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No. 600-37

HEADQUARTERS  
DEPARTMENT OF THE ARMY  
WASHINGTON, DC, 16 October 1972

**PERSONNEL GENERAL  
UNFAVORABLE INFORMATION**

*Effective 1 November 1972*

*This regulation incorporates the provisions of AR 604-11 and AR 640-98 and updates the policies and procedures for resolution of unfavorable information. Local limited supplementation of this regulation is permitted, but is not required. If supplements are issued, Army Staff agencies and major Army commands will furnish one copy of each to HQDA (DAPE-MPC) WASH DC 20310; other commands will furnish one copy of each to the next higher headquarters.*

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\*This regulation supersedes AR 604-11, 19 August 1960; and AR 640-98, 19 July 1965.

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## CHAPTER 1

### GENERAL

**1-1. Purpose.** This regulation establishes policies and procedures—

*a.* For the resolution of unfavorable information.

*b.* To insure that unsupported or unresolved unfavorable information, which may prejudice the individual's reputation or future in the military service, is not filed in an individual's official personnel files (chap. 2).

**1-2. Applicability.** This regulation applies to all active, inactive, and retired Army personnel irrespective of component.

**1-3. Objectives.** Objectives are to—

*a.* Apply fair and just standards to all military personnel.

*b.* Protect the rights of individual members of the Army, and, at the same time, protect the right of the Army to consider all available information when selecting individuals for positions of leadership, trust, and responsibility.

*c.* Provide safeguards from adverse personnel action based on unsubstantiated allegations or mistaken identity.

*d.* Provide a means of correcting injustices if they occur.

*e.* Insure that individuals of questionable moral character are not continued in the service or elevated to positions of leadership and responsibility.

**1-4. Explanation of terms.** *a. Unfavorable information.* Any credible derogatory information that may reflect unfavorably on an individual's character, integrity, trustworthiness, and reliability.

*b. Positions of leadership, trust, and responsibility.* Any position which requires the incumbent to be serving as an officer, warrant officer, or enlisted member in pay grade E-7 or above.

*c. Favorable personnel action.* Any personnel management or career management decision that enhances the individual's status or position. Included are promotions, Regular Army appointments, selection for schooling, entry or continuation on active duty, awards, decorations, commendations, and sometimes reassignment, retirement, separation, or release from active duty. Although the granting of security clearance is a "favorable personnel action" with far-reaching effects upon the career of an individual, it is not governed by this regulation (see AR 604-5 and AR 604-10).

*d. Official personnel files: The Official Military Personnel File, The Career Branch File, and the Military Personnel Records Jacket.* Reports, forms, and records (in documents or data banks) that are maintained by the Army for consideration when making personnel management decisions affecting the individual. Filing of documents in the Military Personnel Records Jacket, US Army (MPRJ) (DA Form 201) and Official Military Personnel File (OMPF) is governed by AR 640-10.

*e. Intelligence and investigative files.* Reports, dossiers, and case materials (in documents or data banks) that are the property of intelligence or investigative agencies. Examples are files of the US Army Investigative Records Repository, files pertaining to investigations conducted by officers exercising general court-martial jurisdiction, and files of Inspectors General at all echelons.

*f. Major commands.* In addition to the designated major commands, separate Department of the Army agencies and activities, CONUS Armies, USAREC, and Headquarters, DA General and Special Staff agencies are considered major commands for the purpose of processing cases under this regulation.

## CHAPTER 2

## UNFAVORABLE INFORMATION IN OFFICIAL PERSONNEL FILES

**2-1. Policies.** *a.* Favorable personnel decisions will be based on review of official personnel files and the knowledge and best judgments of the commander, board, or other decisionmaking authority. Both favorable and unfavorable information regarding the individual will be considered. Performance and potential will be weighed against available unfavorable information.

*b.* Unfavorable information will not be filed in an official personnel file without the knowledge of the affected individual and an opportunity being afforded him either to make a written statement in reply to the unfavorable information, or to decline, in writing, to make such a statement. (Exceptions are contained in para 2-3.) Initiating officers should fully substantiate and document allegations. (Access to the files specified in para 1-4*d* will be granted to the individual concerned upon request.)

*c.* Individuals will be informed when unfavorable information in their files causes an unfavorable personnel action or decision. They will be informed of the basis of such adverse personnel actions and the policies and procedures governing such actions. They have the right to appeal decisions which they believe were based on erroneous information, lack of equal opportunity, prejudice, bias, or other related injustice, or when substantive new evidence is discovered.

*d.* Personnel decisions which may result in the selection of individuals to positions of public trust and responsibility or vesting such individuals with authority over others should be based upon a thorough review of the records of such individuals—including appraisal of both favorable and unfavorable information which may be available. The Army selects individuals for promotion or appointment to such positions on a competitive basis and only the best qualified should be promoted or appointed.

**2-2. Unfavorable information that should be filed in official personnel files.** Indications of substandard leadership ability, promotion potential, morals, and integrity must be identified early and reflected in permanent official personnel rec-

ords. Other unfavorable character traits of a permanent nature should be similarly recorded.

**2-3. Information that may be filed in official personnel files without further referral to the individual.** *a.* Medical information, which, if released, would prove injurious to the individual's physical or mental health.

*b.* Records of courts-martial, and courts-martial orders and record of nonjudicial punishment under Article 15, UCMJ.

*c.* Proceedings of boards of officers, provided that it is clearly indicated that the individual concerned has been given an opportunity to present evidence or cross-examine witnesses in his own behalf.

*d.* Completed investigative reports, including criminal investigation and inspector general reports, or duly authenticated extracts thereof where applicable, which have resulted in elimination or disciplinary action against the individual concerned.

*e.* Active suspension of favorable personnel actions reported under AR 600-31.

*f.* FBI reports, pertaining to arrests and convictions.

*g.* Officer and enlisted evaluation reports. Filing of evaluation instruments in official personnel files will be governed by AR 600-200, AR 623-105, and AR 623-106.

*h.* Other unfavorable information of which the individual concerned had prior official knowledge and an adequate opportunity to refute. A notation, "AR 600-37 complied with" will be entered below filing authority on such unfavorable information.

*i.* Internal staff actions and working papers within and among personnel management offices and personnel decisionmakers at Headquarters, Department of the Army. (Applicable to the Career Branch File only.)

**2-4. Reprimands, admonitions, and censures.** *a.* *Nonpunitive* (as outlined in para 128c, UCMJ). Administrative reprimands, admonitions, and censures, etc., of a nonpunitive nature imposed by a commander or supervisor, will be filed in the Military Personnel Records Jacket (MPRJ). Only

such items that have been signed by General Officers and specifically designated by him for inclusion in Official Military Personnel Files (OMPF) maintained by The Adjutant General will be forwarded. A written administrative reprimand, admonition, or censure, etc., which is designated for inclusion in an individual's official military personnel file will:

(1) Contain a statement indicating that it has been imposed merely as an administrative measure and not as punishment under Article 15, UCMJ.

(2) Be referred to the individual concerned for comment in accordance with paragraph 2-6. Statements furnished by the individual will be reviewed by the official imposing the administrative reprimand, admonition, or censure and will be attached to the basic written comment prior to filing it in the official personnel files.

(3) Be forwarded for inclusion in official military personnel files or the career branch files only after due consideration of the circumstances and alternative nonpunitive measures. It is emphasized that it is not intended that minor behavior infractions or honest mistakes chargeable to sin-

cere but misguided efforts be permanently recorded in the individual's official military personnel file.

*b. Nonjudicial.* Reprimands and admonitions of a nonjudicial nature are governed by the provisions of AR 27-10.

**2-5. Anonymous communications.** Anonymous communications will not be filed in an individual's MPRJ or OMPF unless after appropriate investigation or inquiry, they are found to be true, relevant, and fully substantiated or supported.

**2-6. Referral of information.** Except as specifically provided in paragraph 2-3, unfavorable information will be referred to the individual concerned for information and completion of one of the following statements:

*a.* "I have read and understand the allegations made and submit the following statement in my behalf -----".

*b.* "I have read and understand the allegations and elect not to make a statement".

**2-7. Resolution of unfavorable information in personnel files.** Chapters 4, 5, and 6 outline the responsibilities and procedures for resolving unfavorable information in personnel files.

## CHAPTER 3

## UNFAVORABLE INFORMATION IN INTELLIGENCE FILES

**3-1. General.** There are no restrictions governing the filing of unfavorable material in intelligence files. To prevent undue credence being given to unresolved unfavorable information, with attendant harmful career implications, this chapter prescribes provisions for resolving such matters.

**3-2. Security information.** Derogatory information falling under the purview of paragraph 2-4, AR 604-10 (concerning loyalty and subversion), will be processed as prescribed by that regulation.

**3-3. Security clearance.** In taking action under this regulation, commanders will insure that security clearances are neither revoked nor denied in lieu of action under other regulations or the Uniform Code of Military Justice. Denial or revocation of a security clearance will not be used as a punishment or disciplinary measure. Denial or revocation of personnel security clearances will be accomplished pursuant to the provisions of AR 604-5.

**3-4. Resolution of unfavorable information in intelligence files.** *a. General.* When a commander becomes aware of unfavorable information derived from intelligence files and security investigations, he will take one or more of the following actions:

(1) Suspend or deny access to classified information under the provisions of AR 604-5, and, if necessary, initiate investigation under the provisions of AR 381-130, or other appropriate directives to gain complete facts in the case.

(2) Deny or revoke the individual's personnel security clearance pursuant to AR 604-5 or AR 604-10. When a security clearance has been denied or revoked on an incumbent of a position of leadership, trust and responsibility, and elimination action has not been accomplished, that fact will require referral of the case to either the Command Suitability Evaluation Board, or the Department of the Army Suitability Evaluation Board, for determination as to what records will be made a part of the individual's official personnel files.

(3) Initiate elimination action under the provisions of AR 135-175, AR 135-178, AR 604-10, AR 635-100, AR 635-120, AR 635-200, AR 635-

206, or AR 635-212; or court-martial action as appropriate.

(4) Reassign the individual to a less sensitive position.

(5) Close the case favorably and prepare a memorandum for record that information developed to date does not constitute a bar to the personnel action under consideration.

*b. Procedures for resolution.* In connection with a(1), (2), and (3) above, the following procedures may be considered:

(1) Interview under oath, giving the individual a full opportunity to rebut the unfavorable information, which can be made available to him under current disclosure criteria (AR 381-130). Interviews should only be conducted by trained interviewer or interrogator.

(2) Use of additional investigative resources available to the commander such as Military Police, Inspector General, Criminal Investigation Command, and Military Intelligence agencies.

*c. Suspension of favorable personnel action.* Suspension of favorable personnel action under the provisions of AR 600-31 will be considered in connection with a(1), (2), and (3) above.

**3-5. Access to intelligence files.** AR 381-45 and AR 381-46 set forth procedures for gaining access to intelligence files.

**3-6. Use of intelligence files in personnel actions.** *a.* Intelligence files are not a part of the military personnel records system as prescribed by AR 640-10. However, in order to insure that the interests of the Army are protected when selecting an individual for positions of leadership, trust, and responsibility, a screening system has been established to insure that significant, verified information is correlated with information in personnel files, and, if appropriate, is made available to personnel decision makers.

*b.* It is recognized that current intelligence files may contain unevaluated and dormant information of a suitability nature which for the most part, the individual concerned has had no opportunity to comment upon. Intelligence files also contain sensitive information which, if disclosed

prematurely, could jeopardize current investigations or sources of information. For these reasons, intelligence files are not furnished to promotion selection boards or to other personnel decision makers except the following:

(1) The suitability evaluation boards outlined in chapters 4 and 5. (These boards do not make personnel decisions per se, but merely determine what information will be furnished to personnel decision makers.)

(2) Personnel managers in highly intensified personnel management areas as specially designated by the Secretary of the Army, the Chief of Staff of the Army, or the Deputy Chief of Staff for Personnel.

*c.* Commanders, heads of staff agencies, and boards of officers referring to intelligence files, subsequent to the action in *b*(1) or (2) above, prior to taking personnel action will, after review of the unfavorable information in the file, take one of the following actions:

(1) When the information does not constitute a bar to the contemplated personnel action, a written statement will be prepared to the effect that the commander, staff agency head, or board of officers had determined that the unfavorable information contained in the file does not preclude the specific personnel action under consideration (the specific personnel action under consideration will be cited). This statement will be included as a permanent part of the intelligence file. Since the statement is based solely on the information reviewed at that particular time, care will be exercised to insure that no subsequent additions to the file will be filed under the statement. However, the favorable determination will not preclude commanders, staff agency heads, or boards of officers from considering all information contained in the file when new derogatory information is developed or another personnel action is under consideration.

(2) When the decisionmaking authority tentatively concludes that the unfavorable information, if not satisfactorily refuted or explained, would constitute a bar to the personnel action under consideration, the individual will be offered an opportunity to refute or explain the derogatory

information, unless an exception has been authorized as prescribed in *d* below. A final determination will be made only after consideration of the explanation offered by the individual. Additional information obtained from further investigation may be considered. When a final conclusion has been reached, the responsible official will either:

(a) Make unfavorable determination regarding the personnel action under consideration, notify individual of determination, and place information copy of letter of determination in individual's file. (Elimination, disciplinary action, admonition, or referral to the appropriate suitability board will be considered if information contained in the files is significant enough to warrant an unfavorable determination), or

(b) Determine that the unfavorable information does not now constitute a bar to the personnel action under consideration. In these cases a statement similar to that prescribed in (a) above will be executed and attached to the intelligence file.

*d.* Authority to grant exceptions to rebuttal procedures is limited to the Under Secretary of the Army or his Special Assistant.

(1) Consideration will be given to requests for exception on the basis that release of the information—

(a) Is prohibited by a non-Army agency,

(b) Would compromise an investigation,

(c) Would disclose a confidential/family source, or

(d) Any other reason which the requester feels would be contrary to the national interest.

(2) When such an exception is requested by the responsible official(s), the pertinent facts will be forwarded through intelligence channels to the Assistant Chief of Staff for Intelligence (HQDA (DAMI-DOS-P) WASH DC 20310).

(3) When the information forming the basis for the contemplated unfavorable personnel action is withheld to avoid compromise of an investigation, the individual will be offered the opportunity of rebuttal when the probability of compromise no longer exists and the unfavorable personnel action is still considered necessary.

## CHAPTER 4

### RESPONSIBILITIES

**4-1. Major commanders.** *a.* Major commanders may, by supplementing this regulation, establish command suitability evaluation boards and prescribe procedures to resolve cases arising within their commands. Operation of such boards will be consistent with the policies and procedures prescribed herein.

*b.* Major commanders who establish command suitability evaluation boards, will make one of the following determinations after receipt of the report of such boards:

(1) That certain specific unfavorable information is or is not a bar to a favorable personnel action under consideration. A written statement similar to that prescribed in paragraph 3-6c(1) is required.

(2) That the unfavorable information should be made a part of the individual's intelligence file for future consideration.

(3) That the unfavorable information should be noted in the individual's official personnel files. Such action must be directed over the signature of a general officer.

(4) That all available information concerning the case be transmitted to the immediate commander of the service member concerned for preliminary inquiry and report, including, if appropriate in the interest of justice and discipline, the preferring of any charges which appears to be sustained by the expected evidence.

(5) That separation or elimination action should be initiated.

*c.* Major commanders will refer cases to the Department of the Army Suitability Evaluation Board (DASEB) for review and recommendation when:

(1) It is determined that unfavorable information concerning individuals cannot be practically resolved by other means.

(2) The severity and complexity are such that a case should be included in the individual's official personnel file.

**4-2. Department of the Army Suitability Evaluation Board (DASEB).** DASEB is established as a continuing board, under the Deputy Chief of

Staff for Personnel. The DASEB will review the records of each case referred to the board, and make one of the following determinations:

*a.* That certain unfavorable information will be made part of, or excluded from, the efficiency portion of the individual's Official Military Personnel File for consideration in personnel action decisions and/or that separation or elimination action should be initiated under appropriate regulations.

*b.* That the information under consideration is not a bar to favorable personnel actions.

**4-3. The Deputy Chief of Staff for Personnel (DCSPER).** DCSPER will—

*a.* Determine the membership of the DASEB and appoint a president and additional members as required.

*b.* Prescribe policies governing operations of the DASEB.

*c.* Approve, disapprove, refer to higher authority, and/or direct appropriate action on all adverse DASEB determinations.

*d.* Monitor and coordinate all DASEB activities not otherwise prescribed.

**4-4. The Assistant Chief of Staff for Intelligence (ACSI).** ACSI will:

*a.* Insure that the US Army Intelligence Command provides necessary assistance to the DASEB by making files available as may be required.

*b.* Prescribe procedures for release of information from intelligence files to commanders, the DASEB, and to other suitability boards, if established.

**4-5. Department of the Army Staff agencies and commanders responsible for personnel actions.** These agencies and commanders will—

*a.* Continuously screen official personnel records for suitability information and refer cases to the DASEB which they are unable to resolve.

*b.* Query the holders of intelligence and investigative files through established channels concerning the existence of unfavorable information prior to taking favorable personnel actions involving promotion or appointment to, or continuation in,

positions of leadership, trust, and responsibility, and refer cases containing significantly derogatory information to the DASEB for resolution. (This is not applicable in the determination of assignments by the HQDA career branches in filling worldwide requirements.)

c. When referring cases to the DASEB, provide recommendation for disposition from among those listed in paragraph 4-1, if appropriate.

d. Take necessary action to execute the decision of the DASEB or of the Deputy Chief of Staff for Personnel, on cases that have been reviewed by, or referred to them by higher authority.

**4-6. Agencies responsible for release of information from intelligence and investigative files.** These agencies will—

a. Continuously screen files for information which should be made available to decisionmakers

when considering individuals for positions of leadership, trust, and responsibility.

b. Advise the DASEB when unfavorable information exists on officers and warrant officers.

c. Advise the appropriate personnel management agency or commander of the existence of unfavorable information on individuals in, or being considered for, positions of leadership, trust, and responsibility.

d. Provide file copies or information to major commanders, the DASEB, or other HQDA adjudicating agencies when requested. Files may be requested in accordance with AR 381-45 and AR 381-46.

e. Insure that unfavorable information received after review by an adjudicating agency is identifiable for subsequent reviews, after any initial determination.

**CHAPTER 5****APPEALS**

**5-1. Processing appeals.** Authority to revise, amend, or eliminate from the record, those case summaries, reports, or other matters of unfavorable information in the Official Military Personnel File, which are determined to be unjust or untrue, in whole or in part, is delegated to the Deputy Chief of Staff for Personnel (DCSPER), Headquarters, Department of the Army. To assist him in carrying out this responsibility, the DCSPER has established the DA Suitability Evaluation Board (DASEB) as the appeal authority for matters of adverse information entered in the Official Military Personnel File under the provisions of this regulation. The DASEB is under the direct supervision of the Director of Military Personnel Policies (DMPP), ODSPER. The DASEB is responsible for:

*a.* The review and evaluation of the validity of items of unfavorable information included in Official Military Personnel Files.

*b.* The revision, amendment, or elimination from official personnel records of those case summaries or other documents containing adverse information or reports that are determined to be unjust or untrue, in whole or in part.

**5-2. Reserve officer appeals.** Appeals submitted by Reserve officers not on active duty are normally processed through the Commanding General, US Army Reserve Components Personnel and Administration Center (RCPAC) and referred to the DCSPER by the CG, RCPAC, with appropriate recommendation. DCSPER will refer such cases to DASEB for evaluation.

**5-3. Individual responsibilities.** Once an official document containing adverse information is accepted by HQDA for inclusion in official personnel files, the individual has the burden of proving that the document is unjust or untrue, in part or in whole, and therefore should be removed from the record or amended. Any individual may appeal the inclusion of a document placed in his file under the provisions of this regulation. However, an individual appealing inclusion of such a document in his file must submit substantive evidence to support his claim that it is unjust or untrue. An appeal which merely alleges an injustice or error is not acceptable and will not be considered as a valid appeal.

*a.* An appeal must be filed within three years after knowledge of the alleged error or injustice.

*b.* An appeal must be in writing. No appellant is authorized to appear in person before the DASEB.

*c.* Appeals should be prepared in the form of a military letter and submitted directly to President, DA Suitability Evaluation Board (HQDA (DAPE-MPC) WASH DC 20310).

**5-4. Correction of military records.** AR 15-185 contains procedures for application to the Army Board for Correction of Military Records (ABCMR) for relief, and for the correction of military records by the Secretary of the Army acting through the ABCMR. Appeals should be submitted to the ABCMR to correct an error or remove an injustice only after all other means of appeal have been exhausted.

## CHAPTER 6

### PROCEDURES FOR PROCESSING UNFAVORABLE INFORMATION CASES

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**6-1. Procedures.** *a.* Except as otherwise specifically provided in this regulation, the development of procedures for referring cases to suitability evaluation boards is a function of command. In general, cases will be referred only when unfavorable information cannot be resolved under the provisions of other directives.

*b.* When a case has been resolved without referral to a suitability evaluation board, the commander or head of the DA agency responsible for the personnel action will outline the details of the action in a memorandum for record and transmit it to the Commanding General, US Army Intelligence Command, ATTN: USAIRR, Ft Holabird, MD 21219, for file.

*c.* Suitability evaluation boards will make independent evaluations of all relevant information. Additional information, including medical and/or legal evaluations, will be obtained as required.

*d.* Boards will be provided information and assistance to enable them to conduct detailed and objective evaluation. Prior decisions made by commanders, courts-martial, elimination boards, or other authorities will not relieve the boards of responsibility to proceed in an impartial and independent manner. Due consideration will be given to the double jeopardy limitations prescribed by

paragraph 5-4, AR 635-100 and paragraph 1-13, AR 635-200.

*e.* The provisions of AR 15-6 do not apply to suitability evaluation board proceedings. To insure protection of individual rights, each board member must be senior in rank to the individual being evaluated. Additionally, the individual must be afforded the opportunity to review the evidence against him and to submit a written rebuttal for consideration by the board prior to any adverse finding or recommendation.

**6-2. Requirement for documentation.** Suitability evaluation boards will document their findings, conclusions and recommendations. A determination of "no bar" to favorable personnel actions will be placed *only* in the file containing the unfavorable information and the board's record file. Other determinations will be filed in official personnel files in accordance with governing regulations.

**6-3. ARNG and USAR personnel not on active duty.** Coordination with the Office of the Chief, National Guard Bureau, or of the Chief, Army Reserve, Department of the Army, will be accomplished prior to making adverse determinations pertaining to ARNG and USAR personnel not on active duty.



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The proponent agency of this regulation is the Office of the Deputy Chief of Staff for Personnel. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) direct to HQDA (DAPE-MPC) WASH DC 20310.

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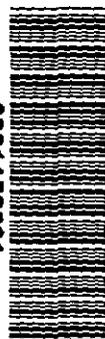
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