate mental status evaluation. Accordingly, the provisions of paragraph e above apply only to medical evaluations for such soldiers.

f. Soldiers being processed for separation under those chapters cited in para 1-8a above, who refuse to undergo a medical examination, mental status evaluation, or psychiatric/psychological evaluation when required will be processed as follows:

(1) The soldier will be advised in writing that failure to undergo such examination or evaluation will be the basis for the separation action to proceed, despite the absence of such information. Reasonable effort should be made to furnish copies of the notice to the soldier through personal contact by a representative of the command. If the soldier cannot be contacted or refuses to acknowledge receipt of the notice, the notice will be sent by registered or certified mail to the most recent address furnished by the soldier as an address for receipt or forwarding of official mail. A return receipt will be requested. The individual who mails the notification will prepare an Affidavit of Service by Mail (fig 1-1). This will be inserted in the soldier's personnel file together with PS Form 3800 (Receipt for Certified Mail).

(2) Except for a separation based on a personality disorder (para 6-7b), when a soldier has failed or refused to comply after notification in (1) above, or if the notification was mailed and the soldier fails to acknowledge receipt, or to submit a reply within 30 days, separation action may be taken without a medical examination, mental status evaluation, or psychiatric/psychological evaluation. A soldier may not be separated based on a personality disorder (para 6-7b) without the required psychiatric evaluation. Copies of communications remaining unanswered or returned unclaimed along with the dates and addresses will be included in the recommendations for discharge. Also a brief description of any other means used to locate or communicate with the soldier concerned will be included. If a board is required, these documents will be furnished to the board of officers. They will be made a part of the board proceedings.

1–9. Disposition through medical channels

a. Disposition through medical channels takes precedence over administrative separation processing.

b. When the medical treatment facility (MTF) commander or attending medical officer determines that a soldier being processed for administrative separation under chapter 7 (para 7-4), 10, or 12, does not meet the medical fitness standards for retention (AR 40-501, chap 3), he or she will refer the soldier to a Medical Evaluation Board (MEB) in accordance with AR 40-3, chap 7. The administrative separation proceedings will continue, but final action by the separation authority will not be taken, pending the results of MEB.

c. If the MEB findings indicate referral of the case to a physical evaluation board (PEB) is warranted for disability

processing under the provisions of AR 635-40, the MTF commander will furnish copies of the approved MEB proceedings to the soldier's GCMCA and unit commander. The GCMCA may direct, in writing, that the soldier be processed through the physical disability system when action under the UCMJ has not been initiated, and it has been determined that -

(1) The soldier's medical condition is the direct or substantial contributing cause of the conduct that led to the recommendation for administrative elimination or,

(2) Other circumstances of the individual case warrant disability processing instead of further processing for administrative separation.

d. The authority of the GCMCA to determine whether a case is to be processed through medical disability channels, or under administrative separation provisions, will not be delegated.

e. The GCMCA's signed decision to process a soldier through the physical disability system will be transmitted to the MTF commander as authority for referral of the case to a PEB. Copies of the GCMCA's decision will be furnished the unit commander and included in the administrative separation proceedings. The unit commander will suspend processing of the administrative separation action pending the PEB. If the soldier is found physically fit, the administrative separation action will be resumed. If the soldier is found physically unfit, the administrative separation action will be abated.

Section II
Authority to Order and Accomplish Separation

1–10. Authority to order separation prior to expiration of service obligation

Except where approval by HQDA is required, the following officials are authorized to convene administrative separation boards as required, and to order separation under this regulation. The separation authority delegated to commanders by this regulation will not include the authority to discharge a soldier under court-martial sentence that includes an dishonorable or bad conduct discharge, prior to the completion of appellate review, unless the discharge is directed by HQDA.

a. For ARNGUS soldiers: State adjutants general.

b. For USAR soldiers:

(1) The Commander, U.S. Army Reserve Personnel Command (Cdr, AR-PERSCOM) for soldiers under his or her jurisdiction serving in the IMA program, or assigned to the Individual Ready Reserve (IRR), the Standby Reserve, or the Retired Reserve. (See para 1-13).

(2) Area commanders (see glossary), except Cdr, AR-PERSCOM, for soldiers attached or assigned to troop program units of the Selected Reserve within their jurisdiction. An area commander may delegate authority to order separations and convene administrative separation boards under this regulation to any subordinate general officer commander who has a Staff Judge Advocate or legal advisor for separation of soldiers subordinate to that command.

(3) When authorized by the State adjutant general, or the USAR officials cited in (1) or (2) above, unit commanders may order discharge per paragraph 5-3 for immediate reenlistment under the provisions of AR 140-111 or NGR 600-200, as appropriate.

(4) Commander, ROTC Cadet Command, for cadets enrolled in the Senior ROTC and assigned to Control Group (ROTC). Authority to separate cadets for purposes of appointment (para 5-5), or disenrollment from the ROTC program (para 5-6), may be delegated to Professors of Military Science.

(5) Commander, Total Army Personnel Command (TAPC-OPD-RD); Commander, U.S. Army Aviation Center and Fort Rucker; and Commander, U.S. Army Reserve Readiness Training Center, are authorized to order the discharge of a warrant officer candidate (WOC) concurrent with the candidate's appointment as a warrant officer (para 5-5).

(6) Commanding General, U.S. Army Recruiting Command (USAREC), or the commander of a U.S. Army Recruiting battalion (RBN), if delegated by CG, USAREC, for soldiers in the Delayed Entry Program (DEP) (chap 15, sec II). RBN Cdrs may also act to void enlistment cases (para 7-2c(2)(e)).

1–11. Authority to order separation of soldiers having more than 18, but less than 20, years of qualifying service for retired pay

a. A soldier having completed 18, but less than 20, years of qualifying service for retired pay (10 USC 12732) will not be involuntarily separated without the approval of the Secretary of the Army or his designated representative. All recommendations for involuntary separation of soldiers in this category will be sent to HQDA (para 1-12) for consideration.

b. Cases involving voluntary separation at the request of the soldier need not be referred to HQDA for approval.

1–12. Referrals to HQDA

Cases requiring approval by HQDA, to include the Army Secretariat, will be referred to the following:

a. For ARNGUS soldiers: HQDA, Office of the Chief, National Guard Bureau, ATTN: NGB-ARP, 2500 Army Pentagon, WASH DC 20310-2500.

b. For USAR soldiers: HQDA, Office of the Chief, Army Reserve, ATTN: DAAR-PE, 2400 Army Pentagon, WASH DC 20310-2400.

1–13. Authority to convene administrative separation boards for non-unit soldiers

When sufficient basis exists to initiate separation action pertaining to USAR soldiers assigned under jurisdiction of the Cdr, AR-PERSCOM (para 1-10b(1)), the notification and administrative board procedures will apply. Where an investigation or appointment of an administrative separation board is required, the case will be referred for necessary action to an area commander in whose geographical area the member resides.

a. Cases referred to area commanders by Cdr AR-PERSCOM will include, to the extent possible, the following: correspondence, statements, MPRJ, and similar related documents. Area commanders may further delegate cases in accordance with paragraph 1-10b(2).

b. Where a criminal investigation is required IAW AR 195-2, the Cdr, AR-PERSCOM, will request the appropriate area commander contact a military law enforcement agency to perform the investigation. On completion of the investigation the area commander will initiate further action, as required.

c. Except for cases where final action is restricted to HQDA, or cases of soldiers under the jurisdiction of Commander, AR–PERSCOM. Area commanders are authorized to take final action on board recommendations.

d. On completion of the separation board, area commanders will forward the original of the board proceedings with approved disposition to the Cdr, AR-PERSCOM who will accomplish separation action, as appropriate, and file the board proceedings in the enlisted soldier's OMPF.

1–14. Actions required of commanders having separation authority regarding soldiers' incentives and entitlements

Incentives and entitlements for Reserve membership and participation are prescribed by AR 135-7. Under certain conditions, separation will terminate payment of an incentive and entitlement to a soldier and may also result in a collection of overpayment or recoupment action from the soldier. In all cases of voluntary or involuntary separations, commanders will:

a. Determine a soldier's entitlements, if any, per AR 135-7.

b. Initiate termination and recoupment actions where required, and/or appropriate.

Section III
Instruction in Benefits of an Honorable Characterization of Service on Discharge

1–15. Purpose of instruction

a. The rate of enlisted soldiers receiving other than an honorable characterization of service on discharge is a concern of commanders at all levels. Receiving other than an honorable characterization of service can have a lasting adverse effect on the individual soldier. Every effort must be made to ensure that soldiers are aware of such consequences. This section prescribes a program of instruction concerning the benefits derived from receiving an honorable characterization of service on discharge from the Army.

b. This training should assist commanders in their efforts to minimize misconduct. Many soldiers gain the false impression that an unfavorable characterization of service can be easily re-characterized by petitioning the Army Discharge Review Board. Many soldiers can be discouraged from the type of conduct that warrants an unfavorable characterization of service on discharge.

1–16. Presentation of instruction

Commanders will ensure that this instruction is presented in a manner that will create the most lasting impression on each soldier who receives the training.

1–17. Contents of instruction

The instruction will include a comprehensive explanation of the following:

a. Characterization of service (chap 2, sec III).

b. The types of discharge certificates (chap 2, sec IV).

c. The possible effects of the various certificates on reenlistment, civilian employment, veterans' employment, veterans' benefits, and related matters.

d. The unlikelihood that the soldier will be successful in any attempt to have the character of his or her service changed.

1–18. Applicability and time of instruction

The instructions cannot be offered to soldiers assigned to the IRR, Standby, or Retired Reserve. It also is not feasible to offer the instructions to a soldier serving as an Individual Mobilization Augmentee (IMA) in a non-drilling status.

However, the instruction will be presented to enlisted soldiers assigned to Selected Reserve units of the ARNGUS and the USAR and to drilling IMA soldiers. It will be given—

a. On initial assignment to the IMA duty position or Selected Reserve unit or within 3 months thereafter.

b. During the annual orientation of the soldier's service obligations and participation requirements per AR 135-91, paragraph 4-4.

c. When a soldier's conduct or performance warrants counseling per paragraph 2-4.

1–19. Recording

The DA Form 2-1 (Personnel Qualifications - Part II) of each soldier receiving instructions in the benefits of receiving an honorable characterization of service on discharge during the annual orientation (para 1-18b) will be annotated in item 19 (Specialized Training) as follows: "Bfts of Hon Disch (date)."

Section IV
Bars to Reenlistment

1–20. General

As set forth in paragraph 1-21 below, commanders will initiate discharge proceedings against soldiers who have received a local bar to reenlistment per AR 140-111, chapter 1, or NGR 600-200, chapter 7. Discharge action is not based on the imposition of a bar to reenlistment, but rather on the conduct which forms the basis (es) for the bar.

1–21. Discharge initiation and processing

a. If the unit commander does not recommend that the bar be removed at the time of the second six-month review of a locally imposed bar to reenlistment, he or she will process the soldier for discharge per chapter 9, chapter 12, or another appropriate chapter of this regulation.

b. "Processed for discharge" means that discharge action will be initiated and processed through the chain of command to the separation authority for appropriate action. There must be compliance with paragraph 2-4. The immediate and intermediate commanders will recommend discharge or retention and the characterization of service to be awarded (chap 2, sec III).

Section V
Mobilization Asset Transfer Program

1–22. Policy

a. The purpose of the Mobilization Asset Transfer Program (MATP) is to ensure sufficient trained manpower is available in the Individual Ready Reserve (IRR) of the U.S. Army Reserve to meet the Army's personnel requirements under conditions of full mobilization (10 USC 12301(a)). To retain mobilization assets, eligible and qualified soldiers who have a remaining statutory or contractual military service obligation (MSO) (para 4-2) are in, or transferred or reassigned, to the IRR to complete their statutory or contractual MSO, whichever expires later. Soldiers who are not retained, transferred, or reassigned to the IRR under the separation procedures prescribed by this regulation will be discharged from the military service.

b. This section and the MATP applies only to ARNGUS and USAR soldiers who are subject to separation processing under this regulation or for the reasons in NGR 600-200 corresponding to the reasons listed below and who meet the eligibility criteria listed in paragraph 1-23, below.

(1) Disenrollment from Senior Reserve Officer Training Corps (SROTC) or an ROTC Scholarship Program (para 5-6).

(2) ROTC cadet early release (para 5-7b).

(3) Pregnancy (para 6-3).

(4) Entry level performance and conduct (chap 8).

(5) Unsatisfactory participation (chap 13).

(6) Secretarial plenary authority (chap 14), as determined by HQDA.

(7) Failure to meet body composition standards (chap 16).

c. The provisions of this section are not applicable to soldiers being processed for separation under this regulation for reasons other than those shown in b above.

1–23. Eligibility for the MATP

a. ARNGUS. State military authorities are required to follow the procedures of NGR 600-200 in processing ARNGUS soldiers for discharge from the ARNGUS prior to expiration of their terms of service. ARNGUS soldiers who are discharged from the ARNG per NGR 600-200 become members of the IRR unless they are concurrently discharged from the ARNGUS and the Reserve of the Army under the procedures set forth in this regulation. An

ARNGUS soldier upon separation from the ARNGUS for any of the reasons cited in paragraph 1-22b, is eligible for transfer to the IRR as a Reserve if he or she meets all of the following conditions:

(1) The separation authority has determined the soldier possesses the potential for useful service if ordered to active duty under conditions of full mobilization.

(2) The soldier has completed initial entry training (IET) and has been awarded a military occupational specialty (MOS).

(3) The soldier has 3 or more months remaining on his or her statutory or contractual Reserve obligation.

(4) On separation from the ARNGUS , the soldier's service will be characterized as honorable or under honorable conditions, or the service is described as uncharacterized.

b. USAR.

(1) A soldier assigned to the Selected Reserve (TPU or IMA) who is—

(a) Subject to separation proceedings for any of the reasons cited in paragraph 1-22b, except for entry level performance and conduct (para 1-22b(4)), and who meets all of the conditions listed in (3) below, will not be processed for separation under this regulation. The soldier will be processed for reassignment to the IRR in accordance with AR 140-10; or

(b) Processed for separation under this regulation for entry level performance and conduct (para 1-22b(4)). The soldier is eligible for transfer to the IRR if he or she meets all of the conditions listed in (3) below.

(2) A soldier assigned to the IRR or Standby Reserve (Active List) who is subject to separation proceedings for any of the reasons cited in paragraph 1-22b, and who meets all of the conditions listed in (3) below, will be retained in the IRR or Standby Reserve (Active List)

(3) All of the following conditions must be met:

(a) The separation authority has determined the soldier possesses the potential for useful service if ordered to active duty under conditions of full mobilization.

(b) The soldier has completed IET and has been awarded an MOS.

(c) The soldier has 3 or more months remaining on his or her statutory or contractual Reserve obligation.

(d) The soldier's service will be characterized as honorable or under honorable conditions, or the service will be uncharacterized if appropriate (see para 1-26 below).

1–24. Ineligible for the MATP

A soldier is ineligible for retention in, or transfer/reassignment to the IRR or Standby Reserve (Active List) and will be separated from military service if, he or she meets any of the following criteria:

a. Has not completed IET or has not been awarded an MOS.

b. Has less than 3 months remaining on a statutory or contractual service obligation.

c. Is administratively separated with service characterized as under other than honorable conditions, or is released from custody and control of the Army, or is dropped from the rolls.

d. Is processed for separation for any other reason than those cited in paragraph 1-22b.

e. Has been determined, by the separation authority, to possess no potential for useful service under conditions of full mobilization.

1–25. Separation authority determination of mobilization potential

a. Except in cases where the soldier has no remaining statutory or contractual service obligation, or where discharge is required by paragraph 1-24, the separation authority must determine whether or not the soldier possesses the potential to perform useful service if ordered to active duty to meet mobilization requirements. The decision to order discharge, transfer, reassignment, or retention, rests with the separation authority and cannot be delegated, although the recommendations of subordinate commanders (para 3-7 and 3-8) may be considered. The separation authority's determination will be made on a case-by-case basis and included in the decision document.

b. The separation authority must exercise sound judgement and prudent discretion in the decision process. The key consideration is the need to retain trained soldiers in the IRR for mobilization purposes. In making a decision regarding potential for future useful service, the separation authority, must give due consideration to all pertinent factors, including the positive motivation that a full mobilization may have on the soldier, and the probable maturing effect of the passage of time, especially in the case of young soldiers. The reason for separation is not in itself a basis for determining that a soldier has no potential for useful service in the future. In the final analysis, the separation authority will direct discharge, in lieu of retention in, or transfer/reassignment to, the IRR or Standby Reserve (Active List), only when the circumstances of the individual case clearly indicate the soldier has no potential for useful service under conditions of full mobilization.

1–26. Requirements on retention, transfer, or reassignment to the IRR

a. The service of a soldier retained in the IRR or Standby Reserve (Active List) under the provisions of the MATP will not be characterized.

b. The service of a soldier reassigned to the IRR for a reason cited in paragraph 1-22b under the provisions of AR 140-10 will not be characterized.

c. The service of a soldier transferred to the IRR for a reason cited in paragraph 1-22b will be characterized as honorable or under honorable conditions per paragraph 2-9, unless an uncharacterized description of service is required by paragraph 2-11a.

d. On transfer to the IRR, a soldier will be notified of the following:

(1) The date on which the military service obligation will expire and the soldier will be discharged.

(2) The characterization of service on transfer to the IRR.

(3) That the character of service on completion of the military service obligation and discharge from the USAR will be the same. If, on transfer to the IRR the soldier's service was characterized as under honorable conditions, or uncharacterized, the soldier must perform a period of service that is characterized as honorable to receive an honorable discharge on completion of the military service obligation.

(4) The date by which the soldier must submit evidence of satisfactory completion of service characterized as honorable. If the soldier-

(a) Submits evidence of completion of service characterized as honorable, the soldier's service will be characterized as honorable on discharge.

(b) Submits evidence of completion of service characterized as honorable, but if a discharge other than an honorable is proposed, the notification procedure (chap 3, sec II) will be used. An administrative board is not required at this point regardless of the soldier's years of service.

(c) Does not submit such information on or before the date specified in the notice, no further proceedings are required. The character of service at the completion of the military service obligation will be the same as the character of service issued when transferred to the IRR.

Affidavit of Service by Mail

State of *(name)*

County of *(name)*

(Name of individual who mailed notification), being duly sworn, deposes and says: I am the *(Job title, e.g., personnel officer)* of *(organization)* and on *(Day)(Month)(Year)* I mailed a notification dated *(Date)*, *(for Subject, select and enter one or more of the following, as appropriate)*:

a. *Subj: Separation Under AR 135-178;*

b. *Subj: Medical evaluation;*

c. *Subj: Discharge orders.*

a true copy of which is attached hereto, via certified mail, restricted delivery, return receipt requested, to *(name of soldier)* at *(most recent address of soldier)* that being the last known address given to the *(soldier's organization of assignment)* as the one at which official mail would be received by or forwarded to *(Him)(Her)*, by depositing the same in an official depository of the U.S. Postal Service at *(location of postal facility)* in a securely wrapped and sealed U.S. postage-and-fees-prepaid envelope addressed to *(Him)(Her)* at said address.

(*Signature and rank of affiant)*

Sworn and subscribed before me this *(Day)(Month)(Year)*.

(*Signature and rank of officer administering oath)*

Attachment
Copy of notification

If the soldier is a member of the ARNGUS or assigned to a USAR TPU the affidavit together with the receipt showing the certified mail receipt number will be forwarded to the area commander or State adjutant general, as appropriate, for insertion in the member's MPRJ as an action pending document.

If the soldier is a member of the USAR assigned to an IMA duty position, or assigned to the IRR, the Standby Reserve, or the Retired Reserve, the affidavit together with the receipt showing the certified mail receipt number will be retained in the separation authority's suspense file as an action pending document.

Figure 1–1. Format for an affidavit of service by mail

Chapter 2
Guidelines on Separation and Characterization

Section I
Separation

2–1. Scope

This chapter provides general guidance, which applies when referenced under the reasons for separation in this regulation. Further guidance is set forth under the specific reasons for separation in chapters 4 through 16.

2–2. Guidance

a. There is a substantial investment in the training of soldiers enlisted into the Army. As a general matter, reasonable efforts at rehabilitation should be made prior to initiation of separation proceedings.

b. Unless separation is mandatory, the potential for rehabilitation and further useful military service, will be considered by the separation authority, and where applicable, the administrative separation board. If separation is warranted despite the potential for rehabilitation, consideration should be given to suspension of the separation, if authorized.

c. Counseling and rehabilitative efforts are a prerequisite to initiation of separation proceedings only insofar as expressly set forth under the specific requirements for the separation. An alleged or established inadequacy in previous rehabilitation efforts does not bar separation.

d. The following factors may be considered on the issue of retention or separation, depending on the circumstances of the case:

(1) The seriousness of the circumstances forming the basis for initiation of separation proceedings, and the effect of the soldier's continued retention on military discipline, good order, and morale.

(2) The likelihood of continuation or recurrence of the circumstances forming the basis for initiation of separation proceedings.

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

(4) The ability of the soldier to perform duties effectively in the present and in the future, including potential for advancement or leadership.

(5) The soldier's rehabilitative potential.

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

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

(b) Memorandum 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 making recommendations or decisions on separation or retention.

(d) Adverse information from a prior enlistment or period of military service only when such information 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 information ordinarily will be used only in those cases involving conduct repeated over an extended time or in cases resulting from a bar to reenlistment. In unusual situations, conduct from a prior enlistment that does not constitute a pattern of conduct that is manifested over an extended period of time, may be considered in determining whether retention or separation is warranted. An example is where a single incident of misconduct occurring in the prior period of service, by itself, warrants separation and the officials in the soldier's chain of command neither knew, nor reasonably should have known, of the conduct at the time the soldier reenlisted.

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

(f) Criminal history information from personnel security investigative (PSI) reports requested within the first 90 days of a soldier's initial enlistment may be used to support separation proceedings initiated under Chapter 7 (Erroneous Enlistment) and (Fraudulent Entry). Use of PSI reports in connection with all other separation proceedings is prohibited unless specific authorization is granted in accordance with AR 380-67, paragraph 10-100. Requests for such authorization may be submitted on a case-by-case basis through command channels to HQDA, ARNGUS, NGR-ARP/OCAR, DAAR-PE (para 1-12).

2–3. Limitations on separation actions

a. A soldier may not be separated on the basis of the following:

(1) Conduct that has been the subject of judicial proceedings resulting in an acquittal or action having the effect thereof, except in the circumstances described in (a) through (c) below. Only HQDA will determine that an action does not have the effect of an acquittal. Requests for such a determination must be submitted to HQDA, ARNGUS, NGR-ARP/OCAR, DAAR-PE (para 1-12).

(a) When such action is based on a judicial determination not going to the guilt or innocence of the respondent; or

(b) When the judicial proceeding was conducted in a State or foreign court and the separation is approved by HQDA, ARNGUS, NGR-ARP/OCAR, DAAR-PE (para 1-12); or

(c) When acquittal from the judicial proceedings was based on a finding of not guilty only by reason of lack of mental responsibility. A soldier in this category normally shall be separated under Secretarial plenary authority (chap 14) unless separation for disability is appropriate.

(2) Conduct that has been the subject of a prior administrative separation 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) Conduct that has been the subject of an administrative separation proceeding resulting in a final determination of a separation authority that the member should be retained, except in the following circumstances:

(a) When there is subsequent conduct or performance forming the basis, in whole or in part, for a new proceeding; or

(b) When there is new or newly discovered evidence that was not reasonably available at the time of the prior proceeding; or

(c) When the conduct is the subject of a rehearing ordered on the basis of fraud or collusion.

b. No convening authority will direct separation if a board recommends retention, nor will a characterization of service less favorable than that recommended by the board be directed. However, a convening authority may direct retention when separation is recommended or may direct a characterization of service more favorable than that recommended (para 3-18f).

2–4. Counseling and rehabilitation

a. General. Commanders must make reasonable efforts to identify soldiers who are likely candidates for early separation and to improve their chances for retention through counseling, retraining, and rehabilitation before starting separation action. These actions are prerequisite for initiating action to separate a soldier for one of the following reasons:

(1) Involuntary separation due to parenthood (para 6-5).

(2) Other designated physical or mental conditions (para 6-7).

(3) Entry level performance and conduct (chap 8).

(4) Unsatisfactory performance (chap 9).

(5) Minor disciplinary infractions or a pattern of misconduct (para 12-1a and b).

(6) Failure to meet Army body composition standards (chap 16).

b. Counseling. When a soldier's conduct or performance approaches the point where a continuation of such conduct or performance would warrant initiating separation action for one of the reasons in a above, the soldier 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 soldier's counseling or personnel records must establish that the soldier was afforded a reasonable opportunity to overcome these deficiencies. Such factors as the length of time that has elapsed since the prior counseling, the soldier's conduct and performance during that period, and the commander's assessment of the soldier's potential for becoming a fully satisfactory soldier, should be considered.

(1) Counseling will include, but not be limited to, the following:

(a) Reasons for counseling.

(b) The fact that continued behavior of a similar nature or additional misconduct may result in the soldier's separation.

(c) The characterization of service that may be issued and the effect of each type if such action is taken and separation accomplished.

(2) Each counseling session will be recorded in writing (to include date and by whom counseled). When, after reasonable effort, the soldier cannot be located for counseling in person, the counseling information will be furnished him or her by certified mail, return receipt requested, addressed to the latest mailing address provided to the command by the soldier. If the soldier does not respond by the date specified in the memorandum, or the memorandum is returned as "undeliverable as addressed," "moved-left no forwarding address", or similar marking, the counseling requirement will be considered to have been satisfied.

c. Rehabilitation. If practical, one of the following measures will be taken:

(1) Soldiers assigned to the ARNGUS, or assigned to USAR troop program units (TPU) will be reassigned at least once if within commuting distance, with a minimum of 2 months in each ARNGUS unit or USAR TPU.

(2) In case reassignment is restricted (e.g., small, independent or isolated unit), or the soldier is assigned to the IRR or Standby Reserve, the commander will ensure that proper alternate rehabilitation measures are employed, if feasible.

d. Waivers. The officer exercising separation authority may waive the requirement for a rehabilitative reassignment. The exercise of waiver authority may be withheld by a higher separation authority as to a particular case or class of cases. Action to withhold waiver authority will be in writing and will be valid until revoked in writing. The requirement for a rehabilitative reassignment may be waived when it is determined—

(1) Reassignment is not feasible because there are no appropriate units within a reasonable commuting distance of the soldier's residence; or

(2) That further duty of the soldier would create serious disciplinary problems, or create a hazard to the military mission or to the soldier, or would seriously affect unit readiness; or

(3) That further duty of the soldier would be inappropriate because the soldier is resisting all rehabilitation attempts or that rehabilitation would not produce the quality soldier desired by the ARNGUS and USAR.

Section II
Suspension of Separation

2–5. Suspension

a. In order to afford a highly deserving soldier a probationary period to demonstrate successful rehabilitation prior to expiration of the soldier's service obligation, the separation authority or a higher authority may suspend execution of an approved separation for a period not to exceed 12 months. However:

(1) Suspension of a discharge is not authorized in a case where there is an approved finding that one or more of the circumstances authorizing discharge for homosexual conduct under paragraph 10-3 has occurred, or when the sole reason for separation is fraudulent entry; or

(2) When there are approved reasons for separation in addition to fraudulent entry, suspension may be authorized only when the additional reason is not homosexual conduct, a waiver of the fraudulent entry is obtained, and the suspension pertains to reasons for separation other than the fraudulent entry.

b. During the period of suspension the soldier will be afforded an opportunity to demonstrate the capability of behaving properly and performing assigned duties efficiently under varying conditions.

c. On satisfactory completion of the probationary period, or earlier, if rehabilitation has been achieved, or at the end of the soldier's period of obligated service, the authority that suspended the separation will remit execution of the approved separation.

2–6. Action during the period of suspension

During the period of suspension, if the soldier 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, whichever is appropriate, will take one of the following actions:

a. Initiate punitive or new administrative action notwithstanding the suspension of the execution of the approved separation, or

b. Advise the soldier in writing that vacation action is being considered and the reasons which warrant such consideration. The soldier will be given an opportunity to consult with counsel and to submit a statement in writing to the separation authority. Failure to respond within 20 calendar days from receipt of the notification of the proposed vacation of the suspension shall constitute a waiver of this right. If the soldier identifies specific legal issues for consideration by the separation authority, the information will be reviewed by a judge advocate, and the separation authority will—

(1) Vacate suspension of approved separation and execute separation; or

(2) Continue to suspend execution of the approved separation.

Section III
Characterization or Description of Service on Separation

2–7. Types of characterization or description

a. At separation, the following types of characterization of service or description of sepaation are authorized under this regulation:

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

(2) Separation with an uncharacterized description of service when separated—

(a) In an entry level status; or

(b) By order of release from custody and control of the Army by reason of void enlistment; or

(c) By being dropped from the rolls of the Army.

b. Any of the types of characterization or description of service listed in a above may be used in appropriate circumstances unless a limitation is set forth in this section or in chapters 4 through 16 of this regulation.

c. Characterization of service as a result of administrative action is governed by this regulation and the service of soldiers is either characterized or uncharacterized when they are separated from the ARNGUS or USAR. However, discharge certificates are issued only to those soldiers whose service is characterized as honorable or under honorable conditions per paragraph 2-19.

2–8. General considerations

a. The characterization of service upon separation is of great significance to the soldier. It must accurately reflect the nature of service performed. Eligibility for veterans' benefits provided by law, eligibility for reentry into the military service, and acceptability for employment in the civilian community may be affected by the service characterization. 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 separated. 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. Separations where the service has been characterized as honorable or under honorable conditions entitle a soldier to Federal rights and benefits as provided by law. However, a separation characterized as under other than honorable conditions could deprive the soldier of veterans benefits administered by the Department of Veterans Affairs (DVA). A determination by that agency is required in each case.

b. Characterization at separation will be based upon the quality of the soldier's service, including the reason for separation and guidance set forth in paragraph 2-9, subject to the limitations under the various reasons for separations. The quality of service will be determined in accordance with standards of acceptable personal conduct and performance of duty for military personnel as found in the Uniform Code of Military Justice (UCMJ), Army regulations, and the time-honored customs and traditions of the Army.

c. The quality of service of a Reserve soldier in an active status 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 upon conduct in the civilian community, and the burden is on the soldier to demonstrate that such conduct did not adversely affect his or her service.

d. 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 on 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.

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

2–9. Characterization of service

The following are characterizations of service authorized by this regulation.

a. Honorable. An honorable characterization is appropriate when the quality of the soldier'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.

(1) An honorable characterization may only be awarded a soldier upon completion of his or her service obligation, or where required under specific reasons for separation, unless an uncharacterized description is warranted.

(2) When a soldier is discharged before expiration of the service obligation for a reason for which an honorable characterization is discretionary, the following considerations apply:

(a) Where there have been infractions of discipline, the extent thereof should be considered, as well as the seriousness of the offense(s).

(b) A soldier will not necessarily be denied an honorable characterization solely by reason of a specific number of convictions by court-martial or actions under the UCMJ Art 15.

(c) 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 characterization of service.

(d) An honorable characterization may be awarded when disqualifying entries in the soldier's military record are outweighed by subsequent honorable and faithful service over a greater period of time during the current term of service.

(e) It is a pattern of behavior and not an isolated instance which should be considered the governing factor in determining the character of service.

(f) Unless otherwise ineligible, a soldier may receive an honorable characterization of service if he or she has, during his or her current enlistment, or any extension thereof, received a personal decoration.

b. General, (under honorable conditions). If a soldier's service has been honest and faithful, it is appropriate to

characterize that service as under honorable conditions. Characterization of service as general (under honorable conditions) is warranted when significant negative aspect of the soldier's conduct or performance of duty outweighs positive aspects of the soldier's military record.

(1) When authorized, a characterization of under honorable conditions is awarded to a soldier 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 soldier's separation specifically allows such characterization. It will not be issued to soldiers upon separation for expiration of their service obligation.

c. Under other than honorable conditions. Service may be characterized as under other than honorable conditions only when discharge is for misconduct, fraudulent entry, homosexual conduct, unsatisfactory participation, or security reasons, and under the following circumstances:

(1) When the reason for discharge is based upon a pattern of behavior, or one or more acts or omissions, that constitutes a significant departure from the conduct expected of soldiers. 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 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 soldiers.

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

(2) A discharge where service is characterized as under other than honorable conditions will be directed only by a general officer in command who has a judge advocate or legal advisor available to the command, or a higher authority per paragraphs 1-9a and 1-9b(1) and (2).

(3) No soldier will be discharged per this regulation, with service characterized as under other than honorable conditions unless he or she is afforded the right to present his or her case before an administrative separation board. The soldier will be afforded the advice and assistance of counsel. Such discharge must be supported by approved board findings, and an approved board recommendation for discharge under other than honorable conditions.

(4) As an exception to (3) above, a discharge with service characterized as under other than honorable conditions may be issued without board action if the soldier waives his or her right to board action.

2–10. Limitation on characterization of service

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

a. A soldier will receive an honorable characterization of service if limited use evidence (AR 600-85) is initially introduced by the Government in the separation proceedings, and the separation is based on those proceedings. (See f below and para 3-17f.) The separation authority will consult with the servicing Judge Advocate in cases involving limited use evidence.

b. The following will not be considered in determining the character of service:

(1) Pre-service activities, except in proceedings for fraudulent entry (chap 7, sec II) when misrepresentations, including omissions of facts which, if known, would have prevented, postponed, or otherwise affected the soldier's eligibility for enlistment.

(2) Prior service activities including but not limited to, records of conviction by courts-martial, records of non-judicial 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.

c. The limitations in paragraph 2-3 as to matters that may be considered on the issue of separation are applicable to matters that may be considered on the issue of characterization.

d. When the sole basis for separation is a serious offense that resulted in a conviction by a court-martial authorized to but not imposing a punitive discharge, the soldier's service may not be characterized under other than honorable conditions unless such characterization is approved by HQDA, ARNGUS, NGR-ARP/OCAR, DAAR-PE. Requests for approval will be sent to the HQDA, ARNGUS, NGR-ARP/OCAR, DAAR-PE addresses shown in paragraph 1-12.

e. The conduct of a soldier in the civilian community may form the basis for characterization under other than honorable conditions only if such conduct directly affects the performance of military duties. Such conduct may form the basis of characterization under honorable conditions only if such conduct has an adverse impact on the overall effectiveness of the Army, including military morale and efficiency.

f. A soldier's voluntary submission to a treatment and rehabilitation program (for personal use of drugs) and

evidence provided voluntarily by the soldier concerning personal use of drugs as part of initial entry into such a program may not be used against the soldier 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 in which the evidence of drug abuse (or lack thereof) has been first introduced by the soldier; and

(2) Taking action based on independently derived evidence, including evidence of drug abuse after initial entry into the treatment and rehabilitation program.

g. The results of mandatory urinalysis may be used on the issue of characterization unless prohibited by AR 600-85.

2–11. Separation where service is uncharacterized

a. Entry level status. Service will be described as uncharacterized if separation processing is initiated while a soldier is in an entry level status (see glossary), except in the following circumstances:

(1) When characterization under other than honorable conditions is authorized under the reason for separation and is warranted by the circumstances of the case; or

(2) The Secretary of the Army, or the Secretary's designated representative, 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 military duty. This characterization is authorized when the soldier is separated—

(a) By reason of selected changes in service (chap 5); or

(b) For the convenience of the Government (chap 6); or

(c) Under the Secretarial plenary authority (chap 14).

b. Void enlistments. A soldier will not receive a discharge, characterization of service at separation, or an uncharacterized description of service, if the enlistment is void except when a constructive enlistment arises and such action is required under (3) below. If characterization or an uncharacterized description of service 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 will arise in the case of a person serving in the Army who-

(a) Submitted voluntarily to military authority.

(b) Met the mental competency and minimum age statutory 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 paragraphs 2-8 and 2-9, as appropriate. However, if the enlistment was void by reason of desertion from another military service, the soldier 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 soldier or separating the member based on the circumstances that occasioned the original void enlistment or any other reason for separation.

c. Dropped from the rolls. A soldier may be dropped from the rolls of the Army when such action is authorized per chapter 15, section III, and a characterization of service or other description of separation is not authorized or warranted.

Section IV
Discharge Policy

2–12. Separation counseling for soldiers being discharged

The purpose and authority of the Army Discharge Review Board (AR 15-180) and the Army Board for Correction of Military Records (AR 15-185) will be explained during separation processing, except when the separation is for immediate reenlistment. Counseling will include advice that a discharge under other than honorable conditions is a conditional bar to benefits administered by the DVA, notwithstanding any action by a Discharge Review Board. Such explanation may be furnished the soldier in written form. Failure on the part of the soldier to receive or understand this counseling does not create a bar to separation or characterization.

2–13. Orders

a. The following order formats prescribed by AR 600-8-105 will be used for separations processed under this regulation:

(1) Order Format 500 where discharge is directed per this regulation, to include expiration of the service obligation and immediate reenlistment.

(2) Order Format 502 where Reserve Officers' Training Corps cadets are discharged to accept a commission.

(3) Order Format 505 where a soldier is released from the custody and control of the Army.

(4) Order Format 540 where a soldier is dropped from the rolls.

b. Once a soldier receives his/her orders, by actual or constructive delivery, such orders may not be revoked except in one or more the following circumstances:

(1) The orders are revoked by proper authority, either orally or in writing, prior to the effective date of the discharge. Orally revoked orders should be documented in writing within 30 days of the revocation.

(2) When one or more of the exceptions to the doctrine of administrative finality exist (i.e. fraud; mistake of law; mathematical miscalculation; and/or substantial new evidence discovered contemporaneously within a short time following the action).

c. After the effective date of discharge, orders may be amended by the separation authority only to correct administrative errors, such as errors concerning grade, social security number, or misspelled name.

2–14. Discharge before expiration of the service obligation

a. A discharge for the purpose of complete separation from military service terminates a soldier's statutory and contractual military service obligation on the effective date of the discharge.

b. An enlisted ARNGUS soldier who is discharged from the ARNG and not concurrently discharged as a Reserve of the Army automatically becomes a member of the USAR.

c. A discharge issued only for the purpose of a change in status with continuing military service does not terminate a statutory military service obligation. Some examples of such changes in status are:

(1) Discharge from enlisted status on appointment as an officer.

(2) Discharge from a reserve component on enlistment in a regular component.

(3) Discharge on transfer between reserve components.

(4) Discharge for the purpose of reenlistment in the same component.

2–15. Discharge after expiration of the service obligation

a. A soldier is entitled to be discharged on the expiration of his or her service obligation, and normally will be discharged unless action is taken to retain the soldier beyond such expiration date.

b. Retention beyond the expiration date of a service obligation may be either voluntary or involuntary.

(1) Soldiers may voluntarily remain beyond the expiration date of a service obligation if they are undergoing required health care or are being processed for physical disability separation. They may also consent to remain beyond the expiration date if they are subject to criminal jurisdiction of a foreign court but not physically confined by that country.

(2) Soldiers may be involuntarily retained beyond expiration of their service obligation only when action with a view toward trial by court-martial has been taken by the appropriate authorities. Such action must have been initiated before the soldier's service obligation expired.

c. Soldiers properly held beyond expiration of their service obligation, whether voluntarily or involuntarily, retain their military status and continue to be subject to the Uniform Code of Military Justice until formally discharged by the appropriate authorities.

d. Soldiers otherwise eligible for discharge on expiration of their service obligation will not be retained to satisfy a debt to the United States Government or to an individual, or to process and complete an involuntary administrative separation action per this regulation. On the other hand, if the Army does not affirmatively act to discharge a soldier and the soldier does not demand discharge, but rather remains on duty and accepts pay and benefits, the military status of that soldier continues.

2–16. Effective date of discharge

The effective date of discharge is 2400 hours on the date of notice of discharge (see para 2-17, below). When discharge is for change of military status, the effective date of the order will be the day prior to the date of the soldier's entry into a new military status. When discharge is under the provisions of para 15-1c, the effective date of the order will be the last day of the month during which maximum allowable age is reached.

2–17. Notification of discharge

Notice of discharge may be either-

a. Actual, as by delivery to the soldier of the discharge order or certificate; or

b. Constructive, when actual delivery of the discharge order cannot be accomplished due to the absence of the soldier to be discharged.

(1) If the soldier is assigned to a Selected Reserve unit or duty position, receipt of the order directing his or her discharge by the soldier's organization, at the proper station of the organization, will be sufficient notice. The date of receipt of the order by the soldier's organization and the reason why actual notice was not given will be entered, by endorsement, on the back of the discharge order. A confirmed copy of the annotated discharge order will be sent by registered or certified mail to the soldier at the most recent address provided by the soldier for that purpose. The annotated order, reflecting the date of mailing to the soldier, will be included in the personnel file forwarded to the Commander, AR-PERSCOM, ATTN: ARPC-CIS-P, 1 Reserve Way, St. Louis, MO 63132-5200.

(2) If the soldier is assigned to the Individual Ready, Standby, or Retired Reserve, Cdr, AR-PERSCOM (ARPC-PSR), will issue an annotated discharge order. The order will be annotated on the back, by endorsement, to show that the order was mailed to the soldier at the most recent address furnished by the soldier as an address for receipt or forwarding of official mail and the date the order was mailed. The annotated order will be sent by registered or certified mail. A copy of the annotated order, reflecting the date of mailing to the soldier, will be placed in the soldier's official military personnel file (OMPF).

(3) If a mailed discharge order is returned as "unclaimed" or "undeliverable", the returned order and its accompanying envelope will be retained in the soldier's file.

(4) The discharge order of a mentally incompetent soldier will be delivered to the soldier's legal guardian.

2–18. Notification of discharge of a soldier who can't be located or is absent in the hands of civil authorities

When discharge has been ordered by the separation authority and the soldier can not be located or is absent in the hands of civil authorities subsequent to the issuance of the discharge orders, the discharge may be executed regardless of absence. The notification procedure in paragraph 2-17 is applicable.

2–19. Certificates

a. Discharge certificates will be furnished soldiers when they are honorably discharged or discharged under honorable conditions from the Army. These discharge certificates are:

(1) DD Form 256A (Honorable Discharge Certificate).

(2) DD Form 257A (General Discharge Certificate).

b. Discharge certificates will not be issued under the following conditions:

(1) Where service is characterized as under other than honorable conditions.

(2) Where the service is uncharacterized.

(3) On discharge for immediate reenlistment.

(4) On discharge from a cadet status on appointment as an officer or warrant officer.

2–20. Preparation of certificates

a. Number of copies. Discharge certificates will be prepared in original only.

b. How prepared. Entries on discharge certificates will be typewritten. Only black typewriter ribbon ink will be used.

c. Entries. Entries on the discharge certificates will be as follows:

(1) On the line provided under the words "This is to certify that," enter the soldier's name in signature order, followed by the social security number, grade, and USAR. When discharge certificate is prepared by automated systems, the soldier's name may be entered in last name, first name, and middle initial sequence.

(2) Enter effective date of discharge in space provided This date must agree with the effective date of discharge shown in the discharge order.

(3) Discharge certificates normally will be authenticated by a commissioned officer. However, the separation authority or other appropriate commander may delegate this authority to a warrant officer or noncommissioned officer in the rank/grade of Sergeant First Class (SFC) and above or DA civilian in the grade of GS-7 and above. The designated official will sign the certificate in the space provided. Signature blocks will be in accordance with AR 25-50.

2–21. Amendments and corrections to certificates

The discharge certificate as originally prepared cannot be altered or amended after the effective date of discharge. Correction of cosmetic or typographical administrative errors will be made on written application of the individual to Cdr, AR-PERSCOM. Applications for review of the type of discharge certificate awarded under this regulation will be submitted by the individual to the Cdr, AR-PERSCOM (ARPC-PSV) on DD Form 293 (Application for Review of

Discharge or Dismissal from the Armed Forces of the United States) for consideration by the Army Discharge Review Board (AR 15-180).

Chapter 3
Guidelines for Separation

Section I
Application

3–1. Scope
The procedures in this chapter are applicable only when required under a specific reason for separation cited in this regulation. These actions are subject to the requirements set forth in the specific reason for separation.

3–2. Guidance
When a soldier is processed on the basis of multiple reasons for separation, the following guidelines apply to procedural requirements (including procedural limitations on characterization or description of service):

a. The basis for each reason must be clearly established.

b. If a reason for separation set forth in the notice of proposed action requires processing under the Administrative Board Procedure, the entire matter will be processed under section III, of this chapter.

c. When there is any other clear conflict between a specific requirement applicable to one reason and a general requirement applicable to another reason, the specific requirement will be applied.

d. If a conflict in procedures cannot be resolved on the basis of the foregoing principles, the procedure most favorable to the soldier will be used.

3–3. Counsel for respondent
Counsel for consultation and counsel for representation for soldiers being considered for separation under this regulation are described as follows:

a. Counsel for consultation.

(1) A reserve component or Active Army officer of the Judge Advocate General's Corps appointed by a convening authority to consult with and advise a soldier being processed under this regulation at the outset of an involuntary separation proceedings. Such counsel must be qualified under Article 27(b)(1) of the UCMJ. Counseling may be accomplished in person, or through the use of mail, e-mail, FAX or telephone, as circumstances dictate. (Counsel for consultation will advise respondent using DA Form 7423 (Consulting Counsel's Checklist) and make annotations as appropriate.

(2) A civilian counsel retained by the soldier at no expense to the Government. Civilian counsel is not appointed by the convening authority.

b. Counsel for representation.

(1) A reserve component or Active Army officer of the Judge Advocate General's Corps appointed by the convening authority to provide representation during the course of any hearing before an administrative separation board UP of this regulation. Representation by counsel will be IAW AR 15-6. Such counsel must be qualified under Article 27(b)(1) of the UCMJ.

(a) Reserve component judge advocates are appointed UP AR 27-3, chapter 2.

(b) Active Army judge advocates are appointed UP AR 27-10, chapter 6.

(c) A respondent who declines representation by a qualified judge advocate officer is not entitled to appointment of a different counsel or counsel of choice.

(2) Civilian counsel not employed by the Government and at no expense to the Government.

(3) Non-lawyer counsel may represent a respondent before an administrative board only where:

(a) The respondent expressly declines appointment of counsel under Article 27(b)(1) of the UCMJ and requests a specific non-lawyer counsel; or,

(b) The separation authority assigns non-lawyer counsel as assistant counsel.

c. Counsel for consultation and counsel for representation need not be the same individual.

Section II
Separation Using the Notification Procedure

3–4. Notice under the Notification Procedure
a. When the Notification Procedure is required under a reason for separation cited in this regulation, the commander

will notify the soldier, in writing, of the matter set forth in this section. (Use the memorandum format at figure 3-1, with the endorsement format at figure 3-2, for this purpose.)

(1) The basis of the proposed separation, including the circumstances upon which the action is based, and a reference to the applicable provisions of this regulation.

(2) Whether the proposed separation could result in a discharge from the Army, transfer from the ARNGUS to the USAR, or release from custody or control of the Army.

(3) The least favorable characterization or description of service authorized for the proposed separation.

(4) The right to obtain copies of documents that will be sent to the separation authority supporting the basis of the proposed separation. Classified documents may be summarized. For a separation under chapter 11 or chapter 12 based on a positive urinalysis, the soldier will be provided, on request, a copy of the laboratory documents (as described in AR 600-85).

(5) The soldier's right to submit statements.

(6) The soldier's right to consult with counsel. The soldier may also consult with civilian counsel retained at the soldier's own expense.

(7) If the soldier has 6 or more years of total active and reserve military service on the date of initiation of recommendation for separation, the soldier's right to request an Administrative Board (section III). (See para 3-6a.)

(8) The right to waive the rights in paragraphs (4) through (7) above, in writing (fig 3-2), after being afforded a reasonable opportunity to consult with counsel, and that failure to respond within 30 calendar days from the date of receipt of the notice will constitute a waiver of the right.

b. Reasonable effort should be made to furnish copies of the notice to the soldier through personal contact by a representative of the command. In such a case, a written acknowledgment of the notice will be obtained. If the soldier cannot be personally contacted or refuses to acknowledge receipt of the notice, the notice will be sent by registered or certified mail, return receipt requested, to the most recent address furnished by the soldier as an address for receipt or forwarding of official mail. The individual who mails the notification will prepare an Affidavit of Service by Mail (fig 1-1). This will be inserted in the soldier's personnel file together with PS Form 3800 (Receipt for Certified Mail).

3–5. Additional notice requirements

a. If separation processing is initiated on the basis of more than one reason, the soldier will be notified of the basis of each reason, including the circumstances on which the action is based, with reference to the specific provisions of this regulation that authorize separation.

b. If the soldier is in civil confinement the relevant notification procedures of paragraph 3-4b above apply.

c. If the separation action involves a transfer from the ARNGUS to the USAR the notification procedures in paragraph 1-25 are required.

d. When the soldier is processed for separation by reason of convenience of the Government (chap 6) and characterization of service of general (under honorable conditions) is authorized, the soldier must be notified of the specific factors in the service record that warrant such a characterization.

e. The intermediate commander(s), in making recommendations on the characterization or description of service, may recommend any characterization or description of service authorized for the notified basis of separation, but will normally be limited to considering facts contained within the proposed action. If the intermediate commander(s) consider additional unfavorable information outside that contained in the proposed action in making recommendations, the intermediate commander(s) will state in writing the specific facts and incidents in the soldier's record that warrant such type of discharge and characterization or description. The soldier will be given an opportunity to rebut the additional material prior to the proposed action being forwarded from that intermediate commander. Military legal counsel will be made available to assist in preparation of rebuttal of the additional material. An explanation by the intermediate commander of the reasons for his or her recommendation that refers only to facts contained within the proposed action or to the commander's conclusions based on those facts will not constitute "additional unfavorable information" within the meaning of this paragraph.

3–6. Response

The soldier will be provided a reasonable period of time (not less than 30 calendar days) to respond by endorsement to the notification memorandum (fig 3-2). An extension may be granted on a timely showing of good cause by the soldier. An extension will normally be granted until any documents requested by the soldier pursuant to paragraph 3-4a(4) are provided to the soldier and the soldier has a reasonable opportunity to respond to such documents. The decision of the soldier on each of the rights set forth in paragraphs 3-4a(4) through (7), and applicable provisions referenced in paragraph 3-5, will be recorded and signed by the soldier and counsel (fig 3-2), subject to the following limitations:

a. If the soldier elects to exercise his or her right to a hearing before an administrative board (para 3-4a(7)), then the entire matter will be processed under the Administrative Board Procedure (sec III) commencing with paragraph 3-13. (Compliance with paras 3-10, 3-11, and 3-12 is not required in this situation.)

b. If the notification memorandum was mailed (para 3-4b) and the soldier fails to acknowledge receipt, or to submit

a reply (fig 3-2) within 30 calendar days, that fact will constitute a waiver of the right to respond. An appropriate notation will be recorded on the retained copy of the memorandum of notification (fig 3-1).

c. If the soldier declines to respond as to the selection of rights, such declination will constitute a waiver of rights and an appropriate notation will be recorded on the retained copy of the memorandum of notification (fig 3-1). If the soldier indicates that one or more of the rights will be exercised, but declines to sign the receipt of notification (fig 3-2), the selection of rights will be noted. An appropriate notation as to the failure to sign will be made.

3–7. The initiating commander's report to the separation authority

The commander initiating the separation proceedings will forward a full report of the recommended proceedings through intermediate commanders, if any, to the appropriate separation authority (para 1-9) using the commanding officer's report in the format shown in figure 3-3.

3–8. Action by intermediate commanders

Intermediate commanders may take the following action:

a. Disapprove the recommendation and direct reassignment of the soldier to another organization, if applicable, or direct disposition by other means. In case of reassignment, the commanding officer's report will be forwarded to the new organization commander for information.

b. Approve the commanding officer's recommendation and forward the report to the separation authority.

3–9. Action by separation authority

a. The separation authority for actions initiated under the Notification Procedure will be the authority cited in paragraph 1-9.

b. The action of the separation authority will be recorded.

c. On receipt of the commander's report (paras 3-7 or 3-13), the separation authority will determine if there is sufficient evidence to verify the allegations set forth in the notification of the basis for separation. If an allegation is not supported by a preponderance of the evidence, it may not be used as a basis for separation. If there is not sufficient basis for separation, the separation authority will disapprove the recommendation and return the case to the originator for disposition by other means or take other appropriate action under this regulation. If the recommendation is disapproved, the return endorsement will cite reasons for disapproval.

d. If there is a sufficient factual basis for separation for the reason set forth in the notification, the separation authority will determine whether separation is warranted under the guidance in chapter 2, sections I and II. On the basis of that guidance, the separation authority will direct one of the following actions:

(1) Retention;

(a) In current assignment or pay category; or

(b) In the USAR with reassignment to the IRR under the MATP (chap 1, sec V), or per AR 140-10.

(2) Separation. If an ARNGUS soldier eligible for MATP (Para 1-22a) is being separated for reasons cited in paragraph 1-21b and the separation authority determines the soldier has mobilization potential (para 1-24), the separation authority may direct the soldier be discharged from the Army National Guard (ARNG) per NGR 600-200 with concurrent transfer as a Reserve of the Army to the IRR of the USAR as a mobilization asset.

(3) Suspend separation in accordance with the guidance in chapter 2, section II.

e. If the separation authority directs separation or suspended separation on the basis of more than one reason authorized by this regulation, the separation authority will designate the most appropriate basis as the primary reason for reporting purposes (para 3-2).

f. If separation or a suspended separation is directed, the separation authority will assign a characterization or description of service per chapter 2, section III.

Section III
Separation Using The Administrative Board Procedure

3–10. Notice under the Administrative Board Procedure

a. When the Administrative Board Procedure is required under a reason for separation cited in this regulation, the soldier will be notified in writing of the matters set forth in this section: (Use the memorandum format at figure 3-4, with the endorsement format at figure 3-5, for this purpose.)

(1) The basis of the proposed separation, including the circumstances upon which the action is based, and a reference to the applicable provisions of this regulation.

(2) Whether the proposed separation could result in a discharge from the Army, transfer from the ARNGUS to the USAR, or release from custody and control of the Army.

(3) The least favorable characterization or description of service authorized for the proposed separation.

(4) The soldier's right to consult with counsel. The soldier may also consult with civilian counsel retained at the soldier's own expense.

(5) The right to obtain copies of documents that will be sent to the Separation Authority supporting the basis of the proposed separation. Classified documents may be summarized. For a separation under chapter 11 or chapter 12 based on a positive urinalysis, the soldier will be provided, on request, a copy of the laboratory documents (as described in AR 600-85).

(6) The soldier's right to request a hearing before an Administrative Board.

(7) The soldier's right to present written statements instead of board proceedings.

(8) The soldier's right to representation at the Administrative Board by military counsel designated according to AR 27-10, chapter 6. Request for military counsel of choice is not authorized (AR 15-6, para 5-6b(2)).

(9) The soldier's right to representation at the Administrative Board by civilian counsel at the soldier's own expense.

(10) Nonlawyer counsel may not represent a soldier before an Administrative Board unless:

(a) The soldier expressly declines appointment of counsel qualified under Article 27(b)(1) of the UCMJ and requests a specific nonlawyer counsel; or

(b) The Separation Authority assigns nonlawyer counsel as assistant counsel.

(11) The soldier's right to submit a conditional waiver of the right to a hearing before an administrative board (para 3-15a).

(12) Unless prohibited by paragraph 3-15c, the right to waive the rights in paragraphs (4) through (10) above, in writing (fig 3-5), after being afforded a reasonable opportunity to consult with counsel, and that failure to respond within 30 calendar days from the date of receipt of the notification memorandum (fig 3-1 or 3-4) will constitute a waiver of the right.

(13) The right to be present at the board hearing will be waived if the soldier fails to appear without good cause.

b. Reasonable effort should be made to furnish copies of the notification memorandum (fig 3-4) to the soldier through personal contact by a representative of the command. In such a case, a written acknowledgment of receipt of the notification will be obtained. If the soldier cannot be contacted or refuses to acknowledge receipt of the notification, the notification memorandum will be sent by registered or certified mail, return receipt requested, to the most recent address furnished by the soldier as an address for receipt or forwarding of official mail. The individual who mails the notification will prepare a Affidavit of Service by Mail (fig 1-1). This will be inserted in the soldier's personnel file together with PS Form 3800 (Receipt for Certified Mail).

3–11. Additional notice requirements

a. If separation processing is initiated on the basis of more than one reason, the soldier will be notified of the basis of each reason, including the circumstances on which the action is based, with reference to the specific provisions of this regulation that authorize separation.

b. If the soldier is in civil confinement the relevant notification procedures of paragraph 3-10b above applies.

c. If the separation action involves a transfer from the ARNGUS to the USAR the notification procedures in paragraph 1-25 are required.

d. The intermediate commander(s), in making recommendations on the characterization or description of service, may recommend any characterization or description of service authorized for the notified basis of separation, but will normally be limited to considering facts contained within the proposed action. If the intermediate commander(s) consider additional unfavorable information outside that contained in the proposed action in making recommendations, the intermediate commander(s) will state in writing the specific facts and incidents in the soldier's record that warrant such type of discharge and characterization or description. The soldier will be given an opportunity to rebut the additional material prior to the proposed action being forwarded from that intermediate commander. Military legal counsel will be made available to assist in preparation of rebuttal of the additional material. An explanation by the intermediate commander of the reasons for his or her recommendation that refers only to facts contained within the proposed action or to the commander's conclusions based on those facts will not constitute "additional unfavorable information" within the meaning of this paragraph.

3–12. Response

The soldier will be provided a reasonable period of time (not less than 30 calendar days) to respond by endorsement to the notification memorandum (fig 3-5). An extension may be granted on a timely showing of good cause by the soldier. An extension will normally be granted until any documents requested by the soldier pursuant to paragraph 3-10a(5) are provided to the soldier and the soldier has a reasonable opportunity to respond to such documents. The decision of the soldier on each of the rights set forth in paragraphs 3-10a(1) through (10), and applicable provisions referenced in paragraph 3-11, will be recorded and signed by the soldier and counsel (fig 3-5), subject to the following limitations:

a. If the notification memorandum (fig 3-4) was mailed per paragraph 3-10b and the soldier fails to acknowledge receipt, or to submit a reply by endorsement (fig 3-5) within 30 calendar days, that fact will constitute a waiver of rights. An appropriate notation will be recorded on a retained copy of the notification memorandum (fig 3-4).

b. If the soldier declines to respond as to the selection of rights, such declination will constitute a waiver of rights and an appropriate notation will be made on the retained copy of the notification memorandum (fig 3-4).

c. If the soldier indicates that one or more of the rights will be exercised, but declines to sign the endorsement (fig 3-5), the selection of rights will be noted. An appropriate notation as to the failure to sign will be made on the retained copy of the endorsement (fig 3-5).

3–13. The initiating commander's report to the separation authority

The commander initiating the separation proceedings will forward a full report of the recommended proceedings through intermediate commanders, if any, to the appropriate separation authority (para 1-9) using the commanding officer's report in the format shown in figure 3-3.

3–14. Action by intermediate commanders

Except as may be prescribed in paragraph 10-7, intermediate commanders may take the following action:

a. Disapprove the recommendation and direct reassignment of the soldier to another organization, if applicable, or direct disposition by other means. In case of reassignment, the commanding officer's report will be forwarded to the new organization commander for information.

b. Approve the commanding officer's recommendation and forward the report to the separation authority.

3–15. Waiver

a. When a soldier waives his or her right to a hearing before an administrative board, then the entire matter will be processed under the Notification Procedure (sec II) commencing with paragraph 3-7. (Compliance with paras 3-4, 3-5, and 3-6 is not required in this situation.) However, the separation authority will be a general officer cited in paragraphs 1-9a or b.

b. A soldier entitled to an Administrative Board may submit a conditional waiver to a hearing by a board after a reasonable opportunity to consult with counsel under paragraph 3-10a(11). (The memorandum format at figure 3-6 will be used for this purpose.) The conditional waiver (fig 3-6) is a memorandum submitted by a soldier waiving the right to a hearing by a board on the condition characterization of service on separation will be higher than the least favorable characterization or description of service authorized for the basis of the separation reason listed in the notification memorandum (fig 3-4). The separation authority will be the same as if the soldier had not submitted the conditional waiver.

(1) The separation authority may approve or disapprove the conditional waiver. If the conditional waiver is disapproved, the case will be referred to a hearing before an Administrative Board unless there is a subsequent unconditional waiver of a right to a hearing before an administrative separation board under paragraphs 3-4a(7) and 3-10a(6).

(2) There is no requirement to delay board proceedings pending action by the separation authority on the conditional waiver. However, once the board has made its findings and recommendations, the convening authority may not approve the conditional waiver.

c. Waivers of the board hearings and the right to representation by counsel at board hearings will not be accepted in the cases of soldiers who have completed 18, but less than 20, years of qualifying service for retired pay.

3–16. Action by the separation authority on commander's recommendation

Except as may be prescribed in paragraph 10-8, on receiving the commanding officer's report (paras 3-7 or 3-13), the separation authority may take one of the following actions—

a. Disapprove the recommendation and return the case to the originator for disposition by other means.

b. Disapprove the recommendation relating to reason for separation and direct the soldier be processed for separation under another reason for separation. This may be done when the separation authority determines that an alternative basis for separation is more appropriate than the originating command's reason for separation. In this case the soldier must be so advised and new proceedings must be initiated using the Notification Procedure or Administrative Board Procedure, as required.

c. When the board hearing has been properly and effectively waived, approve the separation and direct characterization of service or description of separation per chapter 2, section III.

d. When the board hearing has been properly and effectively waived, approve the separation and direct characterization of service or description of separation per chapter 2, section III, and suspend execution of the separation (chap 2, sec II).

e. Convene an Administrative Board to conduct a hearing and provide recommendations as prescribed in paragraph 3-17.

f. Direct that the case be processed through medical channels, if appropriate, as provided in paragraph 1-8.

3–17. Hearing requirements

Except as otherwise provided herein, the procedures of AR 15-6 as they relate to boards of officers will also be used in

these proceedings. If a soldier requests, or does not waive the right to, a hearing before an Administrative Board, the following actions are applicable.

a. Composition.

(1) The separation authority (para 1-9) will appoint to the Administrative Board at least three experienced commissioned, warrant or noncommissioned officers. At least one of the voting commissioned officers must be a Reserve officer.

(a) Enlisted soldiers appointed to the Board must be sergeants first class (SFC) or above, and must be senior to the respondent.

(b) At least one member of the Board must be a Major or higher, and a majority must be commissioned or warrant officers. However, all board members must be commissioned officers (includes warrant officers) if under other than honorable conditions character of service is authorized for the reason for separation.

(c) The senior member will be the president of the Board.

(d) The separation authority may appoint to the Board a nonvoting recorder.

(e) A nonvoting legal advisor may be appointed to assist the Board.

(2) Boards with ARNGUS respondents shall include at least one ARNGUS officer as a voting member. Boards with USAR respondents shall include at least one USAR officer as a voting member.

(3) The separation authority will ensure that the opportunity to serve on administrative boards is given to women and minorities. The mere appointment or failure to appoint a member of such a group to the Board, however, does not provide a basis for challenging the proceeding.

(4) The respondent may challenge a voting member of the Board or the legal advisor, if any, for cause only.

b. Presiding officer. The president will preside and rule on all matters of procedure and evidence, but 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 challenges to the legal advisor. Military judges may be appointed as board members. If a military judge is appointed as the president of a board, a legal advisor to the board need not be appointed.

c. Witnesses.

(1) The soldier will be notified of the names and addresses of witnesses expected to be called at the board hearing and that the recorder of the board will, on written request of the soldier, endeavor to arrange for the presence of any available witness the soldier desires to call. Pursuant to AR 15-6, paragraph 3-7c, expert medical and psychiatric testimony routinely may be provided in the form of affidavits.

(2) The respondent may submit a written request for TDY or invitational travel orders for witnesses. Such a request will 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.

(3) 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) Telephonic, written, or recorded testimony will not adequately accomplish 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 relation to 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.

(4) 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.

(5) The hearing will 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; or

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

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

(6) Paragraph (5)(c) above does not authorize a Federal employee to decline to appear as a witness if directed to do so in accordance with applicable procedures of the employing agency.

d. Record of proceedings. The proceedings of the board will be summarized as fairly and accurately as possible. The proceedings will contain a verbatim record of the findings and recommendations.

e. Presentation of evidence. Except as otherwise provided in this regulation, the procedures in AR 15-6 apply.

f. Introduction of limited use evidence. The Government may initially introduce limited use evidence (AR 600-85) into separation proceedings accomplished under this regulation or, at its option, may elect to proceed solely with independent evidence not subject to limited use. If limited use evidence is initially introduced by the Government and the separation proceedings result in separation, the soldier will receive an honorable characterization of service (para 2-10a). However, the proceedings may be reinitiated or a rehearing held in accordance with the following guidance. If limited use evidence is introduced by the Government before the board convenes, the separation proceedings may be reinitiated, excluding all references to limited use evidence. If limited use evidence is introduced by the Government after the board convenes, a general officer who is the separation authority may set aside the proceedings and refer the case to a new board for rehearing. (See AR 600-85.) The reason for the rehearing will not be disclosed to the new board and limited use information will not be initially introduced by the Government. Review and action in the case will be based only on the new record. If a rehearing is not deemed appropriate, the soldier may be separated with an honorable characterization of service (para 2-10a). The servicing Judge Advocate will review completed board proceedings that contain limited use evidence and advise the separation authority whether a rehearing is appropriate.

g. Rights of the respondent.

(1) The respondent may testify in his or her own behalf. The provisions of Article 31(a), Uniform Code of Military Justice (UCMJ) will apply, as appropriate.

(2) At any time before the board convenes and during the proceedings, the respondent or counsel may submit written or recorded matter for consideration by the board. This includes submission of any answer deposition, sworn or unsworn statement, affidavit, certificate, or stipulation, or depositions of witnesses not reasonably available or witnesses unwilling to appear voluntarily.

(3) The respondent or counsel may call witnesses in his or her own behalf subject to the provisions of c above.

(4) The respondent or counsel may question any witness who appears before the board.

(5) The respondent or counsel may present argument before the board closes for deliberation on findings and recommendations.

(6) The respondent may appear in person with or without counsel at all open proceedings of the board. When a soldier appears before a board without counsel, the record will show that the president of the board counseled the respondent as to characterization or description of service that he or she may receive as a result of the board action, the effects of such characterization or description, and that he or she may request counsel. The record of the proceedings will reflect the respondent's response.

(7) The respondent or counsel may challenge any voting member of the board or the legal advisor, if any, for cause only. Furthermore, when the board is considering a case in which the respondent has exercised his or her right to revoke a previous waiver, the board membership will not be advised in any manner of such action by the respondent, or of the type of discharge which had been recommended in his or her case. When it has come to the attention of the respondent or his or her counsel that facts intended to be excluded are known by any member of the board, failure to challenge the member having such knowledge constitutes a waiver of the matter.

(8) Failure of the soldier to invoke any of the above rights after having been apprised of same is not a bar to the board proceedings, findings, or recommendations.

h. Findings and recommendations. Except as may be prescribed in paragraph 10-9—

(1) The board will determine its findings and make recommendations in closed session. Only voting members will be present.

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

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

(4) The board will make recommendations on the following:

(a) Retention or separation. The board will recommend retention or separation. Should the board recommend retention, the recommendation must provide for the soldier to be retained in the component and status in which the soldier is currently serving, and no characterization of service will be recommended. A board will not recommend retention when recommending a characterization of service.

(b) Suspension of separation. If the board recommends separation, it may recommend that the separation be suspended in accordance with chapter 2, section II, but the recommendation of the board is not binding on the separation authority.

(c) Characterization of service or description of separation. If separation or suspended separation is recommended, the board will recommend a characterization of service or description of separation as authorized by the basis for separation (chaps 6 through 16) in accordance with the guidance in chapter 2, section III.

i. Report of proceedings. A complete report of proceedings will be forwarded to the Separation Authority for final determination and disposition.

3–18. Action by separation authority on board recommendations

Except as may be prescribed in paragraph 10-10—

a. The Separation Authority for actions initiated under the Administrative Board Procedure will be the authority cited in paragraph 1-9a and 1-9b. This authority will not be further delegated.

b. The board proceedings will be reviewed by a qualified officer fully cognizant of applicable regulations and policies. This officer determines whether the action meets the requirements of this regulation. However, in every case in which characterization of service under other than honorable conditions is recommended, or when limited use evidence was introduced in the board proceedings (para 3-17f), or when the soldier 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.

c. The respondent will be provided a copy of the board's statement of facts and recommendations.

d. In cases where the separation authority recommends the separation of a soldier with 18, but less than 20, years of qualifying service for retired pay (10 USC 12732), the report of board proceedings and the separation authority recommendation will be sent to HQDA per paragraph 1-12 for consideration.

e. In cases where a board has recommended separation of a soldier based on a civil court conviction and the soldier is not incarcerated (para 12-2), approval and execution of the separation will normally be withheld only if the soldier has filed an appeal of the conviction or stated his or her intention to do so (para 12-2b). If the separation authority determines execution of the separation is appropriate without waiting for final action on the appeal, the soldier may be separated with the appropriate characterization of service upon the approval of HQDA , ARNGUS, NGR-ARP/OCAR, DAAR-PE (para 1-12), or at the request of the soldier

f. The separation authority will take action in accordance with this paragraph; the requirements of chapters 4 through 16 with respect to the reason for separation; and the guidance in chapter 2 on separation and characterization; and the guidance in chapter 1, section V, regarding the MATP.

(1) If the separation authority approves the recommendations of the board on the issue of separation or characterization (or both) this constitutes approval of the board's findings and recommendations under paragraph 3-17h, unless the separation authority expressly modifies such findings or recommendations. However, the Separation Authority cannot authorize a characterization of service less favorable than that recommended by the board.

(2) If the board recommends retention, the separation authority will not direct discharge. The Separation Authority may take one of the following actions:

(a) Approve the recommendation.

(b) If the Separation Authority believes that discharge is warranted and in the best interests of the Army, a request for separation under the provisions of chapter 14 may be sent to HQDA, ARNGUS, NGR-ARP/OCAR, DAAR-PE (para 1-12). The separation authority will personally sign the memorandum to HQDA, ARNGUS, NGR-ARP/OCAR, DAAR-PE which sets forth specific reasons justifying the soldier's discharge as being in the Army's interest. Prior to forwarding the case, the Notification Procedure (sec II) will be used. However, the procedure for requesting an administrative board (para 3-4a(7)) is not applicable. It is the policy of HQDA, ARNGUS, NGR-ARP/OCAR, DAAR-PE to uphold the recommendations of a duly constituted board unless compelling justification is given to warrant separation under Secretarial authority, 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. If separation is approved under chapter 14, the characterization or description of service will be in accordance with paragraph 14-2.

(3) If the board recommends separation, the separation authority may:

(a) Approve the board's recommendation;

(b) Approve the board's recommendations, but modify the recommendations by one or more of the following actions when appropriate:

1. Approve the separation but suspend execution as provided in chapter 2, section II.

2. Change the character of service or description of separation to a more favorable characterization or description. The separation authority cannot authorize a characterization of service less favorable than that recommended by the board.

(c) Disapprove the board's recommendation and direct retention.

(4) If the separation authority approves the board's findings and recommendations in whole or in part with respect to more than one reason for separation (chaps 6 through 16), the separation authority will designate the most appropriate basis as the primary reason for reporting purposes.

(5) If the separation authority notes a defect but deems it harmless in a case in which separation has been recommended, he or she will take final action per (3) above. If these are substantial defects, the separation authority may take one of the following actions:

(a) Direct retention.

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

(c) 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.

(d) If the board's error materially prejudiced a substantial right of the soldier, the separation authority may only take action that 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. A member of the new board cannot have served on a prior board that considered any of the same matters against the soldier. 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, on due notice to the soldier, incorporate new allegations based on later conduct of the soldier. Unless the new board considers substantial additional evidence unfavorable to the soldier, the separation authority may not approve any findings and recommendations of the new board less favorable than those rendered by the first board.

(6) If the Separation Authority determines, based on newly discovered evidence that the findings of the first board were obtained by fraud or collusion, the case may be referred to a new board. The fraud or collusion, which serves as the basis for referral to a new board, must be based on newly discovered evidence which was unknown at the time of the original proceedings. No member of the new board may have been a member of the first board. The separation authority may not approve findings and approve recommendations less favorable to the soldier than those rendered by the first board unless the separation authority finds that the newly discovered evidence of fraud or collusion in the first board is attributable to the soldier or an individual acting on the soldier's behalf.

3–19. Disposition of proceedings

a. When separation is ordered by the separation authority or his or her designee, he or she will so note in the record of proceedings and forward them as authority for separation to the appropriate commander for execution of the separation. (See para 3-21 for disposition of the case file when separation is accomplished.)

b. When separation is not ordered by the separation authority, the proceedings will be filed at that headquarters. The soldier's commanding officer will be notified of the final action. When deemed appropriate, consideration will be given to the soldier's reassignment to a different organization. Ultimate disposition of the board proceedings will be governed by AR 25-400-2.

c. A soldier who is to be separated will be furnished a copy of the board proceedings, less written medical testimony and reports which would prove injurious to the soldier's physical or mental health.

(1) The soldier's copy of the proceedings will be marked "copy for (name and social security number of the member)" and furnished the soldier or his or her counsel. A signed receipt will be obtained from the soldier or the soldier's counsel to whom the copy is furnished and filed with the original board proceedings. If the soldier refuses to sign the receipt, a statement to that effect will be filed.

(2) If the soldier or the soldier's counsel does not desire a copy of the board proceedings or if for any other reason a copy is not furnished, a notation will be made on the soldier's copy, which will be filed with the original. Release of this copy thereafter may be made only by the CDR, AR-PERSCOM.

3–20. Errors and discrepancies noted before accomplishing separation

If material errors or discrepancies in approved board proceedings are found, the case will be referred for review before separation to HQDA (para 1-12), as appropriate.

3–21. Disposition of the case file

When separation of the soldier has been accomplished by appropriate authority under this regulation, the complete file of the case together with the soldier's military personnel records will be disposed of in accordance with the instructions contained in AR 600-8-104 or NGR 600-200, as appropriate.

Section IV
Additional Provisions Concerning Soldiers Confined by Civil Authorities

3–22. Proceedings when soldier is confined by civil authorities

If separation proceedings under this chapter have been initiated against a soldier confined by civil authorities, the case may be processed in the absence of the respondent (see para 2-18).

3–23. Notification requirements

The following requirements apply:

a. A soldier confined by civil authorities will receive a notification memorandum under the Notification Procedure (para 3-4) or the Administrative Board Procedure (para 3-10) as appropriate. The notification memorandum will be

delivered personally to the soldier or sent by certified mail, return receipt requested, to the soldier's last known home address. When a soldier refuses to acknowledge receipt of notice, the individual who mails the notification will prepare an Affidavit of Service by Mail (fig 1-1). This will be inserted in the soldier's personnel file.

b. If the notification memorandum (figs 3-1 or 3-4) is delivered personally, receipt will be acknowledged by signing the endorsement (figs 3-2 or 3-5). If the soldier does not acknowledge receipt, the notification memorandum will be sent by mail as provided in a above.

c. The required actions governing the soldier's response or failure to respond are prescribed in paragraph 3-6, or paragraph 3-12, as appropriate.

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

e. Where the soldier has a right to, and requests, a hearing before an administrative board (paras 3-4a(7) and 3-10a(6)) and a right to, and requests, representation by counsel at the board hearings, the soldier will be notified that the proceedings will be conducted in his or her absence and that he or she will be represented by counsel.

(Letterhead)

S: *(Enter date of suspense)*

(Office Symbol) *(Date)*

MEMORANDUM FOR *(Soldier's name, SSN, grade, and organization of assignment)*

SUBJECT: Notification of Separation Proceedings Under AR 135-178, Chapter *(Enter appropriate chapter)*

1. Under the provisions of AR 135-178, *(Indicate specific chapter, section and paragraph)*, I am initiating action to separate you from *(See note below)* for *(Indicate narrative reason)*. The reasons for my proposed action are: *(State specific, factual details that constitute the basis for the proposed action)*.

2. I am recommending that you receive a(n) *(Indicate one of the following: Honorable characterization of service, General (under honorable conditions) characterization of service, or Uncharacterized description of service)*. My recommendation and your reply will be submitted through intermediate commanders (if any) to the Separation Authority, *(Enter the name, grade, and organization of the separation authority)* who will make the final decision in your case.

Figure 3–1. Format for notification of separation proceedings when the Notification Procedure is used

3. The intermediate commander(s) and the separation authority are not bound by my recommendation as to characterization of service. The separation authority may direct that your service be characterized as honorable or under honorable conditions, or you may receive an uncharacterized description of service if you are in an entry level status.

4. *(Select and enter the appropriate paragraph from the following:)*

(Use for ARNG)

4. If my recommendation is approved, the proposed separation could result in discharge from the Army National Guard and as a Reserve of the Army, discharge from the Army National Guard and transfer to the Individual Ready Reserve, or release from custody and control of the Army.

(Use for USAR)

4. If my recommendation is approved, the proposed separation could result in discharge from the U.S. Army Reserve, transfer or reassignment from your U.S. Army Reserve unit to the Individual Ready Reserve, or release from custody and control of the Army.

5. I am suspending separation action for 45 days to give you an opportunity to exercise the following rights:

Figure 3–1. Format for notification of separation proceedings when the Notification Procedure is used—Continued

a. You have the right to consult with an appointed counsel for consultation; or military counsel of your choice, if he or she is reasonably available, or civilian counsel at your own expense.

(1) If you desire an appointed counsel for consultation, notify this command *before completing the response* by endorsement and the name and phone number of the appointed counsel will be provided.

(2) If you desire a military counsel of your choice, provide this command with the officer's name and rank *before completing the response* by endorsement and if the officer is reasonably available, he or she will be appointed counsel for consultation.

(3) If you retain civilian counsel at no expense to the government, recommend the counsel be retained *before completing the response* by endorsement.

b. You have the right to obtain copies of documents that will be sent to the separation authority supporting the basis of the proposed separation. (Classified documents may be summarized.)

c. You have the right to request a hearing before an administrative separation board if you have 6 or more years of total active and/or reserve service on the date of this notification.

d. If you request a hearing before an administrative board, you have the right to representation at the administrative board by a military counsel.

Figure 3–1. Format for notification of separation proceedings when the Notification Procedure is used—Continued

e. You have the right to representation at the administrative board by civilian counsel at your own expense and at no expense to the Government.

f. You have the right to present written statements on your behalf instead of the administrative board proceedings.

g. You have the right to waive the rights listed above in paragraphs *a* through *f* in writing, and you may withdraw any such waiver at any time before the date the separation authority orders, directs, or approves your separation.

**(Insert this paragraph when required per paragraph 1-8 and renumber the following paragraphs.)*

6. You are required to undergo a medical evaluation in accordance with AR 40-501. Arrangements have been made for this examination and you are to report to *(Location)* at *(Time)* on *(Date)*. *(See para 1-8.)*

**(Insert this paragraph when required per paragraph 1-8 and renumber the following paragraph.)*

6. You are required to undergo a mental status evaluation in accordance with AR 40-501. Arrangements have been made for this examination and you are to report to *(location)* at *(time)* on *(date)*. *(See para 1-8.)*

Figure 3–1. Format for notification of separation proceedings when the Notification Procedure is used—Continued

7. You must complete the attached endorsement acknowledging receipt of this memorandum and indicating the election of your rights. *A copy of this memorandum with the completed endorsement attached, must be delivered to the address shown on the endorsement within 30 days from the date of your receipt of this memorandum of notification.* Any statement or documents you desire to submit in your behalf must also reach me within 30 calendar days after you receive this memorandum, unless you request and receive an extension for good cause shown. Unless an extension is granted, failure to deliver the completed endorsement within 30 days of the date of your receipt of this memorandum will constitute a waiver of your rights in paragraphs 5a, b, c, d, e, and f above.

Encl Listing

(Commander's signature)

(Typed name, grade, branch)

Note: Enter one of the following, as appropriate: the Army National Guard of the United States; the Army National Guard and Reserve of the Army; the U.S. Army Reserve; or, your USAR organization of assignment.

Figure 3–1. Format for notification of separation proceedings when the Notification Procedure is used—Continued

(NOTE: The commander issuing the notification memorandum (fig 3-1) will prepare and partially complete the following endorsement and enclose it with the notification memorandum. The soldier will complete the endorsement by making the appropriate entries where indicated and return the endorsement attached to a copy of the notification memorandum.)

(*Insert Soldier's Last Name*) (*Insert Memo Office Symbol/Date*) 1st End

(*Insert Preparer's Name and Telephone Number*)

SUBJECT: Notification of Separation Proceedings Under AR 135-178, Chapter (*Insert the appropriate chapter*)

(*Insert the soldier's full name, SSN, address, and organization of assignment*)

(Soldier will enter date of response here)

FOR COMMANDER *(Insert the complete organization address shown on memorandum)*

1. I hereby acknowledge receipt of the Notification of Separation Proceedings Under AR 135-178, Chapter *(Insert the appropriate chapter)* dated *(Insert the date of memorandum)*. I understand that I may expect to encounter substantial prejudice in civilian life if my service is characterized as general (under honorable conditions).

2. Before completing this response, I understand that *I have the right to consult* with an appointed counsel for consultation; or military counsel of my own choice, if he or she is

Figure 3–2. Format for soldier's response by endorsement to notification of separation proceedings when the Notification Procedure is used

reasonably available, or civilian counsel at my own expense. *(The soldier will exercise this right by initialing one of the following paragraphs:)*

a. (initial) I have *exercised my right* and I have consulted with counsel in preparation of this response to the notification memorandum. I have been advised by my consulting counsel of the basis for the contemplated action to separate me for *(Enter the reason)* under AR 135-178, *(Enter appropriate chapter)*, and its effects; of the rights available to me; and the effect of any action taken by me in waiving my rights. The counsel has confirmed this by entering and signing the statement at the end of this endorsement; or

b. (initial) I hereby *waive my right to consult* with an appointed counsel for consultation; or military counsel of my own choice, or civilian counsel at my own expense.

3. I understand I have the right to obtain copies of documents that will be sent to the separation authority supporting the basis of my proposed separation. *(The soldier will exercise this right by initialing one of the following paragraphs:)*

a. (initial) I hereby *waive my right* to obtain copies of documents.

b. (initial) I hereby request copies of the documents.

4. I understand that if I have 6 or more years of total active and/or reserve service, on the date of this notification, *I have the right to a hearing* before an administrative separation board, unless I waive that right. *(The soldier will exercise this right by initialing one of the following paragraphs:)*

a. (initial) I have 6 or more years of total active and/or reserve service on the date of this notification and I hereby *exercise my right to a hearing* before an administrative separation

Figure 3–2. Format for soldier's response by endorsement to notification of separation proceedings when the Notification Procedure is used—Continued

board. I understand that after having requested appearance before the board, my willful failure to appear before the board will constitute a waiver of my rights to personal appearance before the board, unless I am in civil confinement. *(When requesting a board hearing the soldier must also initial one of the following subparagraphs:)*

(1) (initial) I *request a counsel* for representation at the hearing be designated.

(2) (initial) I *waive my right* to a counsel for representation at the board hearing.

b. (initial) I have 6 or more years of total active and/or reserve service on the date of this notification and I hereby *waive my right to a hearing* before an administrative separation board.

5. I have the right to representation at the administrative board by civilian counsel at my own expense and at no expense to the Government. *(The soldier will initial the following if civilian counsel is retained)*

(initial) I have retained, or will retain, civilian counsel.

6. I understand I have the right to present written statements in my behalf instead of the administrative board proceedings. *(The soldier will exercise this right by initialing one of the following paragraphs:)*

Figure 3–2. Format for soldier's response by endorsement to notification of separation proceedings when the Notification Procedure is used—Continued

a. (initial) I hereby *waive my right* to submit written statements.

b. (initial) Statements in my own behalf are submitted herewith and attached as enclosures.

7. I understand that I have the right, up until the date the separation authority orders, directs, or approves my separation, *to withdraw any waiver of my rights* that I may have submitted. If I had a right to a board hearing and waived that right, I can withdraw the waiver and request a hearing before an administrative board.

8. I understand that if I have been ordered to undergo a medical or mental status evaluation and refuse to comply with the order, or willfully fail to undergo such examination or evaluation, separation action will be taken without an examination or evaluation.

9. I understand that there is no automatic upgrading or review by any Government agency of any characterization of service that is less than honorable. After discharge, I may apply to the Army Discharge Review Board or the Army Board for Correction of Military Records if I wish review of my characterization of service. I realize that consideration by either board does not imply that my characterization of service will be upgraded.

(Insert the following as paragraph 10 if the soldier is considered for separation based on fraudulent entry. Renumber later paragraphs if this paragraph is used.)

Figure 3–2. Format for soldier's response by endorsement to notification of separation proceedings when the Notification Procedure is used—Continued

10. I understand that if I am being considered for separation for fraudulent entry my enlistment may be voided under certain circumstances and that all pay and allowances will be suspended immediately upon verification of the fraudulent entry.

11. I have retained a copy of the Notification Memorandum and a copy of this completed endorsement and I submit the following statement of understanding:

UNDERSTANDING: I have read and understand each of the statements above and understand that they are intended to constitute all promises whatsoever concerning my waiver options. Any other promise, representation, or commitment made to me in connection with my separation is written below in my own handwriting or is hereby waived *(If none, write "NONE").*

Encl *(Signature of individual)*

(Typed name, SSN, grade)

(Entries will be made in the following statement, where indicated, by the counsel for consultation if the soldier elects to consult with consulting counsel.) Having been advised by me of the basis for *(His) (Her)* contemplated separation and its effects, the rights available to *(Him) (Her)*, and the effect of a waiver of *(His) (Her)* those rights, *(Soldier's*

Figure 3–2. Format for soldier's response by endorsement to notification of separation proceedings when the Notification Procedure is used—Continued

*name)*_____ personally made the choices indicated in the foregoing endorsement.

(Signature of counsel)

(Typed name, SSN, grade, branch)

(Date counsel signed statement)

Figure 3–2. Format for soldier's response by endorsement to notification of separation proceedings when the Notification Procedure is used—Continued

(Letterhead)

(Office Symbol) *(Date)*

THRU: *(Intermediate commander(s), if any)*

FOR: *(Separation authority)*

SUBJECT: Commander's Report for Separation Under AR 135-178, *(Enter appropriate chapter)*.

1. Under the provisions of AR 135-178, chapter *(number)*, paragraph *(number)*, I recommend _____*(Name and grade of soldier)*_____ be separated from _____*(See Note 1)*_____prior to the expiration of *(his)(her)* term of military service, and that *(His) (Her)* service be *(Uncharacterized)*, or characterized as *(Honorable) (General (under honorable conditions) (Under Other than Honorable Conditions)*.

Figure 3–3. Format for commanding officer's report to the separation authority

2. In accordance with AR 135-178, *(paragraph 3-4) (paragraph 3-10)*, I have notified the soldier of these proceedings and the characterization of service I have recommended. Following are my reasons for the recommended action(s) and characterization of service:

a. *(Commander will insert here the specific and factual reasons for the recommended action(s) and characterization of service.)*

b. *(Insert here a statement why the commander does not consider it feasible or appropriate to accomplish other disposition of the case.)*

c. *(See Note 2. Insert a recommendation regarding the soldier's potential to perform useful service if ordered to active duty to meet mobilization requirements.)*

3. I hereby provide the following information and facts relative to this report:

a. The soldier's:

(1) Organization of assignment.

(2) Current reported home address.

(3) Date of birth.

(4) Date of current enlistment/reenlistment agreement, term of service, and the date the contractual or statutory military service obligation (whichever is the later) will expire.

(5) Retirement year ending (RYE) date and the total years of qualifying service for retired pay at age 60 accrued by the last RYE date.

(6) Aptitude area scores and DMOS:

(7) PMOS, SMOS, and AMOS, if any:

(8) Results of the Common Task Test (CTT):

Figure 3–3. Format for commanding officer's report to the separation authority—Continued

b. Military history:

(1) Summary of previous military service, if any, including tours of active duty or active duty for training.

(2) Promotion(s) and dates thereof.

(3) Reduction(s) and dates thereof.

(4) Citations or awards.

c. Counseling/rehabilitation:

(1) Record of NCOER counseling (DA Form 2166-7-1), if appropriate.

(2) Record of counseling, if applicable.

(3) Description of rehabilitation attempts, if applicable.

(4) Evidence of rehabilitation, where unfavorable information has been revealed.

(5) Other applicable records.

d. Medical/mental examinations or evaluations:

(1) Report of Mental Status Evaluation or psychiatric report *(is) (is not)* enclosed, if applicable.

(2) Report of Medical Examination *(is) (is not)* enclosed, if applicable.

e. Record of other disciplinary action including nonjudicial punishment (include offense(s), findings, and sentence).

f. Medical or other data meriting consideration in the overall evaluation to separate the soldier and in the determination as to the appropriate characterization of service.

g. Favorable communications or recommendations for the soldier.

h. Other information considered pertinent to this case:

Figure 3–3. Format for commanding officer's report to the separation authority—Continued

4. When a soldier is being processed for *separation for alcohol or other drug abuse rehabilitation failure* (AR 135-178, chap 11) include--

a. 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.

b. A chronological history of the soldier's alcohol/drug abuse. Inclusion of limited use evidence (AR 600-85) is discretionary. (If limited use evidence is included, the provisions of AR 135-178, paras 2-10*f* and 3-17*f* apply.)

c. Circumstances *(to include dates)* concerning soldier's referral, initial screening interview, medical evaluation *(when conducted)*, and enrollment in the ADAPCP.

d. A summary of the rehabilitation efforts made before and after soldier was enrolled in the ADAPCP to include--

(1) Dates of detoxification, if applicable.

(2) Extent *(to include dates)* of counseling and other rehabilitative efforts made by the ADAPCP facility.

(3) Extent *(to include dates)* of counseling and other rehabilitative efforts made by the unit chain of command.

5. In addition, where soldier is recommended for *separation for unsatisfactory participation* (AR 135-178, chap 13) include--

a. The reason why the soldier has been determined to be an unsatisfactory participant to include dates and notification procedures.

b. Records of certified mailings.

Figure 3–3. Format for commanding officer's report to the separation authority—Continued

c. Record of participation during current term of service.

d. List assignments and duties under different officers and noncommissioned officers in each organization or unit during the current term of service. Include the duration of each assignment.

6. The memorandum of notification and soldier's response by endorsement, or record of result of delivery by certified mail (including inability to deliver, refusal to accept, and failure or refusal to respond) are attached as enclosures.

Encls *(Initiating commander's signature)*

(Typed name, grade, branch)

Notes:

1. Select the appropriate entry from the following:
a. The (Name of State, Commonwealth, or Territory) Army National Guard. (Use this entry where soldier is to be transferred as a Reserve of the Army.)
b. The (Name of State, Commonwealth, or Territory) Army National Guard and as a Reserve of the Army. (Use this entry where soldier is to be discharged from all military service obligation.)
c. The U.S. Army Reserve.

2. To be used when required by the Mobilization Asset Transfer Program (AR 135-178, chap 1, sec V) and only for separation reasons cited in AR 135-178, paragraph 1-22b.

Figure 3–3. Format for commanding officer's report to the separation authority—Continued

(Letterhead)

S: *(Enter date of suspense)*

(Office Symbol) *(Date)*

MEMORANDUM FOR *(Soldier's name, SSN, grade, and organization of assignment)*

SUBJECT: Notification of Separation Proceedings Under AR 135-178, Chapter *(Enter appropriate chapter)*.

1. Under the provisions of AR 135-178, *(Indicate specific chapter, section and paragraph)*, I am initiating action to separate you from *(See note below)* for *(Indicate narrative reason)*. The reasons for my proposed action are: *(State specific, factual details which constitute the basis for the proposed action)*.

2. I am recommending that upon separation you receive a(n) *(Indicate one of the following: Honorable characterization of service, General (under honorable conditions) characterization of service, Under Other than Honorable characterization of service, or Uncharacterized description of service)*. My recommendation and your reply will be submitted through intermediate commanders (if any) to the Separation Authority, *(Enter*

Figure 3–4. Format for notification of separation proceedings when the Administrative Board Procedure is used

name, rank, and organization of the separation authority), who will make the final decision in your case.

3. The intermediate commander(s) and the separation authority are not bound by my recommendation as to characterization of service. The separation authority may direct that your service be characterized as honorable, general (under honorable conditions), under other than honorable conditions, or you may receive an uncharacterized description of service if you are in an entry level status. However, the separation authority may not direct the issuance of a type of discharge or characterization of service less favorable than that recommended by an administrative separation board should you request a hearing before an administrative separation board.

4. *(Select and enter the appropriate paragraph from the following:)*

(Use for ARNGUS)

4. If my recommendation is approved, the proposed separation could result in your discharge from the Army National Guard and as a Reserve of the Army; your discharge from the Army National Guard and transfer to the Individual Ready Reserve; or your release from custody and control of the Army.

(Use for USAR)

4. If my recommendation is approved, the proposed separation could result in your discharge from the Reserve of the Army; transfer or reassignment from your U.S. Army

Figure 3–4. Format for notification of separation proceedings when the Administrative Board Procedure is used—Continued

Reserve unit to the Individual Ready Reserve; or your release from custody and control of the Army.

5. I am suspending separation action for 45 days to give you an opportunity to exercise the following rights:

a. You have the right to consult with an appointed counsel; military counsel of your choice, if he or she is reasonably available, or civilian counsel at your own expense.

(1) If you desire an appointed counsel for consultation, notify this command *before completing the response* by endorsement and the name and phone number of the appointed counsel will be provided.

(2) If you desire a military counsel of your choice, provide this command with the officer's name and grade *before completing the response* by endorsement and if the officer is reasonably available, he or she will be appointed counsel for consultation.

(3) If you retain civilian counsel at no expense to the government, recommend the counsel be retained *before completing the response* by endorsement.

b. You have the right to obtain copies of documents that will be sent to the separation authority supporting the basis for the proposed separation. (Classified documents may be summarized.)

c. You have the right to request a hearing before an administrative board.

Figure 3–4. Format for notification of separation proceedings when the Administrative Board Procedure is used—Continued

d. You have the right to representation at the administrative board by military counsel that will be designated (see para 6 below). A military counsel of choice is not authorized.

e. You have the right to representation at the administrative board by civilian counsel at your own expense and at no expense to the Government.

f. You have the right to present written statements on your behalf instead of the administrative board proceedings.

g. Except as explained in paragraph 6 below, you have the right to waive the rights listed above in paragraphs *a* through *f* in writing, and you may withdraw any such waiver at any time before the date the separation authority orders, directs, or approves your separation.

h. Except as explained in paragraph 6 below, you may submit a conditional waiver of your right to an administrative board proceeding contingent upon receiving a characterization of service higher than the least favorable characterization of service authorized for the basis of your proposed separation.

6. Waiver of the right to an administrative board hearing (para 5c(3)) and waiver of the right to representation by counsel at board hearings (para 5d or e) will not be accepted if you have completed 18, but less than 20, years of qualifying service for retired pay.

Figure 3–4. Format for notification of separation proceedings when the Administrative Board Procedure is used—Continued

(Insert this paragraph when required per paragraph 1-8 and renumber the following paragraphs.)

7. You are required to undergo a medical evaluation in accordance with AR 40-501. Arrangements have been made for this examination and you are to report to *(Location)* at *(Time)* on *(Date)*. (See para 1-8.)

(Insert this paragraph when required per paragraph 1-8 and renumber the following paragraphs.)

7. You are required to undergo a mental status evaluation in accordance with AR 40-501. Arrangements have been made for this examination and you are to report to *(Location)* at *(Time)* on *(Date)*. (See para 1-8.)

8. You must complete the attached endorsement acknowledging receipt of this memorandum and indicating the election of your rights. *A copy of this memorandum with the completed endorsement attached, must be delivered to the address shown on the endorsement within 30 days from the date of your receipt of this memorandum of notification.* Any statement or documents you desire to submit in your behalf must be received by me within 30 calendar days after you receive this memorandum, unless you request and receive an extension for good cause shown. Unless an extension is granted, failure to deliver the completed endorsement within 30 days of the date of your receipt of this memorandum will constitute a waiver of your rights in paragraphs 4*a* through 4*h* above.

Figure 3–4. Format for notification of separation proceedings when the Administrative Board Procedure is used—Continued

Encl *(Commander's signature)*

(Typed name, grade, branch)

Note: Enter one of the following, as appropriate: the Army National Guard of the United States; the Army National Guard and Reserve of the Army; the U.S. Army Reserve; your USAR organization of assignment.

Figure 3–4. Format for notification of separation proceedings when the Administrative Board Procedure is used—Continued

(NOTE: The commander issuing the notification memorandum (fig 3-4) will prepare and partially complete the following endorsement and enclose it with the notification memorandum. The soldier will complete the endorsement by making the appropriate entries where indicated and return the endorsement attached to a copy of the notification memorandum.)

(*Insert Soldier's Last Name*) (*Insert Memo Office Symbol/Date*) 1st End

(*Insert Preparer's Name and Telephone Number*)

SUBJECT: Notification of Separation Proceedings Under AR 135-178, Chapter (*Insert the appropriate chapter*)

(*Insert the soldier's full name, SSN, address, and organization of assignment*)

(Soldier will enter date of response here)

FOR COMMANDER *(Insert the complete organization address shown on memorandum)*

1. I hereby acknowledge receipt of the Notification of Separation Proceedings Under AR 135-178, Chapter *(Insert the appropriate chapter)* dated *(Insert the date of memorandum)*. I understand I may expect to encounter substantial prejudice in civilian life if my service is characterized as General (under honorable conditions), or under other than honorable conditions. I further understand that, as the result of issuance of a discharge where the service is characterized as Under Other Than Honorable conditions, I may be ineligible for many or all benefits as a veteran under both Federal and State laws.

Figure 3–5. Format for soldier's response by endorsement to notification of separation proceedings when the Administrative Board Procedure is used

2. Before completing this response, I understand that *I have the right to consult* with an 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. *(The soldier will exercise this right by initialing one of the following paragraphs:)*

a. (initial) I have *exercised my right* and I have consulted with counsel in preparation of this response to the notification memorandum. I have been advised by my consulting counsel of the basis for the contemplated action to separate me for *(Enter the reason)* under AR 135-178, *(Enter appropriate chapter)*, and its effects; of the rights available to me; and the effect of any action taken by me in waiving my rights. The counsel has confirmed this by entering and signing the statement at the end of this endorsement; or

b. (initial) I hereby *waive my right to consult* with an appointed counsel for consultation; or military counsel of my own choice, or civilian counsel at my own expense.

3. I understand I have the right to obtain copies of documents that will be sent to the separation authority supporting the basis of my proposed separation. *(The soldier will exercise this right by initialing one of the following paragraphs:)*

a. (initial) I hereby request copies of the documents.

Figure 3–5. Format for soldier's response by endorsement to notification of separation proceedings when the Administrative Board Procedure is used—Continued

b. (initial) I hereby *waive my right* to obtain copies of documents.

4. I understand I have a right to a hearing before an administrative board. *(The soldier will exercise this right by initialing one of the following paragraphs:)*

a. (initial) I hereby *exercise my right to a hearing* before an administrative separation board. I understand that after having requested appearance before the board, my willful failure to appear before the board will constitute a waiver of my rights to personal appearance before the board, unless I am in civil confinement. *(When requesting a board hearing the soldier must also initial one of the following subparagraphs:)*

(1) (initial) I request a counsel for representation at the hearing be designated.

(2) (initial) I *waive my right* to a counsel for representation at the board hearing (see para 9 below).

b. (initial) I hereby *waive my right to a hearing* before an administrative separation board (see para 9 below).

5. I have the right to representation at the administrative board by civilian counsel at my own expense and at no expense to the Government. *(The soldier will exercise this right by initialing the following paragraph:)*

(initial) I have retained, or will retain, civilian counsel.

Figure 3–5. Format for soldier's response by endorsement to notification of separation proceedings when the Administrative Board Procedure is used—Continued

6. I understand I have the right to present written statements in my behalf instead of the administrative board proceedings. *(The soldier will exercise this right by initialing one of the following paragraphs:)*

a. (initial) Statements in my own behalf are submitted herewith and attached as enclosures.

b. (initial) I hereby *waive my right* to submit written statements.

7. I understand that I may submit a waiver of my right to an administrative board, except as explained in para 9 below, on the condition that I receive a characterization of service higher than the least favorable characterization of service authorized in my separation action. I understand that the separation authority may decline to accept my conditional waiver. A request for a conditional waiver may be enclosed with this response, or in addition to but separate from this response, but in either case I understand it must be received by the commander by the suspense date shown on the Notification Memorandum. I understand that my request may be disapproved. See AR 135-178, paragraph 3-15b.

8. Except as explained in paragraph 9 below, I understand that I have the right, up until the date the separation authority orders, directs, or approves my separation, *to withdraw any waiver of my rights* that I may have granted above. If I had a right to a board hearing and waived that right, I can withdraw the waiver and request a hearing before an administrative board.

Figure 3–5. Format for soldier's response by endorsement to notification of separation proceedings when the Administrative Board Procedure is used—Continued

9. Waiver of the right to an administrative board hearing (para 4a) and waiver of the right to representation by counsel at board hearings (para 4b(1)) will not be accepted if I have completed 18, but less than 20, years of qualifying service for retired pay.

10. I understand that if I have been ordered to undergo a medical or mental status evaluation and refuse to comply with the order, or willfully fail to undergo such examination or evaluation, separation action will be taken without an examination or evaluation.

(Insert the following as paragraph 11 if the soldier is considered for separation based on fraudulent entry. Renumber later paragraphs if this paragraph is used.)

11. I understand that if I am being considered for separation for fraudulent entry my enlistment may be voided under certain circumstances and that all pay and allowances will be suspended immediately upon verification of the fraudulent entry.

12. I understand that there is no automatic upgrading or review by any Government agency of any characterization of service that is less than honorable. After discharge, I may apply to the Army Discharge Review Board or the Army Board for Correction of Military Records if I wish review of my characterization of service. I realize that consideration by either board does not imply that my characterization of service will be upgraded.

13. I have retained a copy of the Notification Memorandum and a copy of this completed endorsement and I submit the following statement of understanding:

Figure 3–5. Format for soldier's response by endorsement to notification of separation proceedings when the Administrative Board Procedure is used—Continued

UNDERSTANDING: I have read and understand each of the statements above and understand that they are intended to constitute all promises whatsoever concerning my waiver options. Any other promise, representation, or commitment made to me in connection with my separation is written below in my own handwriting or is hereby waived *(If none, write "NONE").*

Encl *(Signature of individual)*

(Typed name, SSN, grade)

(Entries will be made in the following statement, where indicated, by the counsel for consultation if the soldier elects to consult with consulting counsel.) Having been advised by me of the basis for *(His) (Her)* contemplated separation and its effects, the rights available to *(Him) (Her)*, and the effect of a waiver of *(His) (Her)* those rights, *(Soldier's name)*_____ personally made the choices indicated in the foregoing endorsement.

(Signature of counsel)

(Typed name, SSN, grade, branch)

(Date counsel signed statement)

Figure 3–5. Format for soldier's response by endorsement to notification of separation proceedings when the Administrative Board Procedure is used—Continued

(Letterhead)

(Office Symbol) *(Date)*

FOR: *(Appropriate Commander in Basic Memorandum)*

SUBJECT: Request for Conditional Waiver--Separation Under AR 135-178, Chapter *(Enter appropriate chapter number)*.

1. I hereby submit this request for conditional waiver and voluntarily waive my right to a hearing before an administrative separation board *on the condition* that upon separation my service will be characterized as *(The soldier will make known an election by initialing one of the following paragraphs:)*

a. ___(initial)_____ Honorable.

b. ___(initial)_____ General (under honorable conditions).

I am making this request of my own free will and have not been subjected to any coercion whatsoever by any person.

2. Before submitting this request, I understand that *I have the right to consult* with an appointed counsel for consultation; or military counsel of my own choice, if reasonably

Figure 3–6. Format of request for conditional waiver of administrative board proceedings

available, or civilian counsel at my own expense. *(The soldier will exercise this right by initialing one of the following paragraphs:)*

a. __(initial)_____ I have *exercised my right* and I have consulted with counsel in preparation of this request for a conditional waiver of my right to a hearing before an administrative board. I have been advised by my consulting counsel of the basis for the contemplated action to separate me for *(Enter the reason)* under AR 135-178, *(Enter appropriate chapter)*, and its effects; of the rights available to me; and the effect of any action taken by me in waiving my rights. The counsel has confirmed this by entering and signing the statement at the end of this endorsement; or

b. __(initial)_____ I hereby *waive my right to consult* with an appointed counsel for consultation; or military counsel of my own choice, or civilian counsel at my own expense.

3. I understand I have the right to present written statements in my behalf instead of the administrative board proceedings. *(The soldier will exercise this right by initialing one of the following paragraphs:)*

a. __(initial)_____ Statements in my own behalf are submitted herewith and attached as enclosures.

b. __(initial)_____ I hereby *waive my right* to submit written statements.

Figure 3–6. Format of request for conditional waiver of administrative board proceedings—Continued

4. I understand that I may, up until the date the separation authority orders, directs, or approves my separation, withdraw this waiver and request that an administrative board hear my case.

5. I understand that if the separation authority refuses to grant my request for a conditional waiver of a hearing before an administrative board, my case will be referred to an administrative board and a military counsel will be designated as my counsel for representation at the board hearings.

6. I understand I may expect to encounter substantial prejudice in civilian life if my service is characterized as General (under honorable conditions), or under other than honorable conditions. I further understand that, as the result of issuance of a discharge where the service is characterized as Under Other Than Honorable conditions, I may be ineligible for many or all benefits as a veteran under both Federal and State laws.

7 I understand that if my service is characterized as 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 consideration by either board does not imply that my discharge will be upgraded.

8. I have retained a copy of this statement.

Figure 3–6. Format of request for conditional waiver of administrative board proceedings—Continued

UNDERSTANDING: I have read and understand each of the statements above and understand that they are intended to constitute all promises whatsoever concerning my conditional waiver. Any other promise, representation, or commitment made to me in connection with my separation is written below in my own handwriting or is hereby waived (if none, write *"NONE"*).

Encl

(Signature of individual)

(Typed name, SSN, grade)

Having been advised by me of the basis for *(His)(Her)* contemplated separation and its effects, the rights available to *(Him)(Her)* and the effect of a waiver of *(His)(Her)* rights, *(Soldier's Name)* personally made the choices indicated in the foregoing statement.

(Signature of counsel)

(Typed name, SSN, grade, branch)

(Date counsel signed statement)

Figure 3–6. Format of request for conditional waiver of administrative board proceedings—Continued

Chapter 4
Expiration of Service Obligation

4–1. Basis

A soldier will be discharged from the Army upon expiration of the later of the term of contractual service or the statutory military service obligation.

4–2. The military service obligation

The period of military service required for all enlisted soldiers will be in accordance with applicable laws and DOD directives. Contractual terms of enlistment or reenlistment are as set forth in AR 140-111, AR 601-210, AR 601-280, and NGR 600-200.

a. Statutory military service obligation (MSO). A person whose initial entry into military service was on or after 1 Jun 84 incurred an obligation under 10 USC 651(a) to serve a period of 8 years in the military service from the date of entry unless sooner discharged for personal hardship. Unless reenlisted or extended for a term of service that exceeds the expiration date of the statutory MSO, or retained as prescribed in paragraph 2-15, the soldier will be discharged on the expiration of the statutory MSO by the separation authority (para 1-10).

b. Contractual MSO. On enlistment and reenlistment, a soldier enters into an agreement to serve in a Regular or Reserve component of the armed forces for a specified term of service. The contracted term of service may expire during, run concurrent with, or exceed the term of an incurred statutory MSO. Unless reenlisted or extended, a soldier will be discharged from military service on expiration of a contractual MSO, or a statutory MSO, whichever is the later, by the separation authority (para 1-10). Consider the following examples:

(1) A soldier enlists in the ARNGUS for 6 years and incurs an 8-year statutory MSO. On completion of the 6 years, unless reenlisted or extended in the ARNGUS, the soldier will be separated from the ARNGUS and transferred as a Reserve of the Army to the USAR. Unless reenlisted or extended in the USAR, the soldier will be discharged from the USAR on completion of the 8-year statutory MSO.

(2) A soldier enlists in the USAR for 8 years with a concurrent assignment to a troop program unit (TPU) under the 6 x 2 option (6 years TPU and 2 years IRR) and incurs an 8-year statutory MSO. Unless reenlisted in the USAR for a term of service that exceeds the expiration date of the statutory MSO, the soldier may request reassignment to the IRR on completion of the 6 years, or remain assigned to the TPU. In either case, unless sooner reenlisted or extended, the soldier will be discharged from the USAR on expiration of the 8-year statutory MSO.

(3) A soldier enlists or reenlists in the ARNGUS or USAR for a term of service that exceeds the expiration date of the 8-year statutory MSO. Unless sooner reenlisted or extended, the soldier will be discharged from the ARNGUS or USAR on expiration of the enlistment or reenlistment agreement.

(4) A soldier having no incurred statutory MSO remaining, enlists or reenlists in the ARNGUS or USAR. Unless sooner reenlisted or extended, the soldier will be discharged from the ARNGUS or USAR on expiration of the enlistment or reenlistment agreement.

4–3. Retention beyond expiration of service obligation

A soldier may not be held in the Army beyond the normal expiration of service obligation unless the service obligation is extended by law or the provisions of para 2-15 apply. When through administrative error a soldier is not discharged on the actual date of completion of term of enlistment, reenlistment, or date of completion of statutorily obligated service, or as provided in paragraph 2-15, a remark will be included in the “Remarks” section of the soldier’s DA Form 2-1 as follows: “Retained beyond normal discharge date for the convenience of the Government.”

4–4. Characterization of service

The service of a soldier being discharged on expiration of the term of an enlistment, reenlistment, or on fulfillment of a statutory MSO will be characterized as honorable except as provided in paragraph 1-26.

4–5. Separation authority

The appropriate authority cited in paragraph 1-10 can order separations under this chapter.

Chapter 5
Selected Changes in Service Obligations

5–1. Basis

A soldier may be separated on the basis of a reason set forth in this chapter. The separation actions and the characterization of service are as prescribed for the reason for separation.

5–2. Reduction in authorized strength of the USAR or ARNGUS

a. Early separation. Soldiers may be discharged from Reserve of the Army status prior to expiration of their service obligations when budgetary constraints or authorization limitations require a reduction in enlisted strength. The Secretary of the Army or his or her designee will authorize this reduction and will direct the Chief, National Guard Bureau (CNGB) and Chief, Army Reserve (CAR) to issue discharge instructions pertaining to a soldier or to all soldiers of a specified class or category of personnel. Discharge may be voluntary or involuntary, except for enlisted soldiers with at least 18, but fewer than 20, years of service qualifying for retired pay who meet other requirements of 10 U.S.C. §1176(b).

b. Procedures. The Notification Procedure chapter 3, section II, will be used for involuntary discharges under this paragraph. However, the notification memorandum may contain information other than that shown in figure 3-1, as the notification will be based on information and instructions furnished by HQDA.

c. Characterization of service. The service of soldiers discharged under this paragraph will be characterized as honorable unless an uncharacterized description of service is required by paragraph 2-11.

d. Separation authority. On receipt of instructions from CNGB and CAR, the authorities cited in paragraph 1-11a and 1-11b, may order discharge under this paragraph.

5–3. Discharge for immediate reenlistment

a. Immediate reenlistment. Enlisted soldiers who immediately reenlist for continuing service in the ARNGUS per NGR 600-200, or in the USAR per AR 140-111, as appropriate, will be discharged effective the date preceding the date of the immediate reenlistment agreement.

b. Discharge certificate. A formal discharge certificate will not be issued when a soldier is discharged under this paragraph.

c. Discharge order. Use orders format 500. Under additional instructions insert the following: "Your enlistment in, or assignment to, the (ARNGUS or USAR) on (date) was terminated on the effective date of this order as a result of your immediate reenlistment in the (ARNGUS or USAR) on (date). No formal discharge certificate will be issued."

d. Characterization of service. The service of a soldier discharged per this paragraph will be characterized as honorable.

e. Separation authority. The authorities cited in paragraph 1-10 may order discharge under this paragraph.

5–4. Discharge on enlistment in another component of the U.S. Armed Forces

a. Enlistment in a regular or reserve component. Except as cited in *c* below, a Reserve of the Army soldier will be discharged on enlistment or reenlistment in any regular or reserve component of the U.S. armed forces, other than —

(1) Enlistment in the ARNGUS. The soldier will be transferred as a Reserve of the Army to the ARNGUS per AR 140-10, paragraph 5-2.

(2) Appointment as a cadet or midshipman to one of the Service academies. An enlisted soldier of the ARNGUS will be discharged from the ARNG per NGR 600-200 and transferred to the Service academy as a Reserve of the Army per AR 140-10, paragraph 1-6.

b. Enlistment in the SROTC. ARNGUS and USAR soldiers who execute a USAR enlistment on enrollment in the Senior ROTC with assignment to Control Group (ROTC) per AR 145-1, paragraph 3-15, will be discharged from their current ARNGUS or USAR enlistment agreements effective the date preceding the date of enlistment as a cadet in the SROTC.

c. Discharge limitation. Discharge to enlist in a regular or reserve component of any of the U. S. Armed Forces, other than the Army, is not authorized for enlisted soldiers within the 60-day period immediately preceding the effective date of order to active duty or ADT other than AT or during the performance of AD (except extended active duty (EAD)), ADT, or AT. A soldier serving on EAD in the Active Army may be discharged as a Reserve of the Army to enlist in the Regular Army under AR 601-280.

d. Discharge certificate. A formal discharge certificate will not be issued when a soldier is discharged under this paragraph.

e. Discharge order. Use orders format 500. The effective date of discharge will be the date preceding the date of enlistment in the U.S. Armed Force. Under additional instructions insert the following: " Your enlistment in, or assignment to, the (ARNGUS or USAR) on (date) was terminated on the effective date of this order, preceding the date of your enlistment in the (Enter the name of the Regular or Reserve component). No formal discharge certificate will be issued."

f. Characterization of service. The service of a soldier discharged per this paragraph will be characterized as honorable unless an uncharacterized description of service is authorized per paragraph 2-11.

g. Separation authority. The authorities cited in paragraph 1-10a and 1-10b, may order discharge under this paragraph.

5–5. Discharge on appointment as a commissioned or warrant officer

a. Acceptance of appointment. An enlisted soldier (including a cadet) will be discharged on acceptance of an appointment as —

(1) An officer or warrant officer in any regular or reserve component of the U.S. Armed Forces.

(2) A commissioned officer in the Public Health Service.

(3) A commissioned officer of the National Oceanic and Atmospheric Administration Corps.

b. Discharge limitation. Before such discharge, the separation authority must have documentary evidence proving that the soldier will be appointed as a commissioned or warrant officer upon discharge from enlistment.

c. Discharge order. Use orders format 500. The effective date of discharge will be the date preceding the date of appointment as an officer or warrant officer. Under additional instructions insert the following: "Your enlistment in, or assignment to, the (ARNGUS or USAR) on (date) was terminated on the effective date of this order, preceding the date of your appointment as an officer or warrant officer in the (Enter the name of the Regular or Reserve component). No formal discharge certificate will be issued."

d. Characterization of service. The service of a soldier discharged per this paragraph will be characterized as honorable unless an uncharacterized description of service is authorized per paragraph 2-11.

e. Separation authority.

(1) The authorities cited in paragraph 1-10a and 1-10b, may order discharge under this paragraph.

(2) The authorities cited in paragraph 1-10b(4) may order the discharge of ROTC cadets on appointment as an officer.

(3) The authorities cited in paragraph 1-10b(5) may order the discharge of a warrant officer candidate (WOC) on appointment as a warrant officer.

5–6. Separation of cadets on disenrollment from the Senior ROTC (SROTC) or an ROTC Scholarship Program

a. Disenrollment. ROTC cadets enrolled in the SROTC Advanced Course or an ROTC Scholarship Program are assigned members of (Control Group ROTC) (AR 140-1) of the IRR, unless they are participating in the ROTC/ Simultaneous Membership Program (ROTC/SMP) per AR 601-210, chapter 10, or NGR 600-200. The disposition of a cadet who is disenrolled from the ROTC Program is prescribed by AR 145-1, chapter 3, section VI, and AR 135-91, paragraph 3-12.

c. Disposition. The separation authority may order that a cadet be-

(1) Discharged from the USAR citing this paragraph as the authority; or

(2) Retained in the IRR under the MATP per chapter 1, section V.

d. Characterization of service. The service of cadets discharged or retained under the provisions of this paragraph will be described as uncharacterized.

e. Procedures.

(1) The procedures for separation of cadets under this paragraph will be governed by AR 135-91, paragraph 3-12, and AR 145-1, chapter 3, section VI.

(2) The notification procedures of chapter 3 of this regulation are not applicable to separations under this paragraph.

(3) The MATP policy prescribed by chapter 1, section V, will govern whether the cadet is eligible to be retained in the IRR and assigned to Control Group (Annual Training) or (Reinforcement).

f. Separation authority. The authorities cited in paragraph 1-10b(4) are authorized to order the separation of cadets under this paragraph.

5–7. ROTC cadet early release

The provisions of this paragraph, and separations hereunder, are applicable only where HQDA has authorized and announced a voluntary ROTC cadet release program.

a. Characterization of service. The service of cadets discharged under the provisions of this paragraph will be uncharacterized.

b. Procedures. The requirements for the early release of cadets will be provided in the HQDA announcement. If authorized by the HQDA announcement, eligible cadets may be retained in the IRR and reassigned to Control Group (Annual Training) or (Reinforcement) under the MATP per chapter 1, section V. However, the following is applicable to ROTC cadets assigned to USAR units who are SMP participants.

(1) Cadets who enlisted in the ARNGUS prior to enrollment in the SROTC, and have a remaining statutory military

service obligation will, after disenrollment from the SROTC, be retained in their ARNGUS unit in an enlisted grade determined under NGR 600-200, paragraph 6-44, and serve under the terms of their ROTC SMP agreement.

(2) Cadets who enlisted in the USAR, completed required IET, were awarded an MOS prior to enrollment in the SROTC, and have a remaining statutory military service obligation will, after disenrollment from the SROTC, be retained in a USAR unit in an enlisted grade determined under AR 140-158, paragraph 7-12e(2), and serve under the terms of their ROTC SMP agreement.

(3) Except for cadets identified in (1) and (2) above, ROTC cadets will be offered an opportunity to remain assigned to their ARNGUS or USAR unit and serve under the terms of their ROTC SMP agreement. However, cadets who decline continuing unit participation in an enlisted status will be discharged from the USAR by the appropriate separation authority.

c. Separation authority. The authorities cited in paragraph 1-10b(4) are authorized to order the separation of cadets under this paragraph.

5–8. Discharge of a potential ROTC/SMP participant

a. Criteria. A soldier who enlisted as a potential participant in the ROTC/SMP per AR 601-210, chapter 10, with duty status coded 09R10, and who applies but is not accepted for enrollment in the ROTC advanced course will be discharged on his or her request.

b. Characterization of service. The service of soldiers discharged under the provisions of this paragraph will be uncharacterized unless an honorable characterization is warranted per paragraph 2-11a.

c. Separation authority. The authorities cited in paragraph 1-10a and 1-10b, may order discharge under this paragraph.

Chapter 6
Convenience of the Government

6–1. Basis

A soldier may be separated for the convenience of the Government on the basis of the reasons set forth in this chapter.

6–2. Dependency or hardship

Upon the request of a soldier and approval of the separation authority, separation may be directed when it is considered that continued membership and service on AD, FTNGD, or ADT, would result in genuine dependency or undue hardship.

a. Criteria for separation. Separation may be approved when all of the following circumstances exist:

(1) The hardship or dependency is not temporary;

(2) Conditions have arisen or have been aggravated to an excessive degree since entry in the Army, and the soldier has made every reasonable effort to remedy the situation;

(3) The administrative separation will eliminate or materially alleviate the condition; and

(4) There are no other means of alleviation reasonably available.

b. Limitation of criteria for separation. The following circumstances do not justify separation because of dependency or hardship. However, the existence of these circumstances does not preclude separation because of dependency or hardship provided the application meets the criteria in a above.

(1) Normal pregnancy of a soldier's wife is not a condition for which his separation is justified.

(2) Undue hardship does not necessarily exist solely because of altered income, separation from family, or the inconvenience normally incident to military service.

c. Conditions of dependency or hardship.

(1) *Dependency.* Dependency exists when, because of death or disability of a member of a soldier's family, other members of his or her family become principally dependent on him or her for care or support to the extent that continued membership and service on AD, FTNGD, or ADT, would result in undue hardship.

(2) *Hardship.* Hardship exists when, in circumstances not involving death or disability of a member of a soldier's family, separation from the service would materially affect the care or support of the soldier's family by materially alleviating undue hardship.

(a) Parenthood. A married soldier who becomes a parent by birth, adoption, or marriage (step parent) and whose children under 18 years of age reside within the household, may apply for separation under hardship. The soldier must submit evidence per paragraph e below that the roles of parent and soldier are incompatible and that he or she cannot fulfill his or her military obligation on AD, FTNGD, or ADT, without neglecting the children.

(b) Sole parents. Soldiers 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 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. Basis for separation is as prescribed in paragraph 6-2c(2)(a) above.

(c) Intent. It is not the intent of the Army 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 prenatal and postnatal absence and delivery.

(d) Supporting evidence. Supporting evidence will be provided as per paragraph e below. Paragraph 6–4e(2) below minimizes the supporting evidence when the basis is parenthood of either a sole parent or a married soldier. However, soldiers must meet the application criteria in paragraph d below, in addition to the requirement that there be unexpected circumstances beyond the soldier's control justifying separation. An example of these circumstances is the birth of a child with a serious birth defect requiring constant care. Inability to obtain an approved Family Care Plan (AR 600-20) does not qualify the soldier for separation under this provision.

(3) *Members of the family.* For the purpose of separation under dependency or hardship conditions, the term "members of the family" includes only spouse, children, father, mother, brothers, sisters, and any person who stood in loco parentis to the soldier before enlistment. (The term "in loco parentis" as used here is "any person who has stood in the place of a parent to a soldier for 5 continuous years when the soldier was a child.")

d. Application for separation. A soldier must submit a written application to be separated because of dependency or hardship. A request for separation will be submitted as follows:

(1) An ARNGUS soldier, or USAR soldier assigned to a TPU or IMA duty position, must submit a written application to the unit commander who will immediately forward it with recommendations and soldier's records through channels to the separation authority (para 1-10) for final action.

(2) A soldier assigned to the IRR, Standby Reserve, or Retired Reserve, must submit a written application to the Commander, U.S. Army Personnel Command, ATTN: ARPC-PSR, 1 Reserve Way, St. Louis, MO 63132-5200. The Chief, Regional Personnel Actions Division, will immediately forward it with recommendations and soldier's records through the Director, Personnel Actions and Services Directorate, and Director, Enlisted Personnel Management Directorate, to the Commander, AR-PERSCOM (para 1-10b(1)) for final action.

e. Evidence required. The evidence required for dependency or hardship separation will normally be in affidavit form. The evidence must substantiate dependency or hardship conditions on which the application for separation is based.

(1) The evidence will include affidavits or statements submitted by or in behalf of the soldier's dependents and by at least two disinterested persons or agencies having firsthand knowledge of the circumstances. If dependency or hardship is the result of disability of a member of the individual's family, a physician's certificate should be furnished showing specifically when such disability occurred, the nature thereof, and prognosis for recovery. There also will be furnished the names, ages, occupations, home addresses, and monthly incomes of other members of the applicant's family. The affidavits of disinterested individuals and agencies should include reasons within their knowledge that these members of the family can or cannot aid in the financial or physical care of the dependents concerned for the period the soldier is to continue membership or is ordered to AD, FTNGD, or ADT. When the basis for the application is the death of a member of the soldier's family, a death certificate or other proof of death should be furnished.

(2) If the basis for the application is parenthood of either a sole parent or a married soldier, the supporting evidence will be in affidavit form and will substantiate the applicant's claim that unexpected circumstances or circumstances beyond his or her control have occurred. These circumstances prevent fulfillment of military obligations without resultant neglect of the child. Affidavits from the soldier's immediate commander and officer who is the job supervisor will be considered sufficient. Evidence in (1) 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 soldier.

f. Procedures. On receipt of a written application with required supporting evidence, the separation authority will—

(1) Consider carefully the facts on which the request is based.

(2) Obtain any other information that may be necessary to determine the validity of the request.

(3) Take final action to approve or disapprove the application.

6–3. Pregnancy

When it has been determined that a soldier was pregnant at the time of her enlistment, she will be processed per paragraph 6-6. When it has been determined that a soldier became pregnant after her enlistment, she will be allowed to elect one of the options under the provisions of AR 135-91, chapter 4, section V, except as follows:

a. Discharge for pregnancy.

(1) On her request, a soldier who meets all of the following criteria, will be discharged from military service when it has been determined that the pregnancy occurred after she was processed for enlistment; and

(a) She has not entered on initial active duty for training (IADT) or ever completed initial entry training (IET); and

(b) She has not incurred an active duty obligation as a result of a federally subsidized program.

(2) On her request, a soldier may be discharged when it has been determined that the pregnancy occurred after she

was processed for enlistment and the separation authority determines she is eligible but possesses no potential to perform useful service if ordered to active duty to meet mobilization requirements per paragraph 1-25.

b. Application for discharge. A soldier who meets the criteria in a above may submit a written application to be discharged because of pregnancy.

(1) The soldier may request a specific discharge date, which will not be later than 30 days prior to the expected date of delivery. This date may be accelerated by the separation authority if the applicant cannot fully meet the performance requirements of her duty MOS.

(2) A request for separation will be submitted as follows:

(a) An ARNGUS soldier, or USAR soldier assigned to a TPU or IMA duty position, may submit a written application to the unit commander who will immediately forward it with recommendations and soldier's records through channels to the separation authority (para 1-10) for final action.

(b) A soldier assigned to the IRR or Standby Reserve may submit a written application to the Commander, U.S. Army Reserve Personnel Command, ATTN: ARPC-PSR, 1 Reserve Way, St. Louis, MO 63132-5200. The Chief, Soldier Support Division, will immediately forward it with recommendations and soldier's records through the Director, Personnel Actions and Services Directorate, and Director, Enlisted Personnel Management Directorate, to the Commander, AR-PERSCOM (para 1-10b(1)) for final action.

c. Pregnancy terminated prior to discharge. If, before discharge is accomplished, a medical doctor determines that the soldier's pregnancy has terminated for any reason, discharge under this paragraph is no longer authorized.

6–4. Surviving sons or daughters

a. Criteria. A soldier who becomes a surviving son or daughter after having enlisted or reenlisted, may apply for and promptly will be discharged. For the purpose of this paragraph, a surviving son or daughter is any son or daughter in a family in which the father or mother or one or more of the sons or daughters:

(1) Have been killed in action or have died when serving in the U.S. Armed Forces from wounds, accident, or disease.

(2) Are in a captured or missing-in-action status.

(3) Have a permanent 100 percent service-related disability (including 100 percent mental disability), as determined by the Director of Veterans Affairs or one of the military services, and are not gainfully employed because of the disability.

b. Ineligible. A soldier may not apply for discharge as a surviving son or daughter under any of the following circumstances:

(1) When the soldier has court-martial charges pending against him or her.

(2) When the soldier has been convicted by court-martial with appellate review in process.

(3) When the soldier is serving a sentence to confinement, or is otherwise undergoing punishment, imposed by a court-martial.

(4) When the soldier is being processed for involuntary administrative separation for cause.

(5) During a period of war or National emergency declared by the Congress.

c. Waiver. A soldier who—

(1) After having been advised of the provisions in paragraph a above, enlists, reenlists, or voluntarily extends his or her term of service after having been notified of the family casualty on which the surviving status is based, will be considered as having waived his or her rights to request separation based on the determination that he/she is a surviving son or daughter.

(2) Has waived his or her right to discharge as a surviving son or daughter, per (1) above, may request reinstatement of that status at any time. However, a request for reinstatement shall not be granted automatically, but shall be considered on the merits of the individual case. Approval for reinstatement rests with the separation authority per paragraph 1-10.

d. Application. A soldier who meets the criteria in a above may submit a written application to be discharged as a surviving son or daughter.

(1) The application will include the following information:

(a) Name, grade, service number (when appropriate), social security number, branch of service (i.e., Army), relationship, and date of death or disability of the family member on which request is based.

(b) DVA Claim Number, if appropriate.

(c) Name, age, and sex of other family members.

(2) The application will be submitted as follows:

(a) An ARNGUS soldier, or USAR soldier assigned to a TPU or IMA duty position, may submit a written application to the unit commander who will immediately forward it with recommendations and soldier's records through channels to the separation authority (para 1-10) for final action.

(b) A soldier assigned to the IRR or Standby Reserve may submit a written application to the Commander, U.S. Army Reserve Personnel Command, ATTN: ARPC-PSR, 1 Reserve Way, St. Louis, MO 63132-5200. The Chief,

Regional Personnel Actions Division, will immediately forward it with recommendations and soldier's records through the Director, Personnel Actions and Services Directorate, and Director, Enlisted Personnel Management Directorate, to the Commander, AR-PERSCOM (para 1-10b(1)) for final action.

e. Verification. Commanders authorized to approve discharge are also authorized to verify status of deceased or disabled family members by forwarding a request, including name, grade, service number (when appropriate), social security number, approximate inclusive dates of service, and branch of the Armed Forces to the National Personnel Records Administration, National Personnel Records Center, 9700 Page Avenue, St. Louis, MO 63132-5200.

6–5. Involuntary separation due to parenthood

a. General. A soldier may be separated by reason of parenthood if as a result thereof it is determined under the guidance set forth in chapter 2, section I, the soldier is unable satisfactorily to perform his or her duties or is unavailable for world wide assignment or deployment if ordered to annual training, AD, FTNGD, or ADT.

b. Counseling. Commanders will ensure that before recommending separation under this paragraph, the soldier has been adequately counseled concerning deficiencies and has been afforded the opportunity to overcome those deficiencies as reflected in appropriate counseling or personnel records. See AR 600-20, paragraph 5-5, concerning a soldier's responsibilities for care of family members as related to military responsibilities.

6–6. Not medically qualified under procurement medical fitness standards

a. Discharge will be accomplished on determination that a soldier was not medically qualified under procurement medical fitness standards when accepted for enlistment, or who became medically disqualified under these standards prior to entry on IADT. A soldier found to be not medically qualified under procurement medical fitness standards will be discharged on the earliest practicable date following such determination and prior to entry on IADT.

b. A basis for discharge exists when—

(1) A medical finding of the Staff Surgeon that the soldier has a medical condition that-

(a) Would have permanently disqualified him or her from entry in the Army had it been detected or had it existed at the time of enlistment; and

(b) Does not disqualify him or her from retention under the provisions of AR 40-501, chapter 3.

(2) A soldier is found positive for drugs as a result of accession testing on or after 1 June 1988.

(3) A soldier is found to have been pregnant on enlistment. Pregnancy is a disqualifying medical condition for enlistment under AR 40-501, AR 601-210, and NGR 600-200. Women who are discharged under this paragraph for pregnancies that occurred prior to enlistment (EPTS pregnancies) are not entitled to maternity care as provided in AR 40-3, paragraph 4-44. The option of separation authorities provided elsewhere in the chapter to retain soldiers recommended for discharge does not apply to EPTS pregnancies.

c. This paragraph is not to be used in personality disorder cases. Such cases will be processed under paragraph 6-7.

6–7. Other designated physical or mental conditions

a. Criteria. The separation authority (para 1-10) may approve discharge under this paragraph on the basis of other physical or mental conditions not amounting to disability (AR 635-40) that potentially interfere with assignment to or performance of military duty. Such conditions may include, but are not limited to, chronic airsickness or seasickness, enuresis, sleepwalking, dyslexia, severe nightmares, claustrophobia, personality disorder, and other disorders manifesting disturbances of perception, thinking, emotional control or behavior sufficiently severe that the soldier's ability to perform military duties effectively is significantly impaired.

b. Personality disorder. In cases of personality disorder, the diagnosis must be made by a psychiatrist or doctoral-level clinical psychologist with necessary and appropriate professional credentials who is privileged to conduct mental health evaluations for DOD components. This condition is a deeply ingrained, maladaptive pattern of behavior of long duration, which interferes with the soldier's ability to perform his or her duty. Exceptions are combat exhaustion and other acute situational maladjustment. Separation on the basis of personality disorder is authorized only if the diagnosis concludes that the disorder is so severe that the soldier's ability to function effectively in the military environment is significantly impaired.

c. Counseling. Discharge processing may not be initiated until the soldier has been counseled formally concerning deficiencies and has been afforded an opportunity to overcome those deficiencies as reflected in appropriate counseling or personnel records.

d. Limitation. Discharge for personality disorder is not appropriate when discharge is warranted under other chapters of this regulation. For example, if discharge is warranted on the basis of unsatisfactory performance (chap 9), the soldier should not be discharged under this paragraph regardless of the existence of a personality disorder. Nothing in this paragraph precludes separation of a soldier having a condition as described in a above under any other reason authorized by this regulation.

e. Medical evaluation. When a commander determines that a soldier may have a medical or mental condition that interferes with the soldier's performance of duty and contemplates initiation of separation under this paragraph, the

commander will refer the soldier for a medical or mental health evaluation (or both). Commanders referring soldiers for a mental status evaluation must comply with the provisions of DoD Directive 6490.1 and AR 600-20.

6–8. Characterization of service

The service of a soldier separated under this chapter will be characterized as honorable unless an uncharacterized description of service is required by paragraph 2-11, or a characterization of general (under honorable conditions) is warranted under chapter 2, section III.

6–9. Procedures.

a. For separations under paragraphs 6-2, 6-3, and 6-4, prior to characterization of service of general (under honorable conditions), the soldier will be notified of the specific factors in the service record that warrant such a characterization, and the Notification Procedure (chap 3, section II) will be used.

b. For separations under paragraphs 6-5, 6-6, and 6-7, the Notification Procedure (chap 3, section II) will be used.

c. For separation under paragraph 6-3 the MATP policy prescribed by chapter 1, section V, will govern whether the soldier will be discharged from the Army, or retained in, or transferred/reassigned to the IRR.

6–10. Separation authority

a. The authorities cited in paragraph 1-10 may order separation under this chapter.

b. The involuntary separation of a soldier with more than 18, but less than 20, years of qualifying service for retired pay requires the approval of HQDA (para 1-11).

Chapter 7
Defective Enlistments and Reenlistments

7–1. Minority enlistments

a. Basis

(1) *Under age 17.* A minor under 17 years of age is barred from entering into a valid enlistment. The enlistment is void in the case of a minor who was under 17 years of age at date of enlistment and who has not attained the age of 17 on receipt of satisfactory evidence of the date of his or her birth.

(2) *Age 17.* Except when retained for the purpose of trial by court-martial, the soldier will be separated in the following circumstances:

(a) There is satisfactory evidence that the soldier is under 18 years of age, and

(b) The soldier enlisted without the written consent of his or her parent or guardian; and

(c) An application for the soldier's separation has been submitted to the soldier's command by the parent or guardian within 90 days of the soldier's enlistment.

b. Description of separation.

(1) A soldier separated under a(1) above will receive an order of release from the custody and control of the Army (by reason of void enlistment) (Orders Format 505, AR 600-8-105).

(2) The separation of a soldier under a(2) above will be described as an entry level separation and the service will be uncharacterized.

c. Procedure. The Notification Procedure (chap 3, sec II) will be used.

d. Separation authority. The authorities cited in paragraph 1-10 may order separation under this paragraph.

7–2. Erroneous enlistment, reenlistment, and extension

a. Basis. A soldier may be discharged on the basis of an erroneous enlistment, reenlistment, or extension of enlistment under the guidance set forth in chapter 2, section I. An enlistment, reenlistment, or an extension of enlistment is erroneous in the following circumstances, if:

(1) It would not have occurred had the relevant facts been known by the Government or had appropriate regulations been followed;

(2) It was not the result of fraudulent conduct on the part of the soldier; and

(3) The defect is unchanged in material respects.

b. Actions on discovery. When it is discovered that a soldier's enlistment, reenlistment, or extension is erroneous because he or she failed to meet the qualifications for enlistment, reenlistment, or extension (AR 140-111, AR 601-210, AR 601-280, or NGR 600-200), as applicable, the unit commander (Cdr, AR-PERSCOM (ARPC-EP), for IRR, IMA, or Standby Reserve soldiers) will initiate action to retain, discharge, or release the soldier, as appropriate, under the provisions of this paragraph. The unit commander (Cdr, AR-PERSCOM (ARPC-EP), for IRR, IMA, or Standby Reserve soldiers) will forward the case through channels to the appropriate separation authority (para 1-10) with the following information:

(1) Facts relating to and circumstances surrounding the erroneous enlistment or extension.

(2) The desire of the soldier regarding retention or discharge.

(3) A statement by the immediate commander as to the soldier's conduct, efficiency, and overall value to the Army.

(4) A specific recommendation for retention or discharge, and the reasons, by each commander in the chain of command.

c. Actions by separation authority. The separation authority will:

(1) Direct retention:

(a) In an exceptionally meritorious case involving a disqualification listed as non-waivable in AR 140-111, AR 601-210 or AR 601-280, when, in the judgment of the separation authority, retention of the soldier is definitely in the best interest of the Army and retention is otherwise in accordance with law. The following statement will be entered in Item 27 of the soldier's Personnel Qualification Record (DA Form 2-1): "Discharge action based on erroneous enlistment or extension is waived and retention is authorized by."

(b) In those cases in which the disqualification was waivable or the defect is no longer present and retention is deemed to be in the best interest of the Army and the soldier. The soldier's Personnel Qualification Record will be annotated as in (1)(a) above.

(2) Direct separation.

(a) In those cases in which the disqualification was waivable or the defect is no longer present and discharge is requested by the soldier and deemed to be in the best interest of the Army. (Format 500, AR 600-8-105).

(b) In all cases in which the disqualification was nonwaivable, initiate separation proceedings, except in extremely meritorious cases as described in para c(1)(a) above.

(c) When it has been established that an enlistment is erroneous because it was effected without the voluntary consent of a person who has the capacity to understand the significance of the enlistment (to include persons intoxicated or insane at enlistment) and a constructive enlistment did not arise within the same term of service, issue orders releasing the person from custody and control of the Army by reason of a void enlistment (Format 505, AR 600-8-105). The following entry will be made in Item 27, DA Form 2-1 (Personnel Qualification Record): "Released from custody and control of the Army by virtue of a void enlistment (cite order number and issuing headquarters)." A copy of the orders releasing the individual will be filed as a permanent document in his or her MPRJ and OMPF.

(d) When it has been established that an enlistment is erroneous because the individual is a deserter from another military service, issue orders releasing the person from custody and control of the Army by reason of a void enlistment (Format 505, AR 600-8-105), regardless of any subsequent constructive enlistment.

(e) If before an enlistee's departure from a MEPS, if it is discovered that he or she was erroneously enlisted in a circumstance, set forth in DOD 1332.14, enclosure 3, attachment 2, paragraph c.3.b., the enlistment will be voided as follows. The MEPS commander will revoke any orders already issued regarding the enlistee's assignment and training and will issue an order assigning the individual to the adjacent recruiting battalion (RBN). The RBN commander will issue orders releasing the person from custody and control of the Army by reason of a void enlistment (Format 505, AR 600-8-105).

d. Characterization or description of service.

(1) When discharged under paragraph c(2)(a) above, service will be characterized as honorable unless an uncharacterized description of service is required by paragraph 2-11a.

(2) When separated under paragraphs c(2)(b) through (e) above, the separation will be described as a release from custody and control of the Army and service will not be characterized.

e. Procedure

(1) If the command recommends the soldier be retained in military service, the initiation of separation proceedings is not required if the separation authority approves the recommendation.

(2) If separation processing is initiated, the Notification Procedure (chap 3, sec II) will be used.

f. Separation authority. The authorities cited in paragraph 1-10 may order separation under this paragraph.

7–3. Defective enlistments or reenlistments

a. Basis. A defective enlistment or reenlistment agreement exists in the following circumstances:

(1) As a result of a material misrepresentation by recruiting or retention personnel, upon which the soldier reasonably relied, and the soldier was induced to enlist or reenlist with a commitment for which the soldier was not qualified; or

(2) The soldier received a written enlistment or reenlistment commitment from recruiting or retention personnel for which the soldier was qualified, but which cannot be fulfilled by the Army; or

(3) The enlistment or reenlistment was involuntary.

b. Characterization or description. Service will be characterized as honorable, unless an uncharacterized description of service, or an order of release from custody and control of the Army (by reason of void enlistment) is required under chapter 2, section III.

c. Requirements. This provision does not bar appropriate disciplinary action or other administrative separation

proceedings regardless of when the defect is raised. Separation is appropriate under this provision only in the following circumstances:

(1) The soldier did not knowingly participate in creation of the defective enlistment or reenlistment;

(2) The soldier brings the defect to the attention of appropriate authorities within 30 days after the defect is discovered or reasonably should have been discovered by soldier;

(3) The soldier requests separation instead of other authorized corrective action; and

(4) The request otherwise meets such criteria as established by this regulation.

d. Separation authority. The authorities cited in paragraph 1-10 may order separation under this paragraph.

7–4. Fraudulent enlistments or reenlistments

a. Basis. A soldier may be separated under the guidance set forth in chapter 2, section I, on the basis of procurement of a fraudulent enlistment or reenlistment through any deliberate material misrepresentation, omission, or concealment which, if known at the time of the enlistment or reenlistment might have resulted in rejection. This includes all disqualifying information requiring a waiver. However, the enlistment of a minor with false representation as to age without proper consent will not in itself be considered as fraudulent enlistment.

b. Establishing fraud. The following tests must be applied in each case of suspected fraudulent enlistment or reenlistment to establish that the enlistment or reenlistment was, in fact, fraudulent.

(1) *First test.* Commanders will determine if previously concealed information is in fact disqualifying. This information will be evaluated using the appropriate criteria for enlistment or reenlistment. 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 enlistment 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 soldier 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 only record that the soldier 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.

c. Fraudulent actions. The following represent some, but not all, of the actions which, when verified, substantiate the existence of a fraudulent enlistment or reenlistments.

(1) Concealment of a prior separation from any of the Armed Forces of the United States under conditions barring enlistment or reenlistment in the ARNGUS or USAR.

(2) Concealment of true citizenship status by an alien at the time of enlistment or reenlistment.

(3) Concealment by a soldier of a conviction by civil court for a criminal offense for which the soldier was sentenced to imprisonment, probation, or parole, or given a suspended sentence.

(4) Concealment of a record as a juvenile offender.

(5) Concealment of medical defect or disability that would have precluded enlistment or reenlistment in the ARNGUS or USAR for the purpose of fraudulently obtaining veteran's benefits, hospitalization, disability retirement, monetary benefits, or a position to which the person would not otherwise be entitled.

(6) Concealment of absence without leave or desertion from an Armed Force of the United States.

(7) Misrepresentation of intent with regard to legal custody of children. Wherein a soldier without a spouse at the time of enlistment certified that children were not under his or her legal custody and then following enlistment, custody of the children is regained by court decree, as provided by State law, or as a result of the children resuming residency with the soldier instead of the legal custodian.

(8) Concealment disqualification. Where a soldier has procured entry into the ARNGUS or USAR by assuming the identity of another individual, or by concealment of any fact, circumstances, or condition that existed prior to enlistment or reenlistment which would have made the soldier ineligible.

d. Characterization or description. Characterization of service or description of separation will be in accordance with chapter 2, section III. If the fraud involves concealment of a prior separation in which service was not characterized as honorable, characterization normally will be Under Other Than Honorable Conditions.

e. Requirements. The Notification Procedure (chap 3, sec II) will be used except as follows:

(1) Characterization of service Under Other Than Honorable Conditions may not be issued unless the Administrative Board Procedure (chap 3, sec III) is used.

(2) When the sole reason for separation is fraudulent entry, suspension of separation (chap 2, sec II) is not authorized. When there are approved reasons for separation in addition to fraudulent entry, suspension of separation is authorized only in the following circumstances:

(a) A waiver of the fraudulent entry is approved by the proper authority; and

(b) The suspension pertains to reasons for separation other than fraudulent entry.

(3) If the command recommends that the soldier be retained in the ARNGUS or USAR, the initiation of separation processing is unnecessary in the following circumstances:

(a) The defect is no longer present; or

(b) The defect is waivable and a waiver is obtained from appropriate authority.

(4) If the material misrepresentation includes pre service and prior service homosexual conduct (para 10-2), the standards of paragraph 10-3 and procedures of paragraph 10-4 will be applied in processing separation under this section. In such a case the characterization of service or description of separation will be determined under e above.

f. Separation authority. The authorities cited in paragraph 1-10 may order separation under this paragraph.

Chapter 8
Entry Level Performance and Conduct

8–1. Basis

a. A soldier may be separated under this chapter if he or she is notified of the initiation of separation proceedings while in an entry level status (see glossary) when it is determined under the guidance set forth in chapter 2, section I, that the soldier is unqualified for further military service by reason of unsatisfactory performance or conduct (or both), as evidenced by inability, lack of reasonable effort, failure to adapt to the military environment or minor disciplinary infractions.

b. When separation of a soldier in entry level status is warranted by unsatisfactory performance or minor disciplinary infractions (or both), the soldier normally will be separated per this chapter. Nothing in this chapter prevents separation under another provision of this regulation when such is warranted.

8–2. Counseling and rehabilitation

Separation processing may not be initiated under this chapter until the soldier has been formally counseled under the requirements prescribed by paragraph 2-4.

8–3. Characterization and description

The service of a soldier who is separated under this chapter will be uncharacterized.

8–4. Procedures

a. The Notification Procedure (chap 3, sec II) will be used.

b. The MATP policy prescribed by chapter 1, section V, will govern whether the soldier will be discharged, or transferred to the IRR.

8–5. Separation authority

The authorities cited in paragraph 1-10 may order separation under this paragraph.

Chapter 9
Unsatisfactory Performance

9–1. Basis

A soldier may be discharged when it is determined under the guidance set forth in chapter 2, section I, the soldier is unqualified for further military service by reason of unsatisfactory performance.

9–2. Criteria

a. Commanders will take action to discharge a soldier for unsatisfactory performance when it is clearly established that—

(1) In the commander's judgment—

(a) A soldier will not develop sufficiently to participate satisfactorily in further training or become a satisfactory soldier; or

(b) The seriousness of the circumstances forming the basis for initiation of discharge proceedings is such that the soldier's retention would have an adverse impact on military discipline, good order, and morale.

(2) There is a likelihood that the soldier will be a disruptive influence in present or future duty assignments.

(3) There is a likelihood that the circumstances forming the basis for initiation of separation proceedings will continue or recur.

(4) The ability of the soldier to perform duties effectively in the future, including potential for advancement or leadership, is unlikely.

(5) The soldier meets retention medical standards (AR 40-501). See paragraph 1-8.

b. Commanders will initiate discharge action only when the soldier is under military control. As an exception, commanders may initiate this action when a soldier 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.

c. When a soldier has committed serious acts of misconduct, commanders will not take action prescribed in this chapter in lieu of discharge for misconduct under chapter 12 solely to spare him or her penalties.

d. This chapter applies also to soldiers who are pregnant and whose substandard duty performance is not attributable solely to the condition of pregnancy, such as, failure to report to duty without medical or military authorization.

e. Initiation of discharge proceedings is required for soldiers without medical limitations who have two consecutive failures of the Army Physical Fitness Test (APFT), or who are eliminated for cause from Noncommissioned Officer Education System (NCOES) courses, unless the responsible commander chooses to impose a bar to reenlistment per AR 140-111, or NGR 600-200.

9–3. Counseling and rehabilitation

Discharge processing may not be initiated under this chapter until the soldier has been formally counseled under the procedures prescribed by paragraph 2-4.

9–4. Suspension of favorable personnel action

Favorable personnel action will be suspended per AR 600-8-2 upon initiation of discharge proceedings under this chapter.

9–5. Medical processing and evaluation

See paragraph 1-8.

9–6. Characterization of service

The service of soldiers discharged because of unsatisfactory performance will be characterized as honorable or general (under honorable conditions) in accordance with chapter 2, section III).

9–7. Procedures

a. The Notification Procedure (chap 3, sec II) will be used, except under b below.

b. The Administrative Board Procedure (chap 3, sec III) will be used if the soldier has 18, but less than 20, years of qualifying service for retired pay.

9–8. Separation authority

a. The authority cited in paragraph 1-10 may order discharge under this chapter.

b. The discharge of a soldier with more than 18, but less than 20, years of qualifying service for retired pay requires the approval of HQDA (para 1-11).

Chapter 10
Homosexual Conduct

Section I
Policy

10–1. General policy

AR 600-20 contains general policies concerning homosexual conduct, including statutory provisions and commander guidelines for fact-finding inquiries. Pertinent definitions are in the glossary. AR 195-2 provides guidance on criminal investigation of sexual misconduct. AR 380-67 offers guidance on personnel security and clearance matters related to homosexual conduct.

10–2. Discharge policy

a. Homosexual conduct is grounds for discharge from the ARNGUS and USAR under the criteria set forth in paragraph 10-3. This includes pre service, prior service, or current service homosexual conduct. The term homosexual conduct includes homosexual acts, a statement by a soldier that demonstrates a propensity or intent to engage in homosexual acts, or a homosexual marriage or attempted marriage. A statement by a soldier that demonstrates a

propensity or intent to engage in homosexual acts is grounds for discharge not because it reflects the soldier's sexual orientation, but because the statement indicates a likelihood that the soldier engages in or will engage in homosexual acts. A soldier's sexual orientation is considered a personal and private matter, and is not a bar to continued service unless manifested by homosexual conduct as described in paragraph 10-3.

b. The foregoing does not preclude:

(1) Retention of the soldier in the Army when it is determined that the purpose of the soldier's homosexual conduct is to avoid or terminate military service.

(2) Trial by court-martial in appropriate cases. Conviction by a court-martial which did not impose a punitive discharge does not prevent initiation of administrative discharge proceedings under this chapter.

(3) Separation, in appropriate circumstances, for another reason specified in this regulation.

(4) When discharge under this chapter has been approved, retention of the soldier for a limited period of time in the interests of national security. In such cases, the separation authority will submit a request for retention, with full particulars and rationale, to Chief, National Guard Bureau, ATTN: NGB-ARP, 2500 Army Pentagon, Washington, DC 20310-2500, for ARNGUS soldiers, and to Commander, AR-PERSCOM, ATTN: ARPC-PSR, 1 Reserve Way, St. Louis, MO 63132-5200, for USAR soldiers. Retention approved under this paragraph does not constitute suspension of separation as described in chapter 2, section II.

10–3. Criteria for discharge

Except as indicated, a soldier will be discharged if one or more of the following findings have been made and approved by the separation authority:

a. The soldier has engaged in, attempted to engage in, or solicited another person to engage in a homosexual act or acts, unless there are further approved findings that:

(1) Such acts are a departure from the soldier's usual and customary behavior;

(2) Such acts under all the circumstances are unlikely to recur;

(3) Such acts were not accomplished by use of force, coercion, or intimidation;

(4) Under the particular circumstances of the case, the soldier's continued presence in the Army is consistent with the interest of the Army in maintaining proper discipline, good order, and morale; and

(5) The soldier does not have a propensity or intent to engage in homosexual acts. In determining whether retention is appropriate, separation boards/authorities must ensure that all of the foregoing conditions are met. Additionally, a determination as to whether retention is warranted under the limited circumstances is required if the soldier clearly and specifically raises such limited circumstances. However, the soldier bears the burden of proving, by a preponderance of the evidence, that retention is warranted under the limited circumstances.

b. The soldier has made a statement that he or she is a homosexual or bisexual, or words to that effect, unless there is a further approved finding that the soldier has demonstrated that he or she is not a person who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts. A statement by a soldier that he or she is a homosexual or bisexual, or words to that effect, creates a rebuttable presumption that the soldier engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts. The soldier will be advised of this presumption and given the opportunity to rebut the presumption by presenting evidence demonstrating that he or she does not engage in, attempt to engage in, have a propensity to engage in, or intend to engage in homosexual acts. The soldier bears the burden of rebutting the presumption. In determining whether a soldier has successfully rebutted the presumption, some or all of the following may be considered:

(1) Whether the soldier has engaged in homosexual acts.

(2) The soldier's credibility.

(3) Testimony from others about the soldier's past conduct, character, and credibility.

(4) The nature and circumstances of the soldier's statement.

(5) Any other evidence relevant to whether the soldier is likely to engage in homosexual acts.

c. The soldier 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).

10–4. Characterization or description of service

a. When the sole basis for separation is homosexual conduct, a discharge Under Other Than Honorable Conditions may be issued only if such characterization is warranted in accordance with chapter 2, section III, and if there is a finding that during the current term of service the soldier 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; or

(7) In another location subject to military control under aggravating circumstances noted in the finding that have an adverse impact on discipline, good order, or morale comparable to the impact of such activity aboard a vessel or aircraft.

b. In all other cases, the soldier's service will be characterized or described in accordance with chapter 2, section III.

10–5. Separation authority

a. Commanders specified in paragraph 1-10 are authorized to order discharge for homosexual conduct.

b. HQDA approval is required before soldiers who have completed 18, but less than 20, years of qualifying service for retired pay may be discharged. See paragraph 1-11.

Section II
Procedures

10–6. Action by unit or immediate commander

a. If the unit/immediate commander, or another commander in the soldier's chain of command, receives credible information that there is a basis for discharge for homosexual conduct, the commander will cause a fact-finding inquiry to be conducted in accordance with AR 600-20. Suspension of favorable personnel actions will be initiated per AR 600-8-2.

b. If the unit/immediate commander determines, based on the fact-finding inquiry, that a basis for discharge exists, he/she will:

(1) Submit a report, in memorandum format (fig 3-3) through any intermediate commander(s) to the separation authority.

(2) Take action required by the Administrative Board Procedure (chapter 3, section III). In the case of a soldier who has made a statement that he or she is a homosexual or bisexual, or words to that effect, the memorandum for notification of discharge (fig 3-4) will specifically advise the soldier of the rebuttable presumption provisions of paragraph 10-3b.

(3) Comply with paragraph 1-8 regarding medical examination and mental status evaluation.

10–7. Action by intermediate commanders

Intermediate commanders will take one of the following actions:

a. Disapprove the unit/immediate commander's recommendation when there is insufficient evidence that one or more of the circumstances for which discharge is authorized (paragraph 10-3) has occurred.

b. Approve the unit/immediate commander's recommendation and forward it to the separation authority.

10–8. Action by separation authority

On receipt of a recommendation for discharge for homosexual conduct, the separation authority will take one of the following actions:

a. Disapprove the recommendation when there is insufficient evidence that one or more of the circumstances for which discharge is authorized (paragraph 10-3) has occurred.

b. Disapprove the recommendation for discharge for homosexual conduct, and take other appropriate action, under this regulation, to determine whether the soldier should be separated for another reason of which the soldier has been duly notified.

c. Convene an administrative separation board, as prescribed in chapter 3, section III, to determine whether the soldier should be discharged for homosexual conduct.

d. When the soldier has waived the right to a hearing by an administrative separation board:

(1) Direct retention of the soldier if the separation authority determines there is insufficient evidence to support discharge for homosexual conduct, unless there is another basis for separation of which the soldier has been duly notified; or

(2) Direct discharge of the soldier if the separation authority determines that one or more of the circumstances for which discharge is authorized (paragraph 10-3) has occurred, unless retention is warranted under the limited circumstances described in paragraph 10-3a(1) through (5).

10–9. Administrative separation board

The board will follow the requirements outlined in paragraph 3-17 except as follows:

a. The board will make no inquiry or finding concerning sexual orientation.

b. If the board finds that one or more of the circumstances authorizing discharge under paragraph 10-3 is supported by the evidence, the board will recommend discharge unless the board makes specific findings that retention is warranted under the limited circumstances described in paragraph 10-3a(1) through (5).

c. If the board does not find that there is sufficient evidence that one or more of the circumstances authorizing

discharge (paragraph 10-3) has occurred, the board will recommend retention unless the case involves another basis for separation of which the soldier has been duly notified.

10–10. Separation authority action after board hearings

The separation authority will follow the required actions specified in paragraph 3-18. Exceptions are as shown below.

a. If the board recommends retention:

(1) Approve the finding and direct retention; or

(2) Forward the case to HQDA (para 1-12), when the board has recommended retention and the separation authority believes discharge is warranted and in the Army's best interest. HQDA may authorize discharge under chapter 14.

(3) Return the case to the board for compliance with this regulation if findings required by paragraph 10-3 have not been made.

b. If the board recommends discharge:

(1) Approve the finding and direct discharge; or

(2) Disapprove the finding on the basis that there is insufficient evidence to support the finding, or retention is warranted under the limited circumstances described in paragraph 10-3a(1) through (5).

Chapter 11
Drug or Alcohol Abuse Rehabilitation Failure

11–1. Basis

a. Initiation of discharge proceedings is required in the case of a soldier who has been referred to a program of rehabilitation for personal drug and alcohol abuse under the provisions of AR 600-85 and who fails through inability or refusal to participate in, cooperate in, or successfully complete the program in the following circumstances:

(1) There is a lack of potential for continued military service; or

(2) Long-term rehabilitation in a civilian medical facility is determined necessary.

b. A soldier may be discharged when the commander, in consultation with an Alcohol and Drug Abuse Prevention Control Program (ADAPCP) official (AR 600-85), determines that further rehabilitation efforts are not practical, rendering the soldier a rehabilitation failure, and discharge is in the best interest of the Army.

c. Nothing in this chapter precludes discharge of a soldier who has been referred to such a program under any other provision of this regulation in appropriate cases.

11–2. Characterization or description

When a soldier is discharged under this chapter, characterization of service as honorable or general (under honorable conditions) is authorized except when service is uncharacterized for soldiers in entry level status.

a. The relationship between voluntary submission for treatment and the evidence that may be considered on the issue of characterization is set forth in paragraph 2-10f.

b. On the issue of whether mandatory urinalysis results may be considered on the issue of characterization of service, see para 2-10g and AR 600-85.

11–3. Procedures

a. The Notification Procedure (chap 3, sec II) will be used, except under b below.

b. The Administrative Board Procedure (chap 3, sec III) will be used if the soldier has 18, but less than 20, years of qualifying service for retired pay.

11–4. Separation authority

a. The authorities cited in paragraph 1-10 may order discharge under this chapter.

b. The discharge of a soldier with more than 18, but less than 20, years of qualifying service for retired pay requires the approval of HQDA (para 1-11).

Chapter 12
Misconduct

12–1. Basis

A soldier may be discharged for misconduct when it is determined under the guidance set forth in chapter 2, section I, that the soldier is unqualified for further military service by reason of one or more of the following circumstances.

a. Minor disciplinary infractions. A pattern of misconduct consisting solely of minor disciplinary infractions. If

separation of a soldier in entry level status is warranted solely by reason of minor disciplinary infractions, the action will be processed under Entry Level Performance and Conduct (chap 8).

b. A pattern of misconduct. A pattern of misconduct consisting of discreditable involvement with civil or military authorities or conduct prejudicial to good order and discipline. Discreditable conduct and conduct prejudicial to good order and discipline include conduct which violates 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 civilian offense, if the specific circumstances of the offense warrant discharge and a punitive discharge would be authorized for the same or a closely related offense under the Uniform Code of Military Justice (UCMJ).

d. Abuse of illegal drugs. Abuse of illegal drugs is serious misconduct. Discharge action normally will be based upon commission of a serious offense. However, relevant facts may mitigate the nature of the offense. Therefore, a single drug abuse offense may be combined with one or more disciplinary infractions or incidents of other misconduct and processed for discharge under a or b above, as appropriate.

(1) Soldiers in categories (a) or (b) or (c) 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 per chapter 11, will be processed for discharge under a, b, or c above, as applicable.

(a) First-time drug offenders. Soldiers in the grade of (SGT) and above, and all soldiers with 3 or more years of total military service Regular and Reserve will be processed for discharge upon discovery of a drug offense.

(b) Second-time drug offenders must be processed for discharge after a second offense.

(c) Medically-diagnosed drug dependent soldiers in any enlisted grade will be processed for discharge on completion of actions required by AR 600-85.

(2) Other soldiers (first-time offenders below the grade of SGT, or with less than 3 years of total military service, Regular or Reserve) may be processed for discharge as appropriate.

(3) "Processed for discharge" means that discharge actions will be initiated and processed through the chain of command to the separation authority for appropriate action.

(4) Voluntary (self) identification/referral per AR 600-85 does not require initiation of discharge proceedings under this paragraph.

e. Civil conviction. See paragraph 12-2.

12–2. Conviction by civil court

A soldier may be discharged for misconduct when it is determined under the guidance set forth in chapter 2, section I, that the soldier is unqualified for further military service by reason of a civil conviction.

a. Conditions which subject soldier to discharge.

(1) Discharge action may be initiated against soldiers under the following circumstances:

(a) When initially convicted by civil authorities, or action is taken that is tantamount to a finding of guilty (to include a similar adjudication in juvenile proceedings).

(b) When a punitive discharge would be authorized for the same or a closely related offense under the UCMJ, or the sentence by civil authorities includes confinement for 6 months or more without regard to suspension or probation.

(c) When specific circumstances of the offense warrant discharge.

(2) The immediate commander will consider whether to initiate discharge action against a soldier when the criteria of a above are satisfied.

(3) Adjudication in juvenile proceedings includes adjudication as a juvenile delinquent, wayward minor, or youthful offender.

(4) If no discharge action is undertaken on a soldier's final civil conviction after the passage of 2 years, it is presumed that the soldier's commanding officer has determined that retention of the soldier is in the best interest of the Army. However, this presumption may be rebutted and discharge action initiated when it is established by a preponderance of the evidence that the soldier's commanding officer did not make such a determination.

b. Appeals. A soldier will be considered as having been convicted or adjudged a juvenile offender even though an appeal is pending or is subsequently filed. A respondent 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 soldier 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; or if an appeal has been made, until final action has been taken. On request of the soldier or when the soldier is present for duty and the commander believes his or her presence is detrimental to good order and discipline or the soldier presents a threat to the safety and welfare of other members of the organization, it may be appropriate to discharge a soldier prior to final action on an appeal. In such cases, the entire file will be forwarded to HQDA (para 1-12) for a final decision. The recommendation of the separation authority for immediate discharge as an exception will fully substantiate the circumstances on which the recommendation is based.

c. Retention action. Cases often arise that warrant consideration with a view toward retention of the soldier in the Army.

(1) In determining whether retention should be recommended or approved, full consideration should be given to the gravity of the offense involved, the circumstances related to it and any matters in extenuation. Also, the military record of the soldier prior to the commission of the offense should be considered as well as prospects for rehabilitation.

(2) If retention in the Army is desired and a form of civil custody exists, such as parole or probation, the nature of which would interfere with the soldier's normal performance of military duties, the civil authorities will be requested to relinquish such custody during the soldier's term of military service. If the civil authorities decline to relinquish custody or if the conditions placed on relinquishment of custody are unduly burdensome to the Army, as a general rule, the soldier will not be considered for retention, but will be discharged under this regulation.

d. Action following disposition by civil courts.

(1) When discharge is contemplated, while a soldier is under military control, the unit commander will take action as specified in the Administrative Board Procedure (chap 3, sec III). Where the soldier is confined, the provisions of paragraph 2-18 and chapter 3, section IV, are applicable.

(2) If the sole basis for discharge is conviction of a civil offense, counseling and rehabilitative efforts are not required prior to initiation of discharge action.

(3) When a board hearing has been properly waived, the case will be processed under the Notification Procedure and the separation authority will take action under paragraph 3-9.

12–3. Procedures for civil court cases in foreign countries

a. Discharge of soldiers convicted by a foreign tribunal may be approved by OCONUS area commanders except as provided in paragraph *c* below. This authority may be delegated to an ARCOM/GOCOM commander with a judge advocate on his or her staff. Every action taken in such delegation will state the authority. When a soldier is convicted by a foreign tribunal, and the soldier 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 12-2. The proceedings will be completed as if the soldier had been convicted by a court of the United States or its territorial possession. However, the recommendation for discharge will include the items specified in b(1) through (4) below. In such cases, the authorities specified in paragraph 1-10 may approve and order discharge under this paragraph if the soldier has been assigned to their command. However, HQDA (para 1-12) authorization is required before soldiers who have completed 18, but less than 20, years of qualifying service for retired pay may be discharged. This provision is not intended to relieve OCONUS commanders of their responsibility to promptly initiate and process civil court cases on soldiers of their command.

b. The commander will forward the board proceedings, or waiver, through channels to the OCONUS area 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 soldier.

(2) A statement from the court indicating that the soldier has been initially convicted.

(3) A statement as to the type of discharge and the character of service desired. This will include a statement as to whether paragraph 3-10 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. Soldiers 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, soldiers whose cases are 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 soldier will be returned to CONUS. Very unusual cases may be forwarded through command channels to HQDA (para 1-12), with supporting reasons as to why a soldier 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 soldier concerned, this paragraph will be complied with before such requests are submitted to HQDA.

d. If HQDA authorizes discharge in a foreign country, the overseas commander accomplishing the discharge will inform the nearest US diplomatic or consular mission of such action.

12–4. Related separations

Homosexual conduct shall be processed under chapter 10. Misconduct involving a fraudulent enlistment is considered under paragraph 7-4.

12–5. Counseling and rehabilitation

a. Separation processing for minor disciplinary infractions or a pattern of misconduct (paras 12-1a and b) will not be initiated under this chapter until the soldier has been formally counseled under the requirements prescribed by paragraph 2-4.

b. If the sole basis for discharge is a single offense (paras 12-1c and d) or a civilian conviction or a juvenile adjudication (para 12-2), the counseling and rehabilitation requirements of paragraph 2-4 are not applicable.

12–6. Suspension of favorable personnel action

Favorable personnel action will be suspended per AR 600-8-2 upon initiation of separation processing under this chapter.

12–7. Medical processing and evaluation

See paragraph 1-8.

12–8. Characterization of service

a. Characterization of service normally will be Under Other Than Honorable Conditions, but characterization as General (under honorable conditions) may be warranted under the guidelines in chapter 2, section III.

b. For soldiers who have completed entry level status, characterization of service as Honorable is not authorized unless the soldier's record is otherwise so meritorious that any other characterization clearly would be inappropriate. In such cases, separations for misconduct with an Honorable characterization will be approved by the separation authority (para 1-10). As an exception, the separation authority will approve separations with service characterized as Honorable when the sole evidence of misconduct is command-directed urinalysis results, which cannot be used for characterization of service, or when an administrative discharge board has recommended separation with an Honorable characterization of service.

c. When characterization of service Under Other Than Honorable Conditions is not warranted for a soldier in entry level status under chapter 2, section III, the service will be described as uncharacterized.

12–9. Procedures

a. The Administrative Board Procedure (chap 3, sec III) will be used, except under b below.

b. The use of the notification procedure is authorized provided characterization of service under other than honorable conditions is unwarranted.

12–10. Separation authority

a. The authority cited in paragraph 1-10 may order discharge under this chapter.

b. The discharge of a soldier with more than 18, but less than 20, years of qualifying service for retired pay requires the approval of HQDA (para 1-11).

Chapter 13
Unsatisfactory Participation in the Ready Reserve

13–1. Basis.

a. A soldier is subject to discharge for unsatisfactory participation when it is determined that the soldier is unqualified for further military service because:

(1) The soldier is an unsatisfactory participant as prescribed by AR 135-91, chapter 4; and

(2) Attempts to have the soldier respond or comply with orders or correspondence have resulted in —

(a) The soldier's verbal or written refusal to comply with the orders or correspondence; or

(b) A second notice, sent by certified mail, was refused, unclaimed, or otherwise undelivered; or

(c) Verification that the soldier has failed to notify the command of a change of address and reasonable attempts to contact the soldier have failed.

b. Discharge action may be taken when the soldier cannot be located or is absent in the hands of civil authorities in accordance with the provisions of paragraph 2-18 and chapter 3, section IV.

c. Commanders will not take action prescribed in this chapter in lieu of disciplinary action solely to spare a soldier who may have committed serious misconduct the harsher penalties that may be imposed under the UCMJ.

13–2. Suspension of favorable personnel action

Favorable personnel action will be suspended per AR 600-8-2 upon initiation of separation processing under this chapter.

13–3. Characterization of service

a. Characterization of service normally will be Under Other Than Honorable Conditions, but characterization as General (under honorable conditions) may be warranted under the guidelines in chapter 2, section III.

b. For soldiers who have completed entry level status, characterization of service as Honorable is not authorized

unless the soldier's record is otherwise so meritorious that any other characterization clearly would be inappropriate. In such cases, separation for unsatisfactory participation with an Honorable characterization will be approved by the separation authority (para 1-10). As an exception, the separation authority will approve separation with service characterized as Honorable when an administrative separation board has recommended such characterization.

c. When characterization of service as Under Other Than Honorable Conditions is not warranted for a soldier in entry level status under chapter 2, section III, the service will be described as uncharacterized.

13–4. Procedures

a. The Administrative Board Procedure (chap 3, sec III) will be used, except under *b* below.

b. Except for a soldier who has 18, but less than 20, years of qualifying service for retired pay, the use of the Notification Procedure (chap 3, sec II) is authorized if a characterization of service Under Other Than Honorable Conditions is not warranted under chapter 2, section III.

c. The MATP policy prescribed by chapter 1, section V, will govern whether the soldier will be discharged, or transferred to the IRR.

13–5. Separation authority

a. The authority cited in paragraph 1-10 may order separation under this chapter.

b. The separation of a soldier with more than 18, but less than 20, years of qualifying service for retired pay requires the approval of HQDA (paras 1-11 and 1-12).

Chapter 14
Secretarial Plenary Authority

14–1. Basis

a. Separation under this paragraph is the prerogative of the Secretary of the Army. Secretarial plenary separation authority is exercised sparingly and seldom delegated. Ordinarily, it is used when no other provision of this regulation applies, and early separation is clearly in the best interests of the Army. Separations under this chapter are effective only if approved in writing by the Secretary of the Army or approved designee as announced in updated memoranda.

b. Secretarial separation authority is normally exercised on a case-by-case basis but may be used for a specific class or category of soldiers. When used in the latter circumstance, it is announced by a special HQDA directive that may, if appropriate, delegate blanket separation authority to field commanders for the class or category of soldiers concerned.

c. Individual cases that may be submitted to HQDA for consideration of separation under Secretarial plenary authority include those processed under paragraphs 2-3a, 3-18e, 3-18f(2)(b), and 10-10a(2). Other bases for separation under this paragraph include, but are not limited to, refusal to submit to medical care (AR 600-20), HIV infection (AR 600-110), and when religious practices cannot be accommodated

14–2. Characterization of service

The service of soldiers separated under this chapter will be characterized as Honorable or Under Honorable conditions as determined under chapter 2, section III, unless an uncharacterized description of service is warranted under paragraph 2-11.

14–3. Procedures

a. Separation under this paragraph may be voluntary or involuntary. When involuntary separation proceedings are initiated, the Notification Procedure (chap 3, sec II) will be used; however, the provision for requesting an administrative board (para 3-4a(7)) is not applicable. Unless waived by HQDA, medical examinations are required for soldiers being processed for involuntary separation (para 1-8a).

e. Blanket or individual requests for separation under this paragraph will be submitted to the authorities cited in paragraph 1-12. Chain of command forwarding endorsements must include rationale to support determination that early separation is in the best interest of the Army, as well as a statement whether the counseling requirements of paragraph 2-4 have been met. In addition, chain of command forwarding endorsements on individual cases must include recommendations concerning characterization or description of service and, when applicable, transfer or reassignment to the IRR (chap 1, sec V), recoupment of incentives or entitlements (AR 135-7), and award of separation pay.

Chapter 15
Separation for Other Reasons

Section I
Reasons for Separation

15–1. Basis

a. Noncitizens. Provided one of the following conditions exists, a noncitizen will be discharged.

(1) At the time of release from active duty, the soldier fails or refuses to give a permanent mailing address within the United States or its territories but gives only an address in a foreign country; or

(2) Leaves the United States for permanent residence in a foreign country; or

(3) Visits a foreign country of which the soldier is a national for a continuous period of 6 months or more.

b. Ministers of religion and divinity students. A soldier will be discharged, upon request, if he or she is a regular or ordained minister of religion, or upon entering full-time training to become or to engage in full-time employment as a regular or duly ordained minister of religion.

(1) A minister of religion is classified as either a duly ordained minister of religion or a regular minister of religion as follows:

(a) Duly ordained minister of religion. A person who has been ordained in accordance with the ceremonial ritual or discipline of a church, religious sect, or organization, established on the basis of the community's doctrine and practices of a religious character, to teach the doctrines of such church, sect, or organization and to administer the rites and ceremonies in public worship, and who, as a regular customary vocation, teaches the principles of religion and administers the ordinances of worship as embodied in the creed or principles of such church, sect, or organization.

(b) Regular minister of religion. A person who as a customary vocation preaches and teaches the principles of the religion of a church, religious sect, or an organization of which the individual is a member without having been formally ordained as a minister of religion, but who is recognized by such church, sect, or organization as a regular minister.

(2) Requests for discharge will be supported by appropriate documentary evidence as follows:

(a) A statement from the appropriate authority of the church, religious sect, or organization that the soldier has met the requirements for recognition and has been appointed a regular or duly ordained minister of religion and is employed full-time in a religious occupation (1) above).

(b) A statement from an appropriate authority of the religious order that as a divinity student the soldier is fully qualified and acceptable for further religious training; must be separated from military status for further theological education or processing into the religious order or organization; and if separated, will be eligible for ordination or recognition as a minister on or about a specified date.

(c) A statement from the seminary or other educational institution in which the religious training is now or will be received that the individual is now or will be, concurrent with discharge, a full-time divinity student preparing for the ministry.

c. Attainment of maximum allowable age. A soldier who attains age 60 as set forth in AR 140-10, as appropriate, unless granted a waiver will be discharged or, if eligible and the soldier applies, be transferred to the Retired Reserve. The discharge will be effective the last day of the month in which the soldier attains age 60.

d. Approved exemption from involuntary order to active duty. A soldier will be discharged when a determination is made per AR 601-25 that the soldier be exempt from reporting for involuntary call to active duty under emergency or mobilization circumstances.

e. USAR dual status technician. A contractually obligated soldier who enlisted or reenlisted for permanent employment under the USAR dual status technician program will, on request, be discharged-

(1) On failure to be employed as a technician.

(2) On separation from employment as a technician.

f. Early discharge of soldier with a bar to reenlistment. A soldier may be voluntarily discharged before the expiration of his or her service obligation when the soldier has received a locally imposed bar to reenlistment (AR 140-111, chap 1) and the following provisions have been met.

(1) Except when serving under a statutory military service obligation, a soldier who perceives that he or she will be unable to overcome a locally imposed bar to reenlistment may apply for immediate discharge.

(2) A soldier with a statutory military service obligation will not be discharged early under this paragraph until completion of the statutory obligation.

(3) An ARNGUS soldier with a statutory military service obligation who has been barred from reenlistment or extension in the ARNGUS and discharged early from the ARNGUS will be transferred to the appropriate IRR control group to serve the remaining term of the obligation.

(4) Reassignments or transfers to other units or to the IRR will be curtailed to the extent necessary to permit early discharge under this section.

g. Nonavailability of member of Standby Reserve. A soldier of the Standby Reserve will be discharged when 12 months after mobilization the soldier remains unavailable for active duty and the soldier's case has been reviewed and discharge determined to be appropriate because of extended nonavailability per AR 601-25.

h. For security reasons. The soldier will be processed per AR 604-10.

i. Discharge from Retired Reserve. A soldier retired under the provision of 10 USC 3914 may be discharged from the USAR Retired Reserve at the soldier's request and on completion of 30 years' active and inactive service. This discharge does not affect the soldier's Army of the United States (AUS) status on the retired list.

j. Confirmed as infected with Human Immunodeficiency Virus. As prescribed by AR 600-110, a soldier who has been confirmed after a second Western Blot test as infected with Human Immunodeficiency Virus (HIV) may request voluntary discharge under the plenary authority of the Secretary of the Army per chapter 14, Secretarial Plenary Authority. Procedures for reassignment of USAR soldiers to the Standby or Retired Reserve are prescribed by AR 140-10.

k. Medically unfit for retention

(1) Discharge will be accomplished when it has been determined that a soldier is no longer qualified for retention by reason of medical unfitness (AR 40-501, 40-3) unless the soldier requests and is-

(a) Granted a waiver under AR 40-501, as applicable.

(b) Determined fit for duty under a non-duty related physical evaluation board (PEB) fitness determination (AR 635-40).

(c) Eligible for transfer to the Retired Reserve (AR 140-10).

(2) Soldiers who do not meet the medical fitness standards for retention due to a condition incurred while on active duty, any type of active duty training, or inactive duty training will be processed as specified in AR 635-40 if otherwise qualified.

l. Conscientious objection. The soldier will be processed per AR 600-43.

15–2. Characterization of service

The service of a soldier separated under this section will be characterized as honorable unless an uncharacterized description of service is required by paragraph 2-11, or a characterization of general (under honorable conditions) is warranted under chapter 2, section III.

15–3. Procedures

Prior to characterization of service of general (under honorable conditions), the soldier will be notified of the specific factors in the service record that warrant such a characterization, and the Notification Procedure (chap 3, section II) will be used.

15–4. Separation authority

The appropriate authority cited in paragraph 1-10 can order separations under this section.

Section II
Separation from the Delayed Entry Program (DEP)

15–5. Basis

A soldier who enlisted in the USAR under the Delayed Entry Program (DEP) per AR 601-210, chapter 5, section X, must be processed for discharge if he/she satisfies the conditions in paragraphs a or b below and may be processed for discharge if he/she satisfies the conditions in paragraphs c or d below.

a. Upon enlistment in the Regular Army (para 5-4a).

b. On discovery that the USAR enlistment is defective. The soldier will be processed for separation under para 7-3.

c. The soldier is found to be ineligible for enlistment in the Regular Army.

d. The soldier declines enlistment in the Regular Army and is not being ordered to active duty as a Reserve of the Army (10 USC 12103(b)).

15–6. Characterization or description

a. The service of a soldier discharged on the basis of paragraph 15-5a is not characterized. (See DD Form 4/3, section G.)

b. The separation of a soldier on the basis of paragraph 15-5c or paragraph 15-5d will be described as an entry level separation and the service will be uncharacterized.

15–7. Procedures

When it is determined that a member of the DEP is unqualified for further military service or has requested separation, the Commander, U.S. Army Recruiting Battalion, will advise the soldier in writing of the proposed separation and the reasons using the Notification Procedure (chap 3, sec II).

a. The notification memorandum (fig 3-1) will be presented to the soldier. If the soldier cannot be personally notified, the certified mail procedures in paragraph 3-4b will be applied or an equivalent procedure if such service is not available by the U.S. mail at an address outside the United States. The notice will inform the soldier that he or she must respond by endorsement (fig 3-2) within 30 days from the date of delivery.

b. Insert the following with the member's original DEP enlistment packet:

(1) A copy of the endorsement (fig 3-2) completed by the soldier;

(2) A copy of the notification memorandum (fig 3-1) and post office receipt; or

(3) The original notification memorandum (fig 3-1) and envelope marked "unclaimed" or other designation indicating it was not delivered, and the Affidavit of Service by Mail (fig 1-1).

d. On receipt of the completed endorsement (fig 3-2) from the soldier, the Commander, U.S. Army Recruiting Battalion, will make the final determination for retention or separation from the USAR DEP. A careful consideration of the soldier's statement or rebuttal is mandatory.

e. If the soldier is not approved for retention or fails to respond within 30 days from the date of delivery, the authorities cited in a above will process the soldier for discharge.

f. The discharge order (Format 500) will cite this paragraph and regulation as the authority.

g. On discharge, with the discharge order as the top document, the soldier's USAR DEP enlistment packet will be sent to Director, National Personnel Records Center, ATTN: Accession and Disposal Section, 9700 Page Avenue, St. Louis, MO 63132-5200.

15–8. Separation authority

The authorities cited in paragraph 1-10b(6) may order discharge under this section.

Section III
Dropping from the Rolls

15–9. Sentenced to imprisonment (10 USC 12684(3))

a. A soldier who is sentenced to confinement in a Federal or State penitentiary or correctional institution after having been found guilty of an offense by a court other than a court-martial or other military court, and whose sentence has become final, may be dropped from the rolls of the Army. For purposes of this regulation, a conviction is final when the authorized time for an appeal has expired or final action on an appeal has been taken.

b. A soldier who is convicted by civil court other than a soldier who is sentenced as in a above, may be processed for discharge for misconduct in accordance with chapter 12.

15–10. Characterization of service

No characterization or description of service is authorized (para 2-11c) and no discharge certificate will be issued.

15–11. Procedures

The appropriate separation authority will issue orders dropping the soldier from the rolls of the Army using order Format 540 as prescribed in AR 600-8-105. Disposition of personnel records will be accomplished as set forth in AR 600-8-104.

15–12. Separation authority

The authority cited in paragraph 1-10 is authorized to drop a soldier from the rolls of the Army under this section.

Chapter 16
Failure to Meet Army Body Composition Standards

16–1. Applicability

The applicability for separation processing under this chapter is determined by the following criteria.

a. An ARNGUS or USAR soldier who has not completed initial entry training (IET), or been awarded a military occupational specialty (MOS), will be processed for discharge under this chapter.

b. An ARNGUS or USAR soldier who has completed IET and been awarded an MOS, and is not within 3 months of the date of expiration of a statutory or contractual obligation, whichever is the later, will be processed for separation under this chapter when such processing is required under paragraph 16-2, but will only be discharged when it has been determined by the separation authority that the soldier has no potential to perform useful service if ordered to active duty to meet mobilization requirements per paragraph 1-25.

c. A soldier who is within 3 months of the date of expiration of a statutory military service obligation will not be processed for separation under this chapter.

16–2. Basis

a. A soldier is subject to separation for failure to meet the Army body composition standards per AR 600-9 when it is determined the soldier is unqualified for further military service and meets all of the following conditions:

(1) The soldier is not diagnosed with a medical condition that precludes participation in the Army weight control program. A soldier with a medically diagnosed condition that precludes participation in the Army weight control program will be processed through medical channels, if appropriate, or under the guidance set forth in paragraphs 6-6, 6-7, or 15-1k.

(2) The soldier fails to meet the Army body composition standards per AR 600-9 and the sole reason for separation is failure to meet those standards.

b. Where no medical condition exists, initiation of separation proceedings is required for soldiers who—

(1) Do not make satisfactory progress in the Army Body Composition Program (ABCP) after a period of 6 months, unless the responsible commander chooses to impose a bar to reenlistment per AR 140-111, chapter 1, or NGR 600-200, paragraph 7-20

(2) Fail to maintain Army body composition standards during the 12-month period following removal from the ABCP.

c. Separation action under this chapter will not be initiated against a soldier who meets the criteria for separation under other provisions of this regulation. For example, a soldier who, apart from failure to meet body composition standards, is an unsatisfactory performer will be processed for separation under the provisions of chapter 9.

16–3. Counseling and rehabilitation

Separation processing may not be initiated under this chapter until the soldier has been formally counseled under the requirements prescribed by paragraph 2-4.

16–4. Medical processing and evaluation

See paragraph 1-8.

16–5. Characterization or description

The service of soldiers separated under this chapter will be characterized as honorable.

16–6. Separation authority

a. The authorities specified in paragraph 1-10 are authorized to order separation under this chapter.

b. The separation of a soldier with more than 18, but less than 20, years of qualifying service for retired pay requires the approval of HQDA (para 1-11).

Appendix A
References

Section I
Required Publications

AR 15–6
Procedures for Investigating Officers and Boards of Officers. (Cited in paras 3-3, 3-10, and 3-17.)

AR 27–3
The Army Legal Assistance Program (Cited in para 3-3.)

AR 27–10
Legal Services: Military Justice. (Cited in paras 3-3 and 3-10.)

AR 40–3
Medical, Dental, and Veterinary Care. (Cited in para 6-6.)

AR 40–501
Standards of Medical Fitness. (Cited in paras 1-8, 6-6, 6-7, 9-2, and 15-1.)

AR 135–91
Service Obligations, Methods of Fulfillment, Participation Requirements, and Enforcement Procedures. (Cited in paras 1-18, 5-6, 6-3, and 13-1.)

AR 140–10
Army Reserve: Assignments, Attachments, Details, and Transfers. (Cited in paras 1-23, 1-26, 3-9, 5-4, 15-1.)

AR 140–111
United States Army Reserve Reenlistment Program. (Cited in paras 1-10, 1-20, 4-2, 5-3, 7-2, 9-2, 15-1, and 16-2.)

AR 195–2
Criminal Investigation Activities. (Cited in paras 1-13 and 10-1.)

AR 380–67
The Department of the Army Personnel Security Program. (Cited in para 10-1.)

AR 600–8–2
Suspension of Favorable Personnel Actions (FLAGS). (Cited in paras 9-4, 10-6, 12-6 and 13-2.)

AR 600–8–105
Military Orders. (Cited in paras 2-13, 7-1, 7-2 and 15-11.)

AR 600–9
The Army Weight Control Program. (Cited in para 16-2.)

AR 600–20
Army Command Policy. (Cited in paras 1-8, 6-2, 6-5, 6-7, 10-1, 10-2,and 14-1.)

AR 600–43
Conscientious Objection. (Cited in para 15-1.)

AR 600–85
Alcohol and Drug Abuse Prevention and Control Program. (Cited in paras 2-10, 3-4, 3-10, 3-17, 11-1 and 12-1.)

AR 600–110
Identification, Surveillance, and Administration of Personnel Infected with Human Immunodeficiency Virus (HIV). (Cited in paras 14-1 and 15-1.)

AR 601–25
Delay in Reporting for and Exemption from Initial Active Duty, Active Duty for Training, and Reserve Forces Duty. (Cited in para 15-1.)

AR 601–210
Regular Army and Army Reserve Enlistment Program. (Cited in paras 4-2, 5-6, 5-8, 6-6, 7-2 and 15-5.)

AR 601–280
Army Retention Program. (Cited in paras 4-2, 5-4 and 7-2.)

AR 604–10
Military Personnel Security Program. (Cited in para 15-1.)

AR 635–40
Physical Evaluation for Retention, Retirement or Separation. (Cited in paras 2-17, 6-7 and 15-1.)

Section II
Related Publications

A related publication is merely a source of additional information. The user does not have to read it to understand this regulation.

AR 10–5
Organization and Functions - Department of the Army.

AR 15–180
Army Discharge Review Board

AR 15–185
Army Board for Correction of Military Records

AR 25–50
Preparing and Managing Correspondence

AR 25–400–2
The Modern Army Recordkeeping System

AR 135–7
Incentive Programs

AR 140–1
Mission, Organization, and Training

AR 140–158
Enlisted Personnel Classification, Promotion, and Reduction

AR 145–1
Senior ROTC Program: Organization, Administration, and Training

AR 600–8–104
Military Personnel Information Management/Records.

AR 630–10
Absence Without Leave, Desertion, and Administration of Personnel Involved in Civilian Court Proceedings.

AR 635–200
Enlisted Personnel

NGR 40–3
Medical Care for Army National Guard Members

NGR 40–501
Medical Examination for Members of the Army National Guard

NGR 600–200
Enlisted Personnel Management.

Section III
Prescribed Forms

DA Form 7423
Consulting Counsel's Checklist. (Prescribed in para 3-3a(1).)

Section IV
Referenced Forms

DA Form 2–1
Personnel Qualification Record - Part II

DA Form 2028
Recommended Changes to Publications and Blank Forms

DA Form 4187
Personnel Action

DA Form 5138–R
Separation Action Control Sheet

DD Form 256A
Honorable Discharge Certificate (This form is available through normal forms supply channels.)

DD Form 257A
General Discharge Certificate (Under Honorable Conditions) (This form is available through normal forms supply channels.)

DD Form 293
Application for the Review of Discharge or Dismissal from the Armed Forces of the United States

DD Form 368
Request for Conditional Release

DD Form 4 Series
Enlistment/Reenlistment Document - Armed Forces of the United States - Page 3.

PS Form 3800
Receipt of Certified Mail

SF Form 600
Medical Record — Chronological Record of Medical Care

Appendix B
Management Control Evaluation Checklist

B–1. Function.
The function covered by this checklist is the accurate and orderly administrative separation of enlisted soldiers in a variety of circumstances

B–2. Purpose.

The purpose of this checklist is to assist Commanders in evaluating the key management controls listed below. It is not intended to cover all controls.

B–3. Instructions.

Answers must be based on the actual testing of key management controls (e.g., document analysis direct observation, random sampling, simulation, other). Answers which indicate deficiencies must be explained and corrective action indicated in supporting documentation. These management controls must be evaluated at least once every two years. Certification that this evaluation has been conducted must be accomplished on DA Form 11-2 (Management Control Evaluation Certification Statement) located at the internet site www.usapa.army.mil/forms/.

B–4. Test Questions.

a. Has a managerial review been conducted using the DA Form 5138-R (Separation Action Control Sheet) to ensure compliance with regulatory guidance prior to forwarding to approval authority?

b. Has the commander's report been completed accurately as required under AR 135-178, paragraph 3-4?

c. Have the Administrative Board Procedures as required under AR 135-178, paragraph 3-10 been conducted accurately.

d. Have the Hearing Procedures as required under AR 135-178, paragraph 3-17 been conducted as required by the regulation.

e. Have those soldiers identified for separation under Chapter 16 complied with all of the requirements under AR 600-9 Army Body Composition Program?

B–5.

Help make this a better tool for evaluation management controls, submit comments to HQDA, OCAR, ATTN: DAAR-PEP, 2400 Army Pentagon, Washington, DC 20310-2400.

Glossary

Section I
Abbreviations

ABCMR
Army Board for Correction of Military Records

ABCP
Army Body Composition Program

AD
active duty

ADAPCP
Alcohol and Drug Abuse Prevention and Control Program

ADRB
Army Discharge Review Board

ADSW
Active duty for special work

ADT
active duty for training

AFS
Active Federal Service

AGR
Active Guard Reserve

AIT
advanced individual training

APFT
Army Physical Fitness Test

ARCOM
Army Reserve Command

ARNG
Army National Guard

ARNGUS
Army National Guard of the United States

AR-PERSCOM
U.S. Army Reserve Personnel Command

AT
annual training

BT
basic training

CAR
Chief, Army Reserve

Cdr
Commander

CDT
cadet

CG
Commanding General

CNGB
Chief, National Guard Bureau

CONUS
Continental United States

DA
Department of the Army

DCSPER
Deputy Chief of Staff for Personnel

DEP
Delayed Entry Program

DFR
dropped from the rolls

DOD
Department of Defense

DVA
Department of Veterans Affairs

EPTS
existed prior to entry service

FORSCOM
United States Forces Command

FTNGD
Full-time National Guard duty

GO
general officer

GOCOM
General Officer Command

HIV
human immunodeficiency virus

HQDA
Headquarters, Department of the Army

IADT
initial active duty for training

IDT
inactive duty training

IET
initial entry training

IMA
Individual Mobilization Augmentee; individual mobilization augmentation

ING
Inactive Army National Guard

IRR
Individual Ready Reserve

MEPS
Military entrance processing stations

MOI
memorandum of instruction

MOS
military occupational specialty

MOSC
military occupational specialty code

MPRJ
Military Personnel Records Jacket, U.S. Army

MSO
military service obligation

NCOES
Noncommissioned Officer Education System

NGB
National Guard Bureau

NGR
National Guard regulation

OCAR
Office of the Chief, Army Reserve

OCONUS
outside continental United States

OCS
Officer Candidate School

ODCSPER
Office of the Deputy Chief of Staff for Personnel

OMPF
official military personnel file

OSD
Office of the Secretary of Defense

PE
physical examination

PEBD
pay entry basic date

RA
Regular Army

RC
Reserve Components

REFRAD
release from active duty

ROTC
Reserve Officers' Training Corps

ROTC/SMP
Reserve Officers' Training Corps/Simultaneous Membership Program

RSC
Regional Support Command

RSG
Regional Support Group

RYE
retirement year ending

SA
Secretary of the Army

SMP
simultaneous membership program

SRIP
Selected Reserve Incentive Program

SSN
social security number

TJAG
The Judge Advocate General

TPU
troop program unit

TTAD
Temporary tours of active duty

UCMJ
Uniform Code of Military Justice

USAR
United States Army Reserve

USARC
United States Army Reserve Command

USAREC
United States Army Recruiting Command

USAREUR
United States Army, Europe

USACC
United States Army Cadet Command

USARPAC
United States Army Pacific Command

USARSO
United States Army South

USASOC
United States Army Special Operations Command

USC
United States Code

Section II
Terms

(The following terms have been tailored to fit this regulation and as such may not be completely applicable to other regulations. AR 310-25 is the official Dictionary of Army Terms.)

Active Army

a. The Active Army consists of (1) Regular Army soldiers on active duty; (2) Army National Guard of the United States and Army Reserve soldiers on active duty (except as excluded below): (3) Army National Guard soldiers in the service of the United States pursuant to a call; and (4) all persons appointed, enlisted, or inducted into the Army without component.

b. Excluded are soldiers serving on (1) active duty for training (ADT); (2) Active Guard Reserve (AGR) status; (3) active duty for special work (ADSW) (which includes temporary tours of active duty (TTAD)) for 180 days or less; and (4) active duty pursuant to the call of the President (10 USC 12304).

Active duty

Full-time duty in the active military service of the United States. As used in this regulation, the term is applied to all Army National Guard of the United States and U.S. Army Reserve soldiers ordered to duty under Title 10, U.S. Code, other than for training. It does not include AGR personnel in a full-time National Guard duty status under Title 32, U. S. Code.

Active Guard Reserve (AGR)

Army National Guard of the United States (ARNGUS) and U.S. Army Reserve (USAR) personnel serving on active duty (AD) under Title 10, U.S. Code, section 12301(d) and Army National Guard (ARNG) personnel serving on full-time National Guard duty (FTNGD) under Title 32, U.S. Code, section 502(f). These personnel are on FTNGD or AD (other than for training or AD in the Active Army) for 180 days or more for the purpose of organizing, administering, recruiting, instructing, or training the Reserve Components and are paid from National Guard Personnel, Army or Reserve Personnel Army appropriations. Exceptions are personnel ordered to AD as—

a. General officers.

b. United States Property and Fiscal Officers under 32 USC 708.

c. Members assigned or detailed to the Selective Service System serving under the Military Selective Service Act, (50 USC App 460(b)(2)).

d. Members of the Reserve Forces Policy Board serving under 10 USC 10301.

e. Members of Reserve Components on active duty to pursue special work (10 USC 115(d) and 10 USC 641(1)(D)).

Active status

The status of an Army National Guard of the United States or U.S. Army Reserve commissioned officer, other than a commissioned warrant officer, who is not in the inactive Army National Guard, in the Standby Reserve (Inactive List), or in the Retired Reserve.

Active service

Service on active duty or full time National Guard duty.

Administrative board procedure

An administrative separation action wherein the respondent will have a right to a hearing before a board of commissioned, warrant, or noncommissioned officers. It is initiated in the same manner as the Notification Procedure.

Administrative separation
Discharge or release from expiration of enlistment or required period of service, or before, as prescribed by the Department of the Army (DA) or by law. Separation by sentence of a general or special court-martial is not an administrative separation.

Administrative separation board
A board of officers, or officers and NCO's, appointed to make findings and to recommend retention in or separation from the service. The board states the reason and recommends the type of separation or discharge certificate to be furnished.

Area command
A geographic area of command with RC functions and responsibilities.

Area commands
The following are defined as area commands:
a. United States Army, Europe (USAREUR).
b. United States Army Pacific Command (USARPAC).
c. United States Army South (USARSO).
d. United States Army Southern Command (SOUTHCOM).
e. United States Army Special Operations Command (USASOC).
f. United States Army Reserve Command (USARC).
g. Eighth United States Army (EUSA), Korea

Area commanders
Commanders of area commands.

Army
The Regular Army, Army of the United States, Army National Guard of the United States, and the United States Army Reserve.

Army National Guard (ARNG)
That part of the organized militia of the several States and Territories, Puerto Rico, and the District of Columbia, active and inactive, that—
a. Is a land force;
b. Is trained, and has its officers appointed, under the sixteenth clause of section 8, article I, of the Constitution;
c. Is organized, armed, and equipped wholly or partly at Federal expense; and
d. Is federally recognized.

Army National Guard of the United States (ARNGUS)
The reserve component of the Army all of whose members are members of the Army National Guard. The ARNGUS consists of—
a. Federally recognized units and organizations of the Army National Guard; and
b. Members of the Army National Guard who are also Reserves of the Army.

Army Reserve command (ARCOM)
A USAR troop program unit commanded by a general officer that reports directly to an area command.

Basic training
Initial entry training which provides non prior service personnel instruction in basic skills common to all soldiers and precedes advanced individual training (AIT).

Bisexual
A person who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual and heterosexual acts.

Cause
Separation or denial of reenlistment for cause is based on a decision by an appropriate member of the soldier's chain of command, or supervisory chain, or higher authority, that the personal or professional conduct, behavior, or performance of duty of the soldier warrants separation or denial of reenlistment in the best interest of the Army.

Character of service for administrative separation
A determination reflecting a soldier's military behavior and performance of duty during a specific period of service. The three characters are: Honorable; General (Under Honorable Conditions); and under Other Than Honorable Conditions. The service of soldiers in entry level status is normally described as uncharacterized.

Contractually obligated soldier
A soldier who has completed his or her statutory service obligation and is serving on a contractual obligation or a soldier enlisted or appointed under circumstances in which a statutory obligation was not incurred.

Contractual term of service
The military service obligation incurred by completion of the oath of enlistment on an enlistment or reenlistment agreement. Contractual and statutory service may run concurrently. The Selected Reserve contractual term of service is that portion of a military service obligation which is to be served in a unit of the Selected Reserve. Example: The 6X2 enlistment option requires that 6 years be served in a unit of the Selected Reserve and the remaining 2 years be served in the Individual Ready Reserve (IRR).

Convening authority
Can be defined as either a or b:

a. The separation authority.

b. 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.

Delayed Entry Program (DEP)
A program where soldiers may enlist and who are assigned to USAR Control Group (Delayed Entry) until they enlist in the Regular Army.

Discharge
Complete severance from all military status gained by the enlistment concerned.

Entry level status

a. Upon enlistment, a soldier qualifies for entry level status during—

(1) The first 180 days of continuous active military service; or

(2) The first 180 days of continuous active service after a service break of more than 92 days of active service.

b. A member of a Reserve component who is not on active duty or who is serving under a call or order to active duty for 180 days or less begins entry level status upon enlistment in a Reserve component. Entry level status for such a member of a Reserve component terminates as follows:

(1) 180 days after beginning training if the soldier is ordered to ADT for one continuous period of 180 days or more; or

(2) 90 days after the beginning of the second period of ADT if the soldier is ordered to ADT under a program that splits the training into two or more separate periods of active duty.

c. For the purposes of characterization of service, the soldier's status is determined by the date of notification as to the initiation of separation proceedings.

Expiration of service obligation
The scheduled date on which an individual's statutory or contractual (whichever is later) military service obligation will end.

Extended active duty (EAD)
Active duty performed by a member of the ARNGUS or USAR when strength accountability passes from the ARNG or USAR to the Active Army.

Full-Time National Guard Duty (FTNGD)
Training or other duty, other than inactive duty, performed by a member of the Army National Guard of the United States or the Air National Guard of the United States in the member's status as a member of the National Guard of a State or territory, the Commonwealth of Puerto Rico, or the District of Columbia under section 316, 502, 503, 504, or 505 of Title 32, U.S. Code, for which the member is entitled to pay from the United States or for which the member has waived pay from the United States.

General Officer Command (GOCOM)
A USAR troop program unit, commanded by a general officer, at the level of a regional support command (RSC) or higher, that reports directly to an area command or to USACAPOC.

Homosexual
A person, regardless of sex, who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts.

Homosexual act
a. Any bodily contact, actively undertaken or passively permitted, between members of the same sex for the purpose of satisfying sexual desires; and
b. Any bodily contact that a reasonable person would understand to demonstrate a propensity or intent to engage in an act described in paragraph a above.

Homosexual conduct
A homosexual act, a statement by the soldier that demonstrates a propensity or intent to engage in homosexual acts, or a homosexual marriage or attempted homosexual marriage.

Individual Ready Reserve (IRR)
Soldiers who are assigned to the following USAR Ready Reserve Control Groups: (AT), (Reinf), (OADO), (DEP), (Dual Component), and (ROTC).

Initial entry training (IET)
A term used to identify mandatory training each soldier of the U.S. Army must complete upon initial entry in the service to qualify in a military specialty or branch and which is required by law for deployability on land outside the continental limits of the United States per 10 USC 671. The term encompasses the completion of basic training and specialty or branch qualification while serving on active duty or active duty for training. For ARNGUS and USAR soldiers it includes completion of initial active duty for training (IADT), the officer basic course (OBC), and the warrant officer basic course (WOBC).

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, without regard to 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 determine 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.

Military record
A soldier's overall performance while a member of a military service, including personal conduct and performance of duty.

Nonlocatee
An enlisted soldier who has failed to furnish an address through which personal contact is possible.

Notification procedure
The initiation of an administrative separation process in which the respondent is notified in writing of the proposed separation, the bases thereof, 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 throughout 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 evidence
Evidence which after a consideration of all 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.

Propensity to engage in homosexual acts
Propensity to engage in homosexual acts means more than an abstract preference or desire to engage in homosexual acts; it indicates a likelihood that a person engages or will engage in homosexual acts.

Ready Reserve
The Ready Reserve of the Army is comprised of military members of the ARNGUS and USAR, organized in units or as individuals, and liable for order to active duty in time of war or national emergency. The Ready Reserve consists of three subcategories: the Selected Reserve, the Individual Ready Reserve (IRR), and the Inactive National Guard (ING).

Reasonable commuting distance
The maximum distance a member of a Reserve component may be required to travel involuntarily between residence and IDT site. That distance may be in the following:

a. A 100–mile radius of the IDT site or a distance that may be traveled by automobile under average conditions of traffic, weather, and roads in 3 hours. That applies only to those units that normally do four IDT sessions on 2 consecutive days and where Government meals and quarters are provided at the unit IDT site.

b. A 50-mile radius of the IDT site or a distance that may be traveled by an automobile under average conditions of traffic, weather, roads in a 1 1/2–hour period , where Government meals and quarters are not provided at the unit IDT site.

Regional Support Command
A major subordinate command of the U.S. Army Reserve Command (USARC) that reports directly to an Area Command.

Regional Support Group
A USAR general officer command (GOCOM) that is subordinate to a regional support command (RSC).

Release from active duty
Termination of active duty status and transfer or reversion to a Reserve component not on active duty, including transfer to the IRR.

Reserve Components of the Army
The Army National Guard of the United States (ARNGUS) and the United States Army Reserve (USAR).

Reserve of the Army
A member of the ARNGUS or the USAR.

Respondent
A soldier who has been notified that action has been initiated to separate him or her.

ROTC cadet
A student enrolled in the Senior Reserve Officers' Training Corps (SROTC) as a cadet under 10 USC 2104 or 10 USC 2107.

ROTC program
The Senior Reserve Officers' Training Corps of the Army.

Satisfactory participation
A level of performance where a soldier avoids incurring the condition of unsatisfactory participation as defined in AR 135-91.

Selected Reserve
The Selected Reserve of the Army consists of those units and individuals in the Ready Reserve designated as so essential to initial wartime missions that they have priority over all other Reserves. The Selected Reserve includes officers, warrant officers, and enlisted soldiers who are:

a. Members of the Army National Guard of the United States (ARNGUS).

b. Assigned to troop program units of the USAR.

c. Serving on active duty (10 USC 12301d) or full-time National Guard duty (32 USC 502f) in an Active Guard/ Reserve (AGR) status.

d. Individual Mobilization Augmentees (IMA).

Separation
An all inclusive term which is 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, death, or discharge from the Army National Guard of the United States with concurrent transfer to the Individual Ready, Standby, or Retired Reserve. Reassignments between the various categories of the U.S. Army Reserve (Selected, Ready, Standby, or Retired) are not considered as separations.

Separation authority
An official authorized by the Secretary of the Army, or his designated official, to take final action with respect to a specified type of separation.

Sexual orientation
An abstract sexual preference for persons of a particular sex, as distinct from a propensity or intent to engage in sexual acts.

Standby Reserve
The Standby Reserve consists of personnel maintaining their military affiliation without being in the Ready Reserve, having been designated key civilian employees, or who have a temporary hardship or disability. These soldiers are not required to perform training and are not part of units. It is a pool of trained soldiers who may be mobilized as needed to fill manpower needs in specific skills. The Standby Reserve consists of two training categories: the Active Status List and the Inactive Status List.

Statement that a soldier is a homosexual or bisexual or words to that effect
Language or behavior that a reasonable person would believe was intended to convey the statement that a person engages in, attempts to engage in, or has a propensity or intent to engage in homosexual acts.

Statutorily obligated member
A soldier who is serving by reason of law.

Statutory term of service
The military service obligation incurred on initial entry into the Armed Forces under 10 USC 651.

Temporary tours of active duty
A term applied to active duty for special work (ADSW) when the tour of duty is paid from military personnel appropriations (MPA) and the purpose of the tour is to support an Active Army mission.

Troop program unit (TPU)
A TOE or TDA unit of the USAR organization which serves as a unit on mobilization or one that is assigned a mobilization mission. The "unit" in this case is the largest separate unit prescribed by the TOE or TDA.

Unsatisfactory participant
A member of the Selected or individual Ready Reserve who fails to participate as outlined in AR 135-91.

U.S. Army Reserve (USAR)
The Army Reserve includes all Reserves of the Army who are not members of the Army National Guard of the United States (ARNGUS) and who are in a Ready, Standby, or Retired Reserve category. It is a Federal force, consisting of individual reinforcements and combat, combat support, and training type units organized and maintained to provide military training in peacetime, and a reservoir of trained units and individual reservists to be ordered to active duty in the event of a national emergency.

U.S. Army Reserve Personnel Command (AR-PERSCOM)
A field operating agency of the Chief, Army Reserve (CAR) which manages the professional career development of individual USAR soldiers to provide trained individual USAR soldiers for mobilization. This agency commands the Individual Ready, Standby, and Retired Reserve and administers the USAR AGR, and IMA programs.

Section III
Special Abbreviations and Terms
There are no entries in this section.

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