

AR

604-10

ARMY REGULATION

Amended by AR 604-10 21 Apr 75 AR 604-10

Copy 2

PERSONNEL SECURITY CLEARANCE

MILITARY PERSONNEL SECURITY PROGRAM

Effective 15 November 1969



HEADQUARTERS, DEPARTMENT OF THE ARMY SEPTEMBER 1969

TAGO 5960A

RETURN TO REPLY LIBRARY
ROOM 1 A 518 PENTAGON

ARMY REGULATION }
 No. 604-10 }

HEADQUARTERS
 DEPARTMENT OF THE ARMY
 WASHINGTON, DC 18 September 1969

PERSONNEL SECURITY CLEARANCE
 MILITARY PERSONNEL SECURITY PROGRAM

Effective 15 November 1969

This revision reduces the length of continuances granted prior to convening field board of inquiry; eliminates "last chance" letter to the respondent; and limits DA Security Screening Board functions to special registrant cases. Local supplementation of this regulation is prohibited except upon approval of the Deputy Chief of Staff for Personnel.

	Paragraph	Page
CHAPTER 1. GENERAL PROVISIONS		
Purpose	1-1	1-1
Scope	1-2	1-1
Explanation of terms	1-3	1-1
Responsibilities	1-4	1-2
Command authentication	1-5	1-2
Effect of favorable determination	1-6	1-3
Effect of notation that individual is not eligible for a security clearance and/or assignment to specific geographical areas	1-7	1-3
Entries on field personnel records	1-8	1-3
2. STANDARD AND CRITERIA		
Standard	2-1	2-1
Policy	2-2	2-1
Application of standard	2-3	2-1
Denial of acceptance, relief from active duty, or discharge under other appropriate directives or regulations	2-4	2-1
3. EXECUTION, QUALIFICATION OF, AND REFUSAL TO COMPLETE DD FORM 98 OR DD FORM 398		
Armed Forces Security Questionnaire (DD Form 98)	3-1	3-1
Applicants for appointment, enlistment, reappointment, or reenlistment; refusal to complete or qualification of DD Form 98 or DD Form 398	3-2	3-1
Registrants for induction; refusal to complete or qualification of DD Form 98 or DD Form 398	3-3	3-2
Interview of individuals' qualifying forms	3-4	3-3
4. INVESTIGATIONS		
Reporting information	4-1	4-1
Chronology record	4-2	4-1
Action by local commander	4-3	4-2
Action by major commander	4-4	4-4
Action by control office	4-5	4-3
Action by oversea commander	4-6	4-4
Investigations	4-7	4-4
Discharge or release from active duty; ETS	4-8	4-5

*This regulation supersedes AR 604-10, 4 November 1959, including all changes; DA message 742707, 3 December 1965; DA message 783431, 23 September 1966; DA message 843510, 12 December 1967; and DA message 845339, 27 December 1967.

	Paragraph	Page
CHAPTER 5. ACTIONS TAKEN BY HEADQUARTERS, DEPARTMENT OF THE ARMY		
Assistant Chief of Staff for Intelligence	5-1	5-1
Inter-Service Committee on Registrants	5-2	5-1
The Judge Advocate General	5-3	5-2
Department of the Army Security Screening Board	5-4	5-2
Chief of Personnel Operations	5-5	5-2
Letter of allegations	5-6	5-3
6. FIELD BOARD OF INQUIRY		
Boards in general- security matters	6-1	6-1
Field board of inquiry	6-2	6-1
Field board of inquiry—composition	6-3	6-1
Attorney-adviser	6-4	6-2
Witnesses; spectators	6-5	6-3
Hearings	6-6	6-4
Findings and recommendations	6-7	6-5
Payment of fees	6-8	6-6
7. REVIEW OF PROCEEDINGS: DISCHARGE		
Army Security Review Board	7-1	7-1
Review and recommendations	7-2	7-1
Secretary of the Army	7-3	7-2
Discharge characterization	7-4	7-2
Final actions	7-5	7-2
Notification to other agencies of unfavorable determination	7-6	7-3
8. APPLICANTS FOR ENROLLMENT IN ROTC		
Completion of DD Form 98	8-1	8-1
Investigative procedures	8-2	8-1
Disposition of cases	8-3	8-1
APPENDIX A. SAMPLE LETTER INVITING WITNESSES		
B. REFERENCES		

CHAPTER 1

GENERAL PROVISIONS

1-1. Purpose. This regulation prescribes the standard, criteria, and administrative procedures for the reporting, investigation, and disposition of military personnel in the Army; for the rejection of applicants for appointment or enlistment; and for the rejection of persons who would otherwise be inducted or involuntarily ordered into the Army, when retention in or acceptance into the Army is not clearly consistent with the interests of national security. This regulation applies to those cases in which national security is the primary reason for initiation of action. It does not, however, preclude trial by court-martial when such action is considered appropriate by commanders exercising court-martial jurisdiction, or relief from active duty or discharge under applicable regulations on grounds other than national security. Except in the case of retired members serving on active duty, relief from active duty in lieu of action under this regulation is not authorized. Action under this regulation will not be used as the *sole* basis for relief from active duty prior to the adjudication of a member's case.

1-2. Scope. This regulation applies to all members and prospective members of the U.S. Army, including the Army National Guard of the United States and the U.S. Army Reserve, whether or not on active duty or in active Federal service; applicants for enrollment in Senior ROTC and recipients of ROTC scholarships and all registrants determined to be physically, mentally, and morally qualified for induction into the U.S. Armed Forces. The Chief, National Guard Bureau, will issue appropriate implementing instructions governing members of the Army National Guard of the United States neither on active duty nor in active Fed-

eral service. This regulation does not apply to members in receipt of or entitled to receive retired pay except as otherwise provided in paragraph 3-1a(2).

1-3. Explanation of terms. *a. National security* relates to the protection and preservation of the military, economic, and productive strength of the United States, including the security of the United States Government in foreign and domestic affairs against or from espionage, sabotage, and subversion, and any and all acts designed to weaken or destroy the United States.

b. Flagging action constitutes controls initiated to suspend favorable personnel actions. See AR 600-31.

c. Credible derogatory information is information of the nature described in paragraph 2-3 received from any reliable source which, when evaluated in the light of all other available information, indicates that acceptance into or retention of the individual concerned within the U.S. Army may not be clearly consistent with the interests of national security.

d. Favorable closing under this regulation results from a determination that acceptance or retention in the Army is clearly consistent with the interests of national security. However, a favorable closing does not preclude acceptance of registrants for induction and retention of members with the notation "not eligible for a security clearance and/or assignment to specific geographical areas, UP AR 604-10."

e. Qualification of DD Form 98 (Armed Forces Security Questionnaire) refers to a "yes" answer to any question in paragraph 2,

section IV (with the exception of section 2r) of the form, or to any entry of national security significance made in the "remarks" section of the form. (National security significance with respect to entries on DD Forms 98 and 398 refers to conduct or activity within the purview of paragraph 2-3.

f. Qualification of DD Form 398 (Statement of Personal History) refers to a "yes" answer to any question in item 17 of the form, or to any entry of national security significance made in items 16 and 19 of the form or the "remarks" section thereof.

g. Refusal to complete DD Form 98 in its entirety constitutes a refusal to complete any part of the form or a claim that the information requested by the form or any part thereof is privileged under the Constitution or under Article 31, Uniform Code of Military Justice.

h. Refusal to complete DD Form 398 in its entirety constitutes a refusal to complete any part of items 16, 17, or 19 of the form, or a claim that the information requested by all or any of these items is privileged under the Constitution or under Article 31, Uniform Code of Military Justice.

i. Major command is a specially designated Army field command directly subordinate to and established by the authority of Headquarters, Department of the Army. Additionally, for the purpose of processing cases under this regulation, separate Department of the Army agencies and activities, CONUS Army Commands, USAREC, MDW, and Headquarters, DA General and Special Staff Agencies are considered major commands. The commander or chief of a major command is the *major commander*.

j. Control office is the office responsible for directing and controlling counterintelligence investigations (see AR 381-130).

k. Officer means either a commissioned or a warrant officer, unless otherwise specified.

l. Registrant is an individual registered with the Selective Service System pursuant to section 3 of the Military Selective Service Act of 1967 (50 U. S. C. App. 453).

m. Special registrant is a registrant in the medical, dental, or allied health specialist categories under the Military Selective Service Act of 1967.

n. Specific geographical area refers to the assignment location of an individual as determined by the Chief of Personnel Operations in coordination with the Assistant Chief of Staff for Intelligence.

1-4. Responsibilities. *a. Headquarters, Department of the Army.*

(1) *The Deputy Chief of Staff for Personnel* exercises overall Army Staff supervision of the Military Personnel Security Program.

(2) *The Assistant Chief of Staff for Intelligence* is responsible for the establishment of policy pertaining to the conduct of investigations, for final favorable security determinations under this regulation where appropriate, and for submitting appropriate recommendations to The Judge Advocate General and the Chief of Personnel Operations under the Military Personnel Security Program, when appropriate.

(3) *The Judge Advocate General* is responsible for the official preparation of allegations, when appropriate, in cases in which the Assistant Chief of Staff for Intelligence recommends that an individual be rejected or discharged under the provisions of this regulation.

b. Major commanders are responsible for the maintenance of an effective military personnel security program as provided in this regulation at all installations and within all activities under their command jurisdiction. This includes responsibility for flagging action under section II, AR 600-31.

1-5. Command authentication. All requests or recommendations submitted under this regulation will be submitted in command channels. Below major command headquarters level, such requests or recommendations will be submitted over the personal signature of the commander concerned.

1-6. Effect of favorable determination. *a.* If proceedings under this regulation result in a determination that acceptance for enlistment, appointment, or induction into the U.S. Army or retention of the member concerned on active duty or in a Reserve component is warranted, such a determination will be conclusive and binding and, in the absence of subsequently developed derogatory information, may support assignment of the member to any regular duty for which qualified.

b. In those cases in which a favorable determination has been made—

(1) The notation "paragraph 17*d*, AR 604-5 applies" will be entered on the individual's personnel records (DA Form 66, Officer Qualification Record or DA Form 20, Enlisted Qualification Record) by the person having custody of those records.

(2) The DD Form 98 and/or DD Form 398, if qualified, will be annotated by entering the notation "Paragraph 1-6, AR 604-10 applies" in the "remarks" section of the form. This entry will be authenticated by the signature and typed or stamped name of an officer and will indicate the date the entry was made and the authority by which the case was favorably closed.

c. In cases in which a major commander determines that an entry on an individual's DD Form 98 or DD Form 398 does not constitute a qualification within the meaning of paragraphs 1-3*e* or *f*, the DD Form 98 and/or DD Form 398 will be annotated by entering the notation "Entry contained herein is not a qualifica-

tion as defined in AR 604-10" in the "remarks" section of the form. This entry will be authenticated by the signature and typed or stamped name of an officer having authority to make such entry.

1-7. Effect of notation that individual is not eligible for a security clearance and/or assignment to specific geographical areas. *a.* Proceedings under this regulation resulting in a determination that an individual is to be retained or accepted for service with the notation "not eligible for a security clearance and/or assignment to specific geographical areas, UP AR 604-10" are final unless changed by Headquarters, Department of the Army, upon recommendation of the major commander submitted in the manner prescribed by paragraph 4-4.

b. Upon the individual's discharge, the notation "Paragraph 2-5, AR 601-210 applies" will be entered in item 30, DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge).

c. When an individual on active duty whose records are annotated with the notation described in *a* above is relieved from active duty and transferred to a Reserve component, his records will be further annotated "not eligible for extended active duty."

1-8. Entries on field personnel records. Except as indicated in paragraphs 1-6, 1-7, 3-3, and 7-5*c*, no entry will be made in any military field personnel record which indicates the final determination made in a case processed under this regulation.

CHAPTER 2

STANDARD AND CRITERIA

2-1. Standard. The standard for appointment, enlistment, or induction into, or retention within the Army shall be that, based on all the available information, it is determined that the appointment, enlistment, induction, or retention is clearly consistent with the interests of national security. When such a determination has been made, the following actions may be taken, as appropriate:

a. Appointment, reappointment, enlistment, reenlistment, induction, or voluntary order or recall to active duty.

b. Induction or retention with the notation that the individual is not eligible for security clearance and/or assignment to specific geographical areas.

2-2. Policy. The Department of the Army will assume, in the absence of evidence to the contrary, that the acceptance or retention of any individual is clearly consistent with the interests of national security. However, when it is established that acceptance of an individual is not clearly consistent with the interests of national security, he will not be accepted. Similarly, when it is established that the retention of an individual is not clearly consistent with the interests of national security, he will be discharged.

2-3. Application of standard. The activities and associations listed in table 2-1, whether current or past and although not all-inclusive, are of varying degrees of seriousness and warrant initiation of action to determine whether acceptance or retention of the individual is clearly consistent with the interests of national security. *The existence of information falling within the scope of these criteria does not in it-*

self constitute a bar to acceptance or retention. The ultimate determination as to whether acceptance or retention of an individual is clearly consistent with the interests of national security is a reasoned judgment made after consideration of all the factors in a particular case. In making the determination in cases concerning officers, it must be considered that an officer holds a position of trust by virtue of his office, and a determination under this regulation should reflect consideration of this factor. The factors listed in table 2-1 interpret rather than limit the criteria and are not all-inclusive.

2-4. Denial of acceptance, relief from active duty, or discharge under other appropriate directives or regulations. Persons whose conduct falls within the criteria described below are examples of individuals whose acceptance or retention may not be warranted under the standard prescribed in paragraph 2-1.

a. Willful violation or disregard of security regulations;

b. Intentional unauthorized disclosure to any person of classified information, or of other information the disclosure of which is prohibited by law;

c. Any deliberate misrepresentation, falsification, or omission of material fact;

d. Any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, habitual use of intoxicants to excess, drug addiction, or sexual perversion;

e. All other behavior, activities, or associations which tend to show that the member is not reliable or trustworthy. *Action will not be initiated to deny acceptance or to discharge such persons under this regula-*

tion unless the criteria set forth in paragraph 2-3 are involved to the degree that national security is the primary consideration and action under other directives or regulations or the Uniform Code of Military Justice has been determined to be inappropriate or has proved unsuccessful. If any question exists as to the propriety of instituting either elimination proceedings under this or other regulations or ju-

dicial proceedings, advice from the appropriate Staff Judge Advocate should be obtained. In forwarding a person's file to the Chief, U.S. Army Personnel Security Group, Fort Holabird, MD 21219, the reasons for failure or refusal to take action under other directives, regulations, or the Uniform Code of Military Justice will be enumerated.

Table 2-1

<i>Criteria</i>	<i>Factors</i>
<p>1. Commission of any act of sabotage, espionage, treason, or sedition, or attempts thereat or preparation therefor, or conspiring with or aiding or abetting another to commit or attempt to commit any act of sabotage, espionage, treason or sedition.</p> <p>2. Establishing or continuing a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, or revolutionist, or with an espionage or other secret agent or representative of a foreign nation whose interests are inimical to the interest of the United States, or with any person who advocates the use of force or violence to overthrow the Government of the United States or the alteration of the form of Government of the United States by unconstitutional means.</p>	<p>Whether the investigation discloses that there are sufficient grounds to establish a reasonable belief that an individual's activities fall within this criterion.</p> <p>a. In considering an individual's sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, revolutionist, espionage or other secret agent or representative of a foreign nation whose interests are inimical to the United States, only the following factors will be considered:</p> <p style="padding-left: 40px;">Whether the individual had knowledge of or could reasonably have been expected to know of the subversive activities of the associate; if so, a satisfactory explanation should be given for a failure to report the subversive activities of the associate to the proper authorities.</p> <p>b. In considering an individual's sympathetic association with any person who advocates the use of force or violence to overthrow the Government of the United States or the alteration of the form of Government of the United States by unconstitutional means, the following factors will be considered:</p> <p style="padding-left: 40px;">(1) The seriousness and significance to the national security of the associate's activities.</p> <p style="padding-left: 40px;">(2) Extent and nature of the sympathetic association.</p> <p style="padding-left: 40px;"><i>Note.</i> The term "sympathetic" as it is</p>

Table 2-1—Continued

*Criteria**Factors*

- used in these criteria means sympathetic association with an individual in relation to his subversive activities, aims, or beliefs. To be considered sympathetic, the association must have continued after the person involved had knowledge of the associate's subversive beliefs or activities, or knowledge of the associate's membership in or affiliation with a subversive organization. Such knowledge may be inferred.
3. Advocacy of use of force or violence to overthrow the Government of the United States, or of the alteration of the form of Government of the United States by unconstitutional means.
- c. In addition to knowledge, the following factors will be considered:
- (1) Whether the association is the result of, and limited to, normal business or professional relations or chance or casual meetings.
 - (2) The circumstances which led to establishment of the association (e.g., whether the individual voluntarily chose to associate with the persons concerned, or whether the association was a result of a family relationship; a sympathetic association will not be inferred solely on the basis of family relationship).
 - (3) Whether the individual rejected the associate's beliefs and activities once he had knowledge of them.
 - (4) Age and status of the individual at the time of the association.
- a. The time or period during which the statement(s) or other activity took place.
- b. Age, maturity, and status of the individual at the time of the incident.
- c. Purpose in making the statement(s), e.g., passive persuasion, incitement to action, etc.
- d. The circumstances under which the statement(s) or other activity took place, e.g., in jest, in argument, while disgruntled, while inebriated, etc.
- e. Whether the statement(s) were made spontaneously, thoughtlessly, or after long deliberation or study.

Table 2-1—Continued

<i>Criteria</i>	<i>Factors</i>
<p>4. Membership in, or affiliation or sympathetic association with, any foreign or domestic organization, association, movement, group, or combination of persons which is totalitarian, Fascist, Communist, or subversive, or which has adopted, or shows, a policy of advocating or approving the commission of acts of force or violence to deny other persons their rights, under the Constitution of the United States, or which seeks to alter the form of Government of the United States by unconstitutional means. (An organization, movement, or group, officially designated by The Attorney General of the United States to be totalitarian, Fascist, Communist, or subversive, to advocate or approve forcible or violent denial of constitutional rights, or to seek alteration of the form of Government of the United States by unconstitutional means, shall be presumed to be of a character thus designated until the contrary be established.)</p> <p><i>Note.</i> A list of organizations designated by The Attorney General is set forth in AR 604-45.</p>	<p>f. Any other information tending to establish the individual's actual convictions.</p> <p>a. Time or period of membership, affiliation, or association.</p> <p>b. Age, maturity, and status of individual at the time of the individual's membership, affiliation, or association.</p> <p>c. Extent of domination or control of the organization by subversive elements at the time of the individual's membership, affiliation, or association.</p> <p>d. Whether the individual discontinued his membership, affiliation, or association at the time the organization was designated by The Attorney General, or its subversive character was otherwise established, or when he might reasonably be supposed to have acquired knowledge of its character.</p> <p>e. Whether the individual was or should have been aware of the subversive aims of the organization.</p> <p>f. Extent of the individual's activities in the organization (e.g., was he an official; did he participate actively and publicly in meetings, social events, demonstrations, or parades, etc.; did he recruit other members, did he subscribe to literature of the organization, etc.).</p> <p>g. Whether the individual supported the organization financially, or participated in drives, benefits, etc., for strengthening the organization.</p> <p>h. Reasons advanced by the individual for membership, affiliation or association, e.g., to obtain low-cost insurance, improving conditions of minority groups, or belief in other alleged objectives of a patriotic or similar acceptable nature, social activities, etc.</p> <p>i. Attitude of the individual toward any non-subversive element of the organization.</p> <p>j. Steps taken by the individual to disaffiliate himself from the organization or disavow its subversive aims.</p>

Table 2-1—Continued

<i>Criteria</i>	<i>Factors</i>
5. So performing or attempting to perform his duties, or otherwise acting, as to serve the interests of another government in preference to the interests of the United States.	Same as 1 above.
6. Intentional failure or refusal to sign the DD Form 98; refusal to answer completely questions contained in DD Form 98 or DD Form 398; or otherwise failing or refusing to answer any pertinent question propounded in the course of an official investigation, interrogation, or examination conducted for the purpose of ascertaining the existence or extent, or both, of conduct of the nature described in 1 through 5 above, and 7 through 13 below.	<p>a. Purpose or reasons for failure or refusal to sign or answer pertinent questions; e.g., advice of counsel, lack of understanding, etc. (Action under the Security Program is warranted by a refusal to furnish information which the United States Government is entitled to know for the national security.)</p> <p>b. Whether subsequent to refusal, testimony, or other information pertinent to the issue was given.</p> <p>c. Whether the information which was withheld was pertinent to the security qualifications of the individual.</p>
7. Participation in the activities of an organization as a front for an organization referred to in 4 above, when his personal views were sympathetic to the subversive purposes of such organization.	Factors in 4 above, as applicable.
8. Participating in the activities of an organization with knowledge that it has been infiltrated by members of subversive groups under circumstances indicating that the individual was part of, or sympathetic to, the infiltrating element or sympathetic to its purpose.	Factors in 4 above, as applicable.
9. Participation in the activities of an organization referred to in 4 above, in a capacity where he should reasonably have had knowledge of the subversive aims or purposes of the organization.	Factors in 4 above, as applicable.
10. Sympathetic association with a member or members of an organization referred to in 4 above.	Factors in 2 and 4 above, as applicable.
11. Currently maintaining a close association with a person who has engaged in activities or associations of the type referred in in 1 through 10 above. A close continuing association may be considered to exist if the individual lives at the same address	<p>a. The circumstances which led to establishment of the association (e.g., whether the individual voluntarily chose to associate with the person concerned, or whether the association was the result of a family relationship).</p>

Table 2-1—Continued

<i>Criteria</i>	<i>Factors</i>
<p>as, frequently visits, or frequently communicates with such a person.</p>	<p>b. The time and duration of the association.</p> <p>c. The nature, extent, and frequency of, and the reasons for, the contacts by the individual with the associate.</p> <p>d. The nature, extent, and significance of the subversive activities of the associate.</p> <p>e. Whether the associate has attempted to solicit official information from the individual, and if so, the individual's reaction to those attempts.</p> <p>f. Whether the individual can be or has been coerced or influenced by the associate.</p> <p>g. Whether the individual knows or reasonably should have known of the associate's membership in designated organizations, or of his subversive activities or views.</p> <p><i>Note.</i> This criterion may be applicable even though the individual has not demonstrated any sympathy for the subversive activities and views of the associate. <i>For example,</i> it may be applicable if there is reason to believe that through the association the individual might disclose classified information to the associate either unintentionally, or as the result of coercion, influence, or pressure, or otherwise act contrary to the security interests of the United States. In the absence of other derogatory information having security significance, this criterion will not be applicable in the case of an individual who will not be in a position to adversely affect the security of the United States.</p>
<p>12. Close continuing association of the type described in 11 above, even though later separated by distance, if the circumstances indicate that renewal of the association is probable.</p>	<p>Factors in 11 above, as applicable.</p>
<p>13. Any facts (other than as set forth in paragraph 2-4) which furnish reason to believe that the individual may be subjected to coercion, influence, or pressure which may cause him to act contrary to the best interests of national security. Among mat-</p>	<p>a. Attempts, if any, to so coerce, influence, or exert pressure on the individual and his reactions thereto.</p> <p>b. With respect to relatives in areas whose interests are inimical to the security of the United States:</p>

Table 2-1—Continued

<i>Criteria</i>	<i>Factors</i>
ters which should be considered in this category would be the presence of a spouse, parent, brother, sister, or offspring in a nation, a satellite thereof, or an occupied area thereof, whose interests are inimical to the security of the United States.	(1) If born a citizen of a foreign country, the circumstances under which the individual left his native country, and time elapsed since his departure.
	(2) Recency or regularity of contact with relatives or friends in a foreign country.
	(3) Expression of attitude by the individual as to the form of government of native or foreign country.
14. Any excessive indebtedness, recurring financial difficulties, unexplained affluence, or repetitive absences without leave which furnish reason to believe that the individual may act contrary to the best interests of national security.	

CHAPTER 3

**EXECUTION, QUALIFICATION OF AND REFUSAL
TO COMPLETE DD FORM 98 OR DD FORM 398**

3-1. Armed Forces Security Questionnaire (DD Form 98). *a.* The following individuals will execute DD Form 98 as prescribed in this chapter:

(1) Each applicant for appointment, enlistment, reappointment, or reenlistment will execute the form prior to such action, regardless of his component or duty status.

(2) Each member of a Reserve component and each retired member entering on active duty with his consent will execute the form prior to entry on active duty, except for periods of ACDUTRA of 90 days or less if a previously executed form is contained in his record.

(3) Each member of a Reserve component and each retired member involuntarily entering on active duty or called into active Federal service will execute the form immediately upon reporting to his first duty assignment, except for periods of ACDUTRA of 90 days or less if a previously executed form is contained in his record.

(4) Each registrant will execute the form prior to induction.

b. The Department of the Army may prescribe other conditions requiring execution of the form. Execution of the form will be witnessed by an officer, enlisted member in grade E-6 or above, or Department of the Army civilian in grade GS-5 or above, who will enter the statement "Executed prior to oath of office or reenlistment" in the "remarks" section of the form. The individual concerned and the witness will each initial this entry.

c. DD Forms 98 executed without qualifica-

tion will be attached to the duplicate copy of the enlistment, induction, or appointment record and retained with the service record.

3-2. Applicants for appointment, enlistment, reappointment, or reenlistment; refusal to complete or qualification of DD Form 98 or DD Form 398. *a.* An applicant who refuses to complete DD Form 98 or DD Form 398 in its entirety will be denied appointment, enlistment, reappointment, or reenlistment, as appropriate. The following data will be entered on the DD Form 98 or DD Form 398, as appropriate, in the "remarks" section and will be followed by the typed or stamped name and actual signature of a person empowered to witness execution of the DD Form 98:

Name:

Date of birth:

Place of birth:

Home address:

The above-named individual refused to
(execute this form) (complete this form
in its entirety) on _____

(Date)

The DD Form 98 or DD Form 398, as appropriate, will be forwarded for disposition through command channels and the Chief, U.S. Army Personnel Security Group, Fort Holabird, MD 21219 to the United States Army Investigative Records Repository, Fort Holabird, MD 21219 for filing.

b. An applicant who qualifies his DD Form 98 or DD Form 398 will not be appointed or enlisted until action under chapters 4 through 8 has been completed. Procedures prescribed in 3-3*h* will be followed.

c. No applicant will be appointed or enlisted

AR 604-10

without the specific approval of the Secretary of the Army if he was previously refused appointment or enlistment or was relieved from active duty or discharged by another armed force for national security reasons.

d. A member of the Army National Guard of the United States, the U.S. Army Reserve, or a retired member of the Army, being considered for order to extended active duty with his consent, who refuses to complete DD Form 98 or DD Form 398 in its entirety or who qualifies either of these forms will not be ordered to active duty until action under the chapters 4 through 8 has been completed.

3-3. Registrants for induction; refusal to complete or qualification of DD Form 98 or DD Form 398. *a.* A registrant who qualifies DD Form 98 or DD Form 398 or refuses to complete either form in its entirety will be eligible for induction, if otherwise qualified, as long as the qualification of the form does not acknowledge membership in an organization listed on The Attorney General's list (see AR 604-45) or that he is a Communist.

b. In cases arising under *a* above, the Commanding General, U.S. Army Recruiting Command, Hampton, VA. will initiate DA Form 873 (Certificate of Clearance and/or Security Determination Under EO 10450) with the notation "Acceptable for induction but not eligible for a security clearance and/or assignment to specific geographical areas until such time as an appropriate investigation can be conducted in accordance with the provisions of AR 604-10 to determine subject's eligibility for such clearance and assignment and/or retention in the Army." This form will be the first form in the individual's Military Personnel Records Jacket, U.S. Army (DA Form 201) forwarded to the reception station or the station of initial assignment. The purpose of this form is to alert personnel so that the entry "Not eligible for a security clearance, see paragraph 3-3b, AR 604-10" will be made in item 18 of DA Form 20 (Enlisted Qualification Record). Copies of DA Form 873 will also be forwarded by the Commanding General, U.S. Army Recruiting Command, to the gaining major com-

mander; the Chief of Personnel Operations, ATTN: EPPAW, Department of the Army, Washington, DC 20310; the Commanding Officer, U.S. Army Personnel Services Support Center, Fort Benjamin Harrison, IN 46249; and the Chief, U.S. Army Personnel Security Group, Fort Holabird, MD 21219. The Commanding General, U.S. Army Recruiting Command will notify the Commanding General, U.S. Army Intelligence Command, ATTN: IC-DI-SI, Fort Holabird, MD 21219, by priority message (with information copies to Chief of Personnel Operations, Department of the Army, Washington, DC 20310; Chief, United States Army Personnel Security Group; and the major commander concerned) of each instance of induction of an individual who has qualified his DD Form 98 or DD Form 398 in the manner described in *a* above. The message will include information that an investigation has been initiated and the result of the investigation will be forwarded to the major commander. In the event of MINIMIZE, notification will continue by message.

c. A registrant who indicates membership in an organization listed on The Attorney General's list or who states on a signed DD Form 98 or DD Form 398 that he is a Communist will not be inducted until action under the following chapters of this regulation has been taken and the case has been favorably closed. The Commanding General, U.S. Army Recruiting Command, Hampton, VA, will insure that induction of the registrant is held in abeyance until the case has been resolved and will notify Chief, U.S. Army Personnel Security Group, Fort Holabird, MD 21219 of the individual's induction following favorable resolution of the case. *It is emphasized that processing under this regulation will not be undertaken for registrants who are otherwise disqualified for induction.* Consequently, when a registrant whose case is being processed under this regulation becomes disqualified for induction for reasons other than national security, immediate telegraphic notification of this fact will be made to the Chief, U.S. Army Personnel Security Group, Fort Holabird, Maryland, with information copy to the Commanding General,

U.S. Army Intelligence Command, ATTN: IC-DI-SI, Fort Holabird, MD 21219.

d. Refusal to complete DD Form 98 or DD Form 398 in its entirety is not itself a basis for denial of induction or for elimination of members previously inducted. In such cases, the Chief of Personnel Operations may declare the registrant acceptable for induction or retention, and cause the notation "Not eligible for security clearance and/or assignment to specific geographical areas, UP AR 604-10" to be entered on appropriate personnel records.

e. A registrant who is willing to submit to induction, but refuses to subscribe to the oath of allegiance or to (the oath of service and obedience), as appropriate, will not be denied induction if he is otherwise eligible therefor. If otherwise eligible, he will be inducted and the notation "Not eligible for security clearance and/or assignment to specific geographical areas because of refusal to subscribe to (the oath of service and obedience)," will be entered on his DA Form 20 (Enlisted Qualification Record).

f. A registrant who refuses to complete DD Form 98 or DD Form 398 in its entirety will be requested to enter an explanation for his refusal in the "remarks" section of the form and to sign the form. A person empowered to witness the execution of DD Form 98 will affix his own signature and grade or title. If a registrant refuses to complete DD Form 98 or DD Form 398 in its entirety and refuses to enter an explanation for the refusal in the "remarks" section of the form and sign the form, the following statement will be entered in the "remarks" section of the form:

(Registrant's name), a registrant under the Military Selective Service Act of 1967, was this date given an opportunity to execute DD Form (enter number of form), and in my presence he refused to do so.

This statement will be signed by a person empowered to witness the execution of DD Form 98 (para 3-1b).

g. A special registrant who qualifies or refuses to complete DD Form 98 or DD Form 398 in its entirety will not be inducted until ac-

tion under the chapters 4 through 8 has been completed.

h. In cases arising under *a*, *c*, *e*, or *g* above or paragraph 3-2b, the commanding officer of the Armed Forces Examining and Entrance Station will execute DA Form 2784 (Request for and Results of Personnel Security Action) and will forward it, together with the DD Form 98, DD Form 398, DD Form 1584 (Department of Defense National Agency Check Request), and FD Form 258 (FBI, U.S. Department of Justice, Fingerprint Card) through channels specified by the Commanding General, U.S. Army Recruiting Command, to the Commanding General, U.S. Army Intelligence Command, ATTN: ICDI-SI, Fort Holabird, MD 21219. In cases arising under *c*, above the action agency listed on DA Form 2784 will be "Chief, United States Army Personnel Security Group;" in all other cases, the action agency will be the appropriate major command. Cases concerning individuals entering the Army other than through an Armed Forces Examining and Entrance Station will forward to the major commander concerned, ATTN: Deputy Chief of Staff for Intelligence (DCSI) or the Assistant Chief of Staff, G-2, as appropriate. A statement as to whether or not the individual is otherwise qualified for induction, enlistment, or appointment, will be included. An investigation under chapter 4 will not be conducted if the individual is not otherwise qualified for entry into the Army.

3-4. Interview of individuals' qualifying forms.

a. Before the qualification of DD Form 98 or DD Form 398 is used as a basis for the initiation of an investigation pursuant to this regulation, a Counterintelligence Special Agent will interview the individual to—

(1) Advise the individual of his rights under the Fifth Amendment to the Constitution and under Article 31, Uniform Code of Military Justice;

(2) Explain the reason behind the Army's concern over qualification of the form;

(3) Advise the individual of the effect of proceedings under this regulation upon his

status in the Army, including the effect of paragraph 1-7; and

(4) Offer him the opportunity to volunteer as complete a statement as he desires to clarify his position and to furnish any information which may be useful in making a determination in his case.

b. It is preferable that any statement given be a sworn statement and that any information furnished be under oath, but such action will be at the option of the individual. Approval by the Assistant Chief of Staff for Intelligence to

conduct an interview under oath is not required. In cases in which the individual has cooperated in furnishing information which in itself is insufficient to warrant an unfavorable recommendation under this regulation, any investigation predicated thereon will be classified as a personnel security investigation. At such time as the investigation develops credible derogatory information, or upon notification by the control office that a complaint-type investigation has been initiated on an individual, the major commander will initiate flagging action under section II, AR 600-31.

CHAPTER 4

INVESTIGATIONS

4-1. Reporting information. *a.* It is the duty of every member of the Army to report to his commanding officer any information which indicates that retention of any member of the Army may not be clearly consistent with the interests of national security. Examples of information which provide a basis for reporting are contained in paragraph 2-3.

b. Reports concerning members of the Reserve components not serving on active duty and in status as indicated will be referred to the following commanders:

(1) Individual Ready Reserve—Area commander, oversea commander (as defined in para 1-3); CO, U.S. Army Reserve Components Personnel Center, Fort Benjamin Harrison, IN 46249, or CO, U.S. Army Administration Center, St. Louis, MO 63132, as appropriate.

(2) Standby Reserve and Retired Reserve—CO, USAAC.

(3) Troop Program Units, USAR—Appropriate area commander in whose area the individual resides.

(4) ARNGUS—Chief, National Guard Bureau, Washington, DC 20310. If the status of a member of the Reserve component cannot be determined, inquiry may be made to CO, USAAC.

c. Whenever derogatory information of a national security nature concerning an individual comes to the attention of a commander, the procedures described in paragraph 4-3 or 4-4, as appropriate, will be followed. If any doubt exists as to the individual's physical location, the commander possessing the adverse information will ascertain the individual's assignment by the most expeditious means and will

notify the major commander concerned that he is in possession of derogatory information of a national security nature concerning a member of his command. The assignment of an officer serving on active duty will be obtained from The Adjutant General, ATTN: AGPF, Department of the Army, Washington, DC 20310; the assignment of an enlisted member serving on active duty will be obtained from the Commanding Officer, U.S. Army Personnel Services Support Center, Fort Benjamin Harrison, IN 46249. The assignment of a member of the Army Reserve not serving on active duty will be obtained from the Commanding Officer, U.S. Army Administration Center, St. Louis, MO 63132; and the assignment of a member of the Army National Guard serving neither on active duty nor in active Federal service will be obtained from the Chief, National Guard Bureau, Washington, DC 20310.

d. The commander concerned, or the Chief, National Guard Bureau (in the case of members of the Army National Guard of the United States) will forward reports received by him through intelligence channels to the major command concerned. The major commander will request such investigation as necessary to substantiate or disprove the allegation or suspicion, and, if substantiated, will initiate action under this regulation.

4-2. Chronology record. Information pertaining to each action taken in a case initiated under this regulation will be recorded in the space provided on DA Form 2217 (Chronology Record (Military Personnel Security Case)). The term "action agency" used in this form refers to each Headquarters, Department of the Army agency, and each organizational segment

of each echelon of command through which the case passes. DA Form 2217, original only, will be prepared by the commander requesting the initiation of an investigation under this regulation. The initiator of the proceeding will complete the heading of the form. When his action is completed, the Date Forwarded and Next Addressee (action agency) blocks will be completed. Each entry will be stamped, typed, or printed in ink. Subsequent entries will be made by completing the Date Received, Date Forwarded, and Next Addressee blocks. If additional space is required, continuation sheets (8- by 10½-inch bond paper) will be used and attached securely to the form. The heading, consisting of the subject's name, SSAN, service, or Selective Service number, and grade, if any, will be entered at the top of each continuation sheet. DA Form 2217 will be the first paper following the Security Classification cover, where applicable. Upon completion of the last action, DA Form 2217 will be filed with the case file.

4-3. Action by local commander. Upon receipt of derogatory information within the scope of paragraph 2-3 concerning a member, the following actions will be taken by the local commander:

a. If the information available is sufficient to support a positive recommendation that acceptance or retention of the member concerned is warranted, the commander will so recommend and forward the case through command channels to the major commander and will include a statement setting forth the reasons for the recommendation. During the period between forwarding and approval of the recommendation, the member may be retained in his current duty assignment.

b. If the information available is not sufficient to support a favorable recommendation that acceptance or retention of the member concerned is warranted, the commander will recommend that the major commander request initiation of an investigation. The recommendation will be forwarded through command channels to the major commander and will be

accompanied by all correspondence concerned, together with DD Form 98, four completed copies of DD Form 398, six completed copies of DD Form 1584, and FD Form 258. Pending a final determination in the case, the local commander may take such action as is necessary to protect the security of his command, including suspension of security clearance, if any, and denial of access to classified defense information. Pending the issuance of DA Form 268 (Report for Suspension of Favorable Personnel Actions) by the major commander, the local commander will insure that the personnel actions described in paragraph 2, AR 600-31, are not accomplished without the prior approval of Headquarters, Department of the Army. In cases involving members of the Army National Guard of the United States neither on active duty nor in active Federal service, the major commander will forward a copy of DA Form 268 to the Chief, National Guard Bureau, and the appropriate State adjutant general requesting that action be initiated as required by NGR 35.

c. Requests for removal of suspension of favorable personnel action in cases involving the Military Personnel Security Program will be submitted through the major commander to The Adjutant General, ATTN: AGPO-SEF, Department of the Army, Washington, DC 20315 in writing or by electrical message (para 5b, AR 600-31). In the event of MINIMIZE, notification will continue by message.

4-4. Action by major commander. A recommendation based on the criteria set forth in paragraph 2-3 must be made by the major commander in each case arising under this regulation except those involving registrants arising under paragraph 3-3c. The recommendation will indicate whether, based on all of the available information, acceptance, retention, rejection, or discharge is believed to be warranted under the standard set forth in paragraph 2-1. The procedures outlined in this paragraph will be followed.

a. When the information in the possession of the major commander is sufficient to support a favorable recommendation without the neces-

sity for further investigation, the major commander may recommend favorable closing of the case and—

(1) Forward the case file (the United States Army Investigative Records Repository copy of the Report of Investigation, and the individual's dossier, if any) to the Assistant Chief of Staff for Intelligence, Department of the Army, ATTN: Chief, U.S. Army Personnel Security Group, Fort Holabird, MD 21219;

(2) Take no further action until notified that the Assistant Chief of Staff for Intelligence has approved the favorable closing of the case; and

(3) Upon receipt of approval of favorable closing of the case—

(a) Take action required by AR 600-31;

(b) Restore the member to regular duty as prescribed by paragraph 1-6a, or direct that the applicant be appointed or enlisted and take the actions prescribed by paragraph 1-6b; and

(c) When applicable, forward a letter to the subordinate commanders concerned, setting forth the favorable determination. In cases involving qualified DD Form 98 and DD Form 398, the entry "paragraph 4-4a, AR 604-10 applies" will be made in the "remarks" section of the DD Form 98 and DD Form 398. This entry will be authenticated by the signature and typed name of an officer and will indicate the date that the entry was made.

b. When the information in the possession of the major commander is insufficient to support a recommendation for either favorable closing or for rejection or elimination, the major commander will request that the control office initiate an investigation, and will take flagging action under AR 600-31. Upon receipt of the completed investigation from the control office, the major commander may recommend favorable closing of the case as prescribed in a above or he may make one of the following recommendations as to its eventual disposition:

(1) Discharge in the interests of national security and the type of discharge.

(2) Retention on active duty.

(3) Retention in the appropriate Reserve component.

(4) Retention on active duty with the notation that the member is "not eligible for a security clearance and/or assignment to specific geographical areas, UP AR 604-10."

(5) Retention in the appropriate Reserve component with the notation that the member is "not eligible for a security clearance and/or assignment to specific geographical areas, UP AR 604-10."

(6) Acceptance of applicant or special registrant for appointment or enlistment.

(7) Rejection of applicant or special registrant for appointment or enlistment.

(8) Acceptance of special registrant for induction with the notation "not eligible for a security clearance and/or assignment to specific geographical areas, UP AR 604-10."

If continued processing of the case is recommended, the major commander will forward the case to the Assistant Chief of Staff for Intelligence, Department of the Army, ATTN: Chief, U.S. Army Personnel Security Group, Fort Holabird, MD 21219. Original copies of DD Form 98 and DD Form 398 and the major command recommendation must accompany the case. The major commander will also direct that the actions prescribed by 4-3(2) be taken or continued by the local commander.

4-5. Action by control office. When an individual has qualified or refused to complete DD Form 98, DD Form 398, or FD Form 258 in its entirety, or has refused to take the oath of allegiance or the oath of service and obedience, or information is received that the individual is involved in activity of the type described in paragraph 2-3, the control office will conduct a limited investigation (sec. IV, AR 381-130), including a subject interview (para 3-4) or a reinterview, if appropriate, and will simultaneously notify the appropriate major commander, who will take flagging action under AR 600-31. Completed investigations involving registrants (other than special registrants) arising under paragraph 3-3c will be forwarded by the control office to the Assistant Chief of Staff for

Intelligence, Department of the Army, ATTN: Chief, U.S. Army Personnel Security Group, Fort Holabird, MD 21219 for further processing. All other completed investigations will be forwarded or returned to the appropriate major command for action under paragraph 4-4.

4-6. Action by oversea commander. It is recognized that certain military personnel assigned to oversea commands (i.e., commands other than CONUS major commands) should not remain in any assignment in the oversea command concerned because of possible disloyalty or disaffection. If, after appropriate investigation in accordance with this regulation, a determination is made by the oversea commander that a member of his command constitutes such a risk and should be returned to CONUS, he may order the member's return when approval is granted by Chief of Personnel Operations. *In no case should this action be used in lieu of disciplinary action or discharge under other regulations.* Orders returning military personnel to CONUS under this paragraph will clearly refer to paragraph 4-6, AR 604-10, as the authority for the action. Prior to the issuance of travel orders, the losing commander will notify The Adjutant General, ATTN: AGPO-SEF, Department of the Army, Washington, DC by electrically transmitted message (with information copies to the appropriate returnee-reassignment station, the Chief of Personnel Operations, Department of the Army, Washington, DC 20310, and the Assistant Chief of Staff for Intelligence, Department of the Army, ATTN: Chief, U.S. Army Personnel Security Group, Fort Holabird, MD 21219), of the pending assignment, citing the individual's name, rank, social security account number, the paragraph, special order number, issuing headquarters and date, estimated time of arrival, expiration of term of service, home of record, and authority for reassignment. In the event of MINIMIZE, notification will continue by message. The losing commander will take flagging action under AR 600-31 prior to the individual's departure, and the command of ultimate assignment will insure that flagging action is continued. The losing commander will

forward by the most expeditious means two copies of the report of investigation and orders to the Assistant Chief of Staff for Intelligence, Department of the Army, ATTN: Chief, U.S. Army Personnel Security Group, Fort Holabird, MD 21219. The Chief of Personnel Operations, in coordination with the Assistant Chief of Staff for Intelligence, will determine an appropriate assignment.

4-7. Investigations. a. Investigations initiated under this regulation will be conducted by the appropriate investigative agency or command of the Department of the Army in accordance with AR 381-130 and FM 30-17.

b. Every effort will be made to avoid duplication of investigations conducted by other Department of Defense or Federal agencies the reports for which contain factual findings and which are sufficient in scope and detail to permit a determination under this regulation.

c. Reports and other information developed through investigations conducted under the Military Personnel Security Program are the property of the agencies concerned, except that investigative information concerning registrants will be furnished to the Department of the Navy or Department of the Air Force upon the registrant's induction into either of these services. Reports and other investigative material will be maintained in confidence and will not be divulged except as provided in AR 381-130. Release of information pertaining to investigations of members of the Army National Guard of the United States derived from the Federal Bureau of Investigation will be in accordance with procedures prescribed by the Assistant Chief of Staff for Intelligence, the Federal Bureau of Investigation, and the Chief, National Guard Bureau. Investigative files will not be furnished to any State adjutant general or to other Army National Guard personnel unless such personnel are serving on active duty or in active Federal service.

d. Notwithstanding any other provisions of this regulation, in cases where retention within the Army facilities investigation by other Federal agencies or prosecution by the

Department of Justice, such retention may be authorized upon request of the agency concerned if not inconsistent with paragraph 4-8. Similarly, administrative proceedings under this regulation may be suspended pending completion of necessary investigation if advice is received from the investigative agency concerned that its mission would be hampered by institution of such proceedings.

4-8. Discharge or release from active duty; ETS. *a.* The major commander will notify the Assistant Chief of Staff for Intelligence, Department of the Army, ATTN: Chief, U.S. Army Personnel Security Group, Fort Holabird, MD 21219, of any member whose case is

being processed under the provisions of this regulation whom a commander proposes to relieve from active duty or discharge for any reason other than for ETS. In order to preclude inadvertent retention beyond the member's expiration of term of service, major commanders will comply with paragraph 6, AR 600-31.

b. If release from active duty and transfer to a Reserve component prior to completion of action under this regulation is directed by Headquarters, Department of the Army, the notation "paragraph 2-5, AR 601-210 applies" will be entered in item 30, DD Form 214 issued to the member.

CHAPTER 5

ACTIONS TAKEN BY HEADQUARTERS, DEPARTMENT OF THE ARMY

5-1. Assistant Chief of Staff for Intelligence.

a. The U.S. Army Personnel Security Group, Fort Holabird, Maryland, a special field activity of the Assistant Chief of Staff for Intelligence, will review all cases received from the control office and the major commands and will take one of the following actions for the Assistant Chief of Staff for Intelligence, as appropriate:

(1) When the derogatory information contained in the file is deemed sufficient to warrant discharge or denial of appointment, enlistment, or induction, the case will be forwarded to The Judge Advocate General with a recommendation that he prepare appropriate allegations.

(2) When the derogatory information contained in the file is deemed insufficient to warrant discharge or denial of appointment, enlistment, or induction—

(a) The case will be favorably closed and the major commander will be so informed; or

(b) The case will be forwarded with the appropriate recommendation to the Chief of Personnel Operations, Department of the Army, if the individual is considered acceptable for induction or retention with the notation that he is not eligible for a security clearance and/or assignment to specific geographical areas.

(3) When the derogatory information is insufficient to support a recommendation, the case may be returned to the appropriate control office for further investigation or a subject interview, as appropriate.

b. When minor derogatory information is disclosed during screening of intelligence files,

the Chief, U.S. Army Personnel Security Group may close a case favorably without referral to the major command if further investigation is not warranted. A memorandum for the record summarizing the derogatory information will be prepared in these cases and will accompany the file upon its transmittal to the U.S. Army Investigative Records Repository, Fort Holabird, MD 21219.

c. Derogatory information concerning members or prospective members of the Army received by the Assistant Chief of Staff for Intelligence from other agencies will be reviewed and transmitted to the appropriate commander for information or processing under this regulation.

d. Cases received from major commanders pursuant to paragraph 4-4a in which the Chief, U.S. Army Personnel Security Group, determines that favorable closing is unwarranted without further investigation will be returned to the major commander with the recommendation that an investigation be initiated.

e. The Assistant Chief of Staff for Intelligence will make available a competent security adviser to provide advice to the Department of the Army Security Screening Board and the Army Security Review Board on such security matters as release of information, capabilities and limitations of investigative agencies and techniques, and significance of alleged subversive activities. The security adviser will not attend closed sessions of the boards.

5-2. Inter-Service Committee on Registrants. *This paragraph will be effective only at such time as the Department of the Army authorizes its use.* When the Navy, Marine Corps, or Air Force participates in Selective Service pro-

AR 604-10

curement, the provisions of paragraph 5-1 are modified as indicated in this paragraph. The Assistant Chief of Staff for Intelligence may not close a registrant's case favorably. Unless further investigation is required, he will refer the case, together with an appropriate recommendation, to the Deputy Chief of Staff for Personnel, who in turn will refer it to the Inter-Service Committee on Registrants. The Inter-Service Committee may request further investigation, may decide to close the case favorably, or may decide to offer the registrant an opportunity to appear before a field board of inquiry appointed pursuant to chapter 6 of this regulation. Requests for further investigation will be made to the Assistant Chief of Staff for Intelligence, Department of the Army, Washington, DC 20310; other decisions of the Inter-Service Committee will be referred to the Chief of Personnel Operations, Department of the Army, Washington, DC 20310, for implementation.

5-3. The Judge Advocate General. Upon receipt of a case from the Assistant Chief of Staff for Intelligence, The Judge Advocate General will review the file, determine the presence of credible derogatory information therein, and, if appropriate, prepare the allegations to be used in a "Letter of Allegations." The prepared allegations will be sufficiently detailed so as to enable the individual to prepare his defense and will be as complete as security considerations permit. The Judge Advocate General may require the Assistant Chief of Staff for Intelligence to attempt to obtain such additional investigative information as may be necessary to fully substantiate allegations prepared by him. Cases in which allegations are prepared will be forwarded through the Assistant Chief of Staff for Intelligence to The Adjutant General (in cases involving special registrants) or the Chief of Personnel Operations (in all other cases). The Assistant Chief of Staff for Intelligence will prepare a Summary of Information and include it in the file being forwarded. If The Judge Advocate General declines to prepare allegations, the file will be returned, together with a statement of reasons for the declination, to the Assistant Chief of Staff for In-

telligence, who will take one of the actions prescribed in paragraph 5-1a(2).

5-4. Department of the Army Security Screening Board. Upon receipt of a case concerning a special registrant from the Assistant Chief of Staff for Intelligence, The Adjutant General will refer the case to the Department of the Army Security Screening Board. The Department of the Army Security Screening Board will be composed of a minimum of three field grade officers. The board will review the case and will recommend one of the following actions to the Chief of Personnel Operations:

- a. Favorable closing of the case.
- b. Further investigation (this recommendation will be forwarded directly to the Assistant Chief of Staff for Intelligence).
- c. Initiation of rejection action.

d. Referral of the case to a field board of inquiry for consideration of denial of commission and induction in an enlisted capacity with the notation that the individual is "not eligible for a security clearance and/or assignment to specific geographical areas, UP AR 604-10."

5-5. Chief of Personnel Operations. a. The Chief of Personnel Operations will review all cases in which allegations have been prepared by The Judge Advocate General and direct that one of the following actions be taken:

- (1) Favorable closing of the case.
- (2) Further investigation (these cases will be forwarded directly to the Assistant Chief of Staff for Intelligence).
- (3) Forwarding of the case to the commander concerned for appropriate disposition under chapter VII, Manual for Courts-Martial, (1969), if release of evidence contained in the member's dossier has been authorized by the Assistant Chief of Staff for Intelligence for the purpose of trial by court-martial (para 53e, (1969) permits convening authorities to exclude the public from a trial by court-martial when security considerations so dictate).
- (4) Initiation of rejection or elimination action (or submission to a Department of the

Army Selection Board in the case of officers serving on active duty). A recommendation will be made with respect to the character of discharge to be awarded in the event a member tenders his resignation or requests discharge in lieu of elimination proceedings under this regulation.

(5) Initiation of discharge proceedings under other appropriate regulations.

(6) Retention with the notation that the member is "not eligible for a security clearance and/or assignment to specific geographical areas, UP AR 604-10."

(7) Acceptance for induction with the notation that the registrant is "not eligible for a security clearance and/or assignment to specific geographical areas, UP AR 604-10."

(8) Referral of cases concerning special registrants to a field board of inquiry for consideration of denial of a commission and induction in an enlisted capacity with the notation that the individual is "not eligible for a security clearance and/or assignment to specific geographical areas, UP AR 604-10."

b. The Adjutant General will implement the prescribed action by notifying the appropriate major command of the action to be taken and by submitting cases concerning officers serving on active duty to a Department of the Army Selection Board in accordance with AR 635-105.

5-6. **Letter of allegations.** a. Upon receipt of a request from the Chief of Personnel Operations that elimination proceedings be initiated or that an individual be rejected for appointment, enlistment, or induction, The Adjutant General, will transmit the case, together with the "Letter of Allegations," to the major commander (or in the case of registrants, to the area commander of the area in which the registrant currently resides (para. 4, AR 14-0-1) for dispatch of the letter to the respondent. The major or area commander will cause the letter to be delivered in person to the respondent and a signed receipt obtained therefor. If personal delivery proves unsuccessful, the "Letter of Allegations" will be dispatched to the respondent at his last known address by certified mail.

b. The following additional procedure will be applied with respect to members of the Army National Guard of the United States neither on active duty nor in active Federal service: The "Letter of Allegations" will be forwarded direct to the respondent by the Chief, National Guard Bureau (para 4-7c); and The Adjutant General will forward the case together with a copy of the "Letter of Allegations" direct to the area commander concerned. The following additional procedures will be applied with respect to members of the Individual Ready Reserve, the Standby Reserve, or the Retired Reserve: The case, together with the "Letter of Allegations," will be transmitted by The Adjutant General to the appropriate area commander concerned for dispatch of the letter to the respondent. An information copy of the "Letter of Allegations" will be transmitted to the Commanding Officer, U.S. Army Administration Center, St. Louis, MO 63132, CINCSAREUR, or CINCUSARPAC, as appropriate.

c. The letter transmitting the "Letter of Allegations" will refer specifically to this regulation, and will inform the respondent that—

(1) He may, within 5 days of receipt, request retirement if eligible or tender his resignation or request discharge in lieu of elimination. A member tendering his resignation or requesting discharge must agree to accept a discharge of the character specified in the "Letter of Allegations" although final decision as to the type of discharge to be awarded rests with Headquarters, Department of the Army. A form letter to accomplish tender of resignation or request for discharge will accompany each "Letter of Allegations" dispatched to a member (fig. A-3, AR 635-120 will be followed for officers' resignations; fig. A-5, AR 635-120 will be followed for officers' request for discharge; fig. 1, AR 635-200 will be followed for enlisted members' resignations).

(2) He may, within 5 days of receipt, request a personal appearance before a field board of inquiry, with or without counsel. He will be furnished the services of military counsel certified under Article 27 (b), Uniform Code of Military Justice, if reasonably available. Civilian legal counsel will be permitted at his ex-

pense. The field board of inquiry will assist in procuring witnesses who are reasonably available and whose testimony is material to the issue (para 6-5). If the respondent is a member of a Reserve component neither on active duty nor in active Federal service, an applicant for appointment or enlistment, or a registrant for induction, appearance before a field board of inquiry will be at his own expense.

(3) He may, if a registrant or an applicant for appointment or enlistment, in lieu of appearance before a board, rebut the letter in writing within 15 days of receipt and submit such documents as he desires. Reasonable extensions of time may be granted by the major or area commander.

The respondent will elect in writing one of the choices offered by (1), (2), or (3) above. Should he refuse to elect one of the choices offered, he will be advised that his case will be processed by Headquarters, Department of the Army, without further referral to him, and he will be advised that such processing may result in discharge (*honorable, general, other than honorable, undesirable*), rejection for induction, or rejection of application for appoint-

ment, reappointment, enlistment, or reenlistment, as appropriate.

d. Upon receipt of the respondent's reply to the "Letter of Allegations" or upon expiration of 15 days following receipt of the letter by the respondent (or 15 days following an unsuccessful attempt to deliver the letter by the means described in *a* above), whichever is sooner, the appropriate commander will refer the case to the appropriate appointing authority (if a field board of inquiry is requested by the respondent) or forward the case, together with the respondent's reply, if any, to The Adjutant General with a recommendation of action to be taken. Resignations and requests for discharge will be processed in accordance with applicable regulations. Other cases will be referred by The Adjutant General to the Army Security Review Board for final review in accordance with paragraph 7-1.

e. The commander concerned will notify The Judge Advocate General, ATTN: Military Affairs Division Department of the Army, Washington, DC 20310, of the respondent's request for appearance before a field board of inquiry immediately upon receipt of the request.

CHAPTER 6

FIELD BOARD OF INQUIRY

6-1. Boards in general—security matters. Members of all boards referred to in this regulation will have a TOP SECRET security clearance based on a favorable background investigation under the provisions of AR 381-130 or an investigation of equal scope. Military personnel may be assigned to such duties if a background investigation has been initiated and an interim TOP SECRET security clearance has been granted. The recorder and security adviser of all boards referred to in this regulation and the attorney-adviser referred to in this chapter will have a TOP SECRET security clearance. Administrative personnel who are engaged in the processing of cases under this regulation will have at least a SECRET security clearance.

6-2. Field board of inquiry. *a.* A field board of inquiry convened under this regulation is administrative and not judicial in nature. The board is not bound by the rules of evidence or the procedures prescribed for trials by court-martial. The hearing is an inquiry directed toward obtaining evidence which supports or rebuts the conclusion that the respondent's continued or future service in the Army is clearly consistent with the interests of national security.

b. Authority to appoint boards of inquiry under this regulation is vested in commanders exercising general court-martial jurisdiction, except that boards convened to hear the cases of officers on active duty will be appointed as provided in AR 635-105 and those convened to hear the cases of members of Reserve components neither on active duty nor in active Federal service will be appointed by area commanders (see AR 135-175 concerning Reserve officers; AR 135-178 for Reserve enlisted mem-

bers). Upon request by the respondent for appearance before a field board of inquiry under this regulation, the appropriate commander will appoint such a board and will refer the case, including all evidence related to the allegations, the respondent's reply, and such other information as is cleared for inclusion by the Assistant Chief of Staff for Intelligence, to it. Boards of inquiry will, if possible, be convened in the vicinity of the individual's residence or military location, as appropriate.

6-3. Field board of inquiry—composition. *a.* Field boards of inquiry appointed under this regulation will be composed of field grade or general officers who are senior in both temporary and permanent grade to the respondent. Three or more officers will constitute the membership of each field board of inquiry, and no hearing will be held with less than three members present. Each board member must possess the qualifications required by paragraph 6-1. No officer will sit as a member of more than one board considering the case of any one respondent. No officer will sit as a member of a field board of inquiry if he is to be or has been called as a witness before it, or if he has previously recommended or has been a member of any board or court-martial which considered the respondent for disciplinary action or elimination. If the respondent is female, a female officer of the same corps as the member will be detailed to the board and will serve as an adviser without vote unless such detail is waived by the respondent.

b. A board appointed to hear the case of a member of a Reserve component neither on active duty nor in active Federal service will, in addition to the above, be constituted in the manner provided by paragraph 3c(3), AR

15-6. A board appointed to hear the case of a member of the Army National Guard of the United States neither on active duty nor in active Federal service will include one Army National Guard of the United States officer on active duty as a member. A board appointed to hear the case of a member of a Reserve component on active duty or in active Federal service or of a Regular Army warrant officer or enlisted member who holds a Reserve commission or warrant will include at least one Reserve officer on active duty as a member.

c. The appointing authority will designate an officer to serve as recorder without vote for the board. The recorder will execute the orders of the board and supervise the preparation and maintenance of the verbatim record of the proceedings.

d. The appointing authority will furnish a security adviser to provide advice to the field board of inquiry on such security matters as release of information, capabilities and limitations of investigative agencies and techniques, and significance of alleged subversive activities. The security adviser will work with the attorney-adviser in providing guidance concerning the significance of alleged subversive information. The security adviser will not attend the closed session at which the board arrives at its findings and recommendations.

e. The appointing authority will provide the board with a competent reporter. If a competent enlisted or Government civilian employee reporter is not available, a civilian contract reporter may be employed if the attorney-adviser so recommends (para 6-8).

6-4. **Attorney-adviser.** a. The major commander within whose command a field board of inquiry is convened will make available for appointment to the board as attorney-adviser without vote a field grade officer of the Judge Advocate General's Corps serving on active duty who meets the requirements of paragraph 6-1. The attorney-adviser will be present at the hearing to assist the board in insuring that the record is as complete as possible to the end that all pertinent information, favorable as well as un-

favorable to the respondent, is brought to the attention of the board and made a matter of record. No functions performed by the attorney-adviser, however, will relieve the board of its responsibility for insuring that the record is complete and that all pertinent information is considered. The attorney-adviser is in no sense a prosecutor and will not conduct himself as one. He will not attend the closed session at which the board arrives at its findings and recommendations. The major commander concerned will notify The Judge Advocate General, ATTN: Military Affairs Division, Department of the Army, Washington, DC 20310, of the identity of the attorney-adviser and of the date that the hearing is to be convened. Notification by electrical message will be dispatched as soon as a hearing date is fixed, and in any event will be made not less than 20 or 30 days prior to the hearing (CONUS or overseas, respectively). In the event of MINIMIZE, notification will continue by message. The commander who appoints the field board of inquiry will reproduce locally one copy of the case file, in accordance with AR 380-5, for the use of the attorney-adviser.

b. The duties of the attorney-adviser are as follows:

(1) Prior to the hearing, he will—

(a) Familiarize himself with the contents of the records, reports, and documents furnished with the case.

(b) Ascertain from the president of the board that all witnesses whose testimony, favorable or unfavorable to the respondent, is deemed material to a fair presentation of the case, have been ordered or invited to attend the hearing in accordance with paragraph 6-5.

(c) Ascertain, if possible, which witnesses invited pursuant to paragraph 6-5 will be present, and familiarize himself with the testimony they will offer.

(d) Arrange for the taking of affidavits and depositions.

(e) Request that necessary documentary evidence be secured by the appointing authority.

(2) During the hearings—

(a) He will examine all witnesses called by the Government whether their testimony is favorable or unfavorable to the respondent.

(b) He will, in open session, present to the board all information, documents, papers, records, and other material which may be made known to the respondent and ask for its receipt as evidence.

(c) He will conduct all necessary examination of witnesses presented by the respondent to the end that their testimony may be fully developed and their credibility evaluated by the board.

(d) He may object to the receipt by the board of testimony, evidence, information, or material tendered on behalf of the respondent which is not material to a determination of the issues before the board, or the receipt of which is contrary to the regulations governing administrative elimination proceedings, and he may argue and present authorities in support of his position. He may also argue in support of the receipt into evidence of testimony, documents, information, or other material tendered by him or by the respondent and which is material to the issues before the board.

(e) Whether or not oral argument is presented on behalf of the respondent, he will make such summation of the case as he deems appropriate. The summation will not be a partisan presentation, but will be in the nature of an objective analysis of all the information presented to the board which has been disclosed to or offered by the respondent, and may point to the logical conclusions that may be drawn therefrom.

(3) He will be present at private meetings between the board and any witness who has signified his desire to be heard in private (para 6-5).

(4) At any point in the proceedings, the attorney-adviser may be called upon by the president of the board for advice concerning the legal interpretation of pertinent laws and regulations, questions of the propriety of considering certain items of information, testimony, documents, etc. If advice is required after the board has retired to deliberate on the

findings and recommendations, the deliberations will be suspended during the period in which the advice is being given. The advice will not extend to any participation in the discussion relating to the findings of fact or the recommendations. If advice is sought during open hearings attended by the respondent or his counsel, they will be afforded an opportunity to be heard concerning advice given.

c. To the extent that the duties of the attorney-adviser duplicate or conflict with the duties of the recorder as provided in other pertinent regulations, the provisions of this regulation will govern.

6-5. Witnesses; spectators. *a. Department of the Army policy is that a respondent who is accorded a hearing under this regulation be confronted with the witnesses against him to the maximum extent possible. To achieve this objective, the president of the field board of inquiry will—*

(1) Request the appropriate commander or Government agency to order witnesses who are members of the Armed Forces or civilian employees of the Government to appear and testify at the hearing. TDY at the expense of the command conducting the hearing is authorized for this purpose. Members of Reserve components not on active duty may be ordered to active duty for this purpose with their consent (and with the consent of the appropriate Governor in the case of members of the Army National Guard of the United States (see AR 135-210)). If the appropriate commander or civilian official or an investigative agency considers that concealment of the identity of the particular witness is in the best interests of national security, the president of the board will be so advised and supporting reasons will be given. If the president of the board, after consultation with the attorney-adviser, does not agree with the denial, the matter will be forwarded through the appropriate major commander to the Assistant Chief of Staff for Intelligence, Department of the Army, Washington, DC 20310, for resolution.

(2) Invite all other witnesses to attend the hearing for the purpose of testifying. Invi-

AR 604-10

tations will be extended whether or not the witness has previously indicated a desire to conceal his identity. Witnesses may be invited without regard to the distances involved, except that requests for witnesses from noncontiguous overseas areas will be made to The Adjutant General, ATTN: AGPO-SS, Department of the Army, Washington, DC 20315. The witness will be advised that he may be paid the fees and allowances prescribed by AR 37-106 for witnesses who upon request appear before general courts-martial and other boards for the purpose of testifying (para 6-8). Should the witness respond by requesting an appearance before the board in closed session, such a request should be granted. Should a witness who has previously objected to the disclosure of his statement to the respondent decline to attend, he will again be requested to release his statement for disclosure to the respondent or to execute a new statement which may be disclosed. A suggested form of invitation to appear before a field board of inquiry is shown in appendix A.

(3) Consult with the attorney-adviser concerning the necessity of requesting or inviting particular witnesses if there is doubt concerning the materiality or relevancy of their testimony. The president will also request that the attorney-adviser take necessary action to ascertain the identity of confidential informants mentioned in classified reports of investigative agencies, where possible, in order that the attendance of such witnesses at the hearing may be arranged. The attorney-adviser may communicate directly with The Judge Advocate General, ATTN: Military Affairs Division, Department of the Army, Washington, DC 20310, in regard to ascertaining the identity of confidential informants.

b. At the respondent's request, the president of the board may permit the respondent's personal friends or relatives to be present during board hearings. However, the respondent will be informed that the presence of any such spectator terminates the confidential status (for the respondent's benefit) of the proceedings. No individual who is expected to be called as a witness may attend the hearing as a spec-

tator. Furthermore, the president of the board may exclude from the hearing any spectator whose presence, in the opinion of the board, interferes with the proceedings.

6-6. Hearings. a. Hearings held by field boards of inquiry convened under this regulation will follow the procedures outlined in AR 15-6 and section IV, chapter 3, AR 635-105, in all cases, unless otherwise provided herein.

b. Unless a postponement is granted, the hearing will be convened not later than 30 days after the date on which the field board of inquiry is appointed. A written notice of the time, date, and place of the hearing will be served on the respondent in person or dispatched to him at his last known address by registered mail with return receipt requested within 5 days of the date on which the field board of inquiry is appointed. The notice will contain the names, addresses, and the substance of testimony expected of all witnesses whose names may be furnished to the respondent at that time. If the respondent desires a postponement of the hearing date, he should forward an application in writing stating the grounds therefor to the president of the field board of inquiry, who may for good cause grant a delay of not more than 15 days. A request for a longer delay will be referred to the appointing authority. Not more than one delay may be granted in the absence of a showing by the respondent that a hearing convened prior to the date requested would cause extreme hardship or substantial prejudice to the respondent. When a postponement is granted, the attorney-adviser and all witnesses will be promptly notified.

c. The respondent and his counsel will be afforded access to all available open records concerning his service and the allegations against him, and to any records containing classified information considered by the board. However, if such classified records include evidence or information the disclosure of which might prejudice the sources from which the evidence was obtained or the safety or interests of the United States, the exact nature of such information or evidence and the methods by or

sources from which it was obtained will not be disclosed without specific authority of the Assistant Chief of Staff for Intelligence, although a summary of the information contained therein may be furnished. See AR 380-5.

d. During the course of the board proceedings, the line of questioning will be evolved so as to give the respondent all possible information forming the basis for the allegations, but *confidential sources of information and classified information* will be protected. Parts of written statements submitted by informants and expressions or statements attributed to the member by an informant will be read verbatim to the member if the source of the information has authorized its release or if the reading would not disclose the source. In all other cases, information disclosed to the member should be phrased in such a manner as to insure that the sources of the information are not compromised.

6-7. Findings and recommendations. a. In their deliberations, board members will consider the fact that the respondent may have been handicapped in his defense by the nondisclosure to him of classified information or by the lack of opportunity to cross-examine persons constituting sources of such information, and will evaluate information carefully in the light of its recency, relative seriousness, attendant circumstances, whether it was given under oath, whether it is relevant, whether the respondent has had an opportunity to rebut it, and whether similar or supporting information exists.

b. The findings rendered by the board will include a determination with respect to each of the allegations set forth in the "Letter of Allegations" and an analysis of information and a detailed statement of reasoning upon which each finding is based. This analysis and supporting statement should, whenever possible, include a discussion of the following:

(1) Evaluation of the credibility of all witnesses,

(2) Overall evaluation of the respondent from a national security viewpoint.

(3) A full discussion of the significance of any proven allegations in terms of the respondent's motivation, subsequent activities, and attitudes, and

(4) Extent of his participation in subversive groups and activities.

c. The board's findings and recommendations will be signed by all concurring members. A majority vote of the membership of the board is required in order that a finding or recommendation of the members be that of the board. *Dissenting opinions, where applicable*, will be submitted. The board will record the proceedings of each meeting, once it has initially convened. In any case in which a board is unable to complete proceedings (arrival at findings and recommendations) because of death, discharge of respondent, or other reasons, the incomplete proceedings, signed by the board members and showing the reason for noncompletion, will be forwarded through channels to The Adjutant General.

d. The board will find that the respondent's acceptance or retention is or is not clearly consistent with the interests of national security and will recommend one of the following actions:

(1) Retention on active duty with or without change of station.

(2) Retention on active duty with the notation that the member is not eligible for a security clearance and/or assignment to specific geographical areas.

(3) Retention in the appropriate Reserve component.

(4) Retention in the appropriate Reserve component with the notation that the member is not eligible for a security clearance and/or assignment to specific geographical areas.

(5) Separation in the interests of national security and the type of discharge to be awarded.

(6) Acceptance for appointment, enlistment, or induction.

(7) Acceptance for induction with the notation that the individual is not eligible for a

security clearance and/or assignment to specific geographical areas.

(8) Rejection for appointment, enlistment, or induction.

(9) Denial of a commission to a special registrant and, if otherwise qualified, induction in an enlisted capacity with the notation that the individual is not eligible for a security clearance and/or assignment to specific geographical areas.

e. The board will inform the respondent that—

(1) He or his counsel will be furnished a copy of the transcript of the hearing and written acknowledgment of receipt of the transcript will be obtained. If the findings are based upon classified information, release of the findings and statement of reasons or an unclassified summary thereof will be authorized in accordance with AR 345-20 and AR 380-5.

(2) Its recommendations in the case do not constitute final and conclusive action but are subject to review by the appointing authority and by Headquarters, Department of the Army, before final action is taken.

(3) He may submit to The Adjutant General, Department of the Army, Washington, DC 20310, in writing within 15 days of receipt of the transcript, a brief and any further evidence or information he may desire to have

considered in a final review of his case by the Army Security Review Board, and that failure to receive further material within 15 days of his receipt of the transcript plus normal mailing time will cause his case to be considered without further representation from or for him.

The record of proceedings of the board will indicate that the respondent has been so informed.

f. The board will execute and attach to the board proceedings one copy of DA Form 1574 (Report of Proceedings by Investigating Officer (Board of Officers)) as a final check of each copy of the report of proceedings. The checklist may be reproduced as needed.

g. Upon completion of its inquiry, the board will refer the case to the appointing authority. The appointing authority will forward the case through the major commander to The Adjutant General. The appointing authority will include his recommendations in the forwarding indorsement.

6-8. **Payment of fees.** Fees and allowances for witnesses, reporters, and interpreters required in connection with hearings before field boards of inquiry convened pursuant to the provisions of this regulation may be paid at the rates specified in chapter 13, AR 37-106.

CHAPTER 7

REVIEW OF PROCEEDINGS: DISCHARGE

7-1. Army Security Review Board. *a.* Following receipt of a case with recommendations of a field board of inquiry and appropriate field commanders, together with additional comments from the respondent, if any, or upon the expiration of 15 days plus normal mailing time to and from the respondent following his receipt of a transcript of the field board of inquiry proceedings, whichever is later, The Adjutant General will refer the case to the Army Security Review Board for final review and recommendations. The Adjutant General will also submit all cases in which a registrant has elected to rebut the "Letter of Allegations" in writing (para 5-6c(3)) or has neither appeared before a field board of inquiry nor rebutted the "Letter of Allegations" in writing to the Army Security Review Board.

b. The Army Security Review Board will be composed of at least three officers, one of whom will be a general officer, one of whom will be an officer of The Judge Advocate General's Corps above the grade of major, and the remainder of whom will be above the grade of major. If a case involves a member of a Reserve component, at least one member of the board will be a member of a Reserve component.

c. No officer who has considered a case during any stage of processing prior to its transmittal to the Army Security Review Board will serve as a member of the Army Security Review Board for that case.

d. The respondent will not appear in person before the Army Security Review Board unless the board so requests.

7-2. Review and recommendations. *a.* The Army Security Review Board will—

(1) Review the military record of the respondent, the pertinent files of the case, including the proceedings of a field board of inquiry, if any, and all correspondence between military authorities and respondent relative to the matter in issue.

(2) Make a specific finding as to each allegation contained in the "Letter of Allegations" and include a statement of reasons for such finding.

(3) Make a specific finding as to whether acceptance or retention of the individual concerned is or is not clearly consistent with the interests of national security.

(4) Recommend that one of the actions indicated in paragraph 6-7*d* be taken.

(5) Forward the case to the Secretary of the Army or his designated representative for final decision.

b. In reviewing each case, members of the Army Security Review Board will consider that the respondent may have been handicapped in his defense by the nondisclosure to him of classified information or by the lack of opportunity to cross-examine persons constituting sources of such information, and will evaluate information carefully in the light of its recency, relative seriousness, attendant circumstances, whether it was given under oath, whether it is relevant, whether the respondent has had an opportunity to rebut it, and whether similar or supporting information exists.

c. If the Army Security Review Board determines that a field board of inquiry committed error substantially prejudicing a substantive right of the respondent, it may recommend to the Secretary of the Army or his designated

AR 604-10

representative that a rehearing before a new field board of inquiry be held in accordance with its recommendations.

d. If the Army Security Review Board determines that there is a procedural error or omission in the record of proceedings which may be corrected without reconsideration of the findings and recommendations of the field board, it may recommend to the Secretary of the Army or his designated representative that the case be returned for corrective action.

7-3. **Secretary of the Army.** The Secretary of the Army or his designated representative will review all recommendations submitted to him by the Army Security Review Board and will prescribe the action to be taken in each case. If the Secretary of the Army or his designated representative finds that retention of a member is not clearly consistent with the interests of national security, he will direct that the member be discharged and will prescribe the type of discharge to be awarded. Following action by the Secretary of the Army or his designated representative, the case will be referred to The Adjutant General or the Chief of Personnel Operations, as appropriate, for necessary action in accordance with paragraph 7-5.

7-4. **Discharge characterization.** Type of discharge awarded will be determined by the Secretary of the Army or his designated representative. Type of discharge awarded will be determined solely on the member's military record in the Army and will reflect the character of service rendered during the period covered by the discharge. Consideration will be given to the gravity of any substantiated credible derogatory information concerning the individual's subversive activities during this period. Material false statements or falsification of documents in connection with national security matters occurring during or pertaining to entry into the current period of service will be considered derogatory information of a national security nature relating to the member's service. The character of service will not take into account limitations on performance of duty imposed for security reasons.

7-5. **Final actions.** a. The Adjutant General will notify the appropriate commander of the final action to be taken in cases concerning members on active duty. In cases involving members of the U.S. Army Reserve not on active duty, registrants, and applicants for appointment or enlistment, the Chief of Personnel Operations will notify the appropriate commander of final action to be taken. In cases involving members of the Army National Guard of the United States, NGR 35 will be followed.

b. If acceptance for appointment or enlistment or retention of the individual is directed by the Secretary of the Army or his designated representative, the case will be closed favorably in the manner indicated in paragraph 1-6. The major commander will be directed to notify the individual in writing of the favorable determination and remove flagging action, if any.

c. If acceptance for induction or retention with the notation that the individual is "not eligible for a security clearance and/or assignment to specific geographical areas, UP AR 604-10" is warranted, the major commander will be directed by the Chief of Personnel Operations to notify the individual in writing. Flagging action, if any, will be removed. The notation will be entered on DA Form 20 and DA Form 873 pertaining to the member. If induction is warranted, the Chief of Personnel Operations will notify the U.S. Army Recruiting Command, which will insure that the notation is entered on the individual's DA Form 20 following induction.

d. If appointment or enlistment is not warranted, the major commander will be directed by the Chief of Personnel Operations to notify the applicant in writing. Flagging action, if any, will be removed.

e. If induction is not warranted, action in accordance with paragraph 7-6 will be taken. The U.S. Army Recruiting Command will be directed by the Chief of Personnel Operations to notify the registrant in writing. Flagging action, if any, will be removed.

f. If discharge is warranted, the member

will be discharged and awarded the appropriate discharge certificate. Separation or discharge orders will be issued in letter order form (see AR 310-10). Separate letter notification, including authority for discharge and the fact of ineligibility for reentry into the Army, will be dispatched by Commanding Officer, U.S. Army Reserve Components Personnel Center and/or Commanding Officer, U.S. Army Administration Center, as appropriate to each member of a Reserve component who is neither on active duty nor in active Federal service and who is discharged under this regulation. No security citation will be shown on the discharge certificate. In all cases in which a discharge other than Honorable is issued under this regulation, DD Form 214 issued to enlisted personnel will indicate "AR 604-10 SPN 489" in item 11c of the form. For officer personnel the same notation will be entered except that the SPN will be specified by Headquarters, Department of the Army. If it is directed that an enlisted member be given an Undesirable discharge, the authority accomplish-

ing the discharge will, if the member is in a grade above E-1, reduce the member to grade E-1 without further administrative procedure by discharging the member in that grade.

g. If referral of the case to a new field board of inquiry is warranted, the appointing authority will be directed by The Adjutant General to appoint a new field board of inquiry in accordance with chapter 6 of this regulation.

7-6. Notification to other agencies of unfavorable determination. In addition to the notification required by the preceding paragraph, The Adjutant General, the Chief, National Guard Bureau, and Commanding Officer, U.S. Army Reserve Components Personnel Center will inform the proper Selective Service Agency, the proper Agent in Charge, Federal Bureau of Investigation Field Office, and the other armed forces, of the identity of all individuals who are discharged from, or denied appointment, enlistment, or induction into, the Army under this regulation.

CHAPTER 8

APPLICANTS FOR ENROLLMENT IN ROTC

8-1. Completion of DD Form 98. *a.* Every applicant for enrollment in the advanced courses, senior division, or Military Science and Tactics 5 and 6 courses, military schools division, Army Reserve Officers' Training Corps, and every recipient of a scholarship under the ROTC Financial Assistance Program will be required to complete DD Form 98 at a time prior to the date of enrollment sufficient to permit adjudication of the case prior to enrollment. The completion of DD Form 98 at the time of application for enrollment does not exempt the applicant from the requirement for completion of DD Form 98 at the time of application for a commission.

b. If the applicant or recipient does not qualify DD Form 98, the form will be retained by the Professor of Military Science. Upon completion of training, this DD Form 98 will be incorporated as a part of the appointment papers.

c. If the applicant or recipient qualifies DD Form 98, or entries are made thereon which provide reason for belief that his enrollment might not be clearly consistent with the interests of national security, his enrollment will be held in abeyance. The DD Form 98 together with three copies of DD Form 398 and one copy of FD Form 258 will be forwarded to the major commander for action in accordance with paragraph 8-2.

d. If the applicant or recipient refuses to complete DD Form 98 in its entirety, enrollment will be denied. The DD Form 98 will be completed in accordance with paragraph 3-2 and forwarded to the Commanding Officer, United States Army Investigative Records Repository, Fort Holabird, MD 21219.

8-2. Investigative procedures. Investigative procedures, so far as applicable, will be in accordance with chapter 4. For purposes of ROTC cases processed under this regulation, the local commander referred to in chapter 4 will be the Professor of Military Science. Appropriate investigation will be made subject to prior coordination with the Federal Bureau of Investigation under AR 381-115. Recommendations will be limited to approval or denial of enrollment. Major commanders and the Assistant Chief of Staff for Intelligence may request further investigation if information available is insufficient to make a recommendation.

8-3. Disposition of cases. Disposition of cases, so far as applicable, will be in accordance with chapters 5, 6, and 7. In the case of an applicant for enrollment, the "Letter of Allegations" will be appropriately modified and will inform him that should he elect to appear before a field board of inquiry he may do so with or without counsel. The services of military counsel certified in accordance with Article 27(b), Uniform Code of Military Justice, will be furnished if requested and if reasonably available. Civilian counsel may be employed at the applicant's expense. Payment of fees and allowances for witnesses will be made in accordance with paragraph 6-8. The Chief of Personnel Operations will be limited to one of the following recommendations:

a. Further investigation.

b. Favorable closing of the case.

c. Initiation of denial of enrollment action under this regulation.

Field boards of inquiry and the Army Security

AR 604-10

18 September 1969

Review Board will recommend approval or denial of enrollment and the Secretary of the Army or his designated representative will direct that one of these actions be taken. Upon

final adjudication of the case, The Adjutant General will notify the applicant the Professor of Military Science, and the major commander of the final decision.

APPENDIX A

(see para 6-5)

SAMPLE LETTER INVITING WITNESSES
(Registered Return Receipt Requested)

A field board of inquiry has been convened by (major commander) to conduct a hearing in the case of (full name). You have given information concerning this case. The hearing will be held in (city and State) at (time) on (date), and it is requested that you appear to testify as a witness at that time. In the event you cannot appear on the scheduled date, please advise of a date you will be available.

Your appearance before the board will be a public service of great value; moreover, you are advised that the Department of the Army will pay witness fees and reimburse you for travel expenses incidental to your appearing as a witness at this hearing.

For your convenience a self-addressed envelope is inclosed for your reply. No postage is necessary. In reply you may merely check the appropriate statements given on the attached sheet and return it.

Your cooperation in this matter will be greatly appreciated.

Sincerely yours,

President of the Board

NAME OF CASE (type in full)

Check as appropriate:

- 1. _____ I will come to the hearing and testify.
- 2. _____ I cannot testify on the date set but I will be available
on _____
- 3. _____ I will come to the hearing and testify, but only before
a closed session of the board.
- 4. _____ I decline to come to the hearing and testify.
- 5. _____ I desire to make the following comments with regard to
the subject case:

DATE: _____

SIGNED _____

ADDRESS _____

APPENDIX B

REFERENCES

The following references are pertinent to this regulation:

1. AR 15-6. Procedure for Investigating Officers and Boards of Officers Conducting Investigations.
2. FM 30-17. Counterintelligence Operations.
3. AR 37-106. Finance and Accounting for Installations; Travel and Transportation Allowances.
4. AR 50-3. Personnel Security Standards for Nuclear Weapon Duty Positions.
5. AR 135-100. Appointment of Commissioned and Warrant Officers of the Army.
6. AR 135-101. Appointment as Reserve Commissioned Officers for Assignment to the Medical, Dental, Veterinary, and Medical Service Corps Branches of the Army Medical Service.
7. AR 135-175. Separation of Officers.
8. AR 135-178. Separation of Enlisted Personnel.
9. AR 135-210. Order to Active Duty as Individuals During Peacetime, National Emergency, or Time of War.
10. AR 140-109. Appointment of Physicians and Dentists Registered Under the UMTS Act, as Amended, as Reserve Commissioned Officers of the Army.
11. AR 140-111. Enlistment and Reenlistment.
12. AR 145-1. ROTC—Senior Division Organization, Administration, and Training.
13. AR 351-5. Army Officer Candidate Schools.
14. AR 381-115. Counterintelligence Investigative Agencies.
15. AR 381-130. Counterintelligence Investigations Supervision and Control.
16. AR 600-31. Flag Control Procedures for Military Personnel in National Security Cases and Other Investigations or Procedures.
17. AR 601-100. Appointment of Commissioned Officers in the Regular Army.
18. AR 601-101. Appointment of Warrant Officers in the Regular Army.
19. AR 601-210. Regular Army Enlistment Program.

20. AR 601-270. Armed Forces Examining and Entrance Stations.
21. AR 604-5. Clearance of Personnel for Access to Classified Defense Information and Material.
22. AR 604-11. Resolution of Adverse Suitability Information.
23. AR 604-16. Procedures for the Processing of DD Forms 98 and 398, and DA Form 1111 of Persons Who Have Penetrated Subversive Organizations.
24. AR 604-45. Designation of Organizations in Connection with the Federal Employee Security Program.
25. AR 611-15. Selection and Retention Criteria for Personnel in Nuclear Reactor or Nuclear Weapons Positions.
26. AR 635-5. Separation Documents.
27. AR 635-100. Officer Personnel.
28. AR 635-105. Elimination.
29. AR 635-120. Officer Resignations and Discharge.
30. AR 635-200. Enlisted Personnel.
31. AR 635-212. Discharge—Unfitness and Unsuitability.
32. AR 640-98. Filing of Adverse Suitability Information in Individual Records and Review of intelligence Files Consulted Prior to Taking Personnel Action.
33. NGR 20-1. Appointment, Assignment, and Transfer.
34. NGR 20-4. Termination of Appointments and Withdrawal of Federal Recognition.
35. NGR 25-1. Enlistment and Reenlistment.
36. NGR 25-3. Discharge and Separation.
37. NGR 35. Security Program.

18 September 1969

AR 604-10

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) to Deputy Chief of Staff for Personnel, ATTN: DCSPER-SARD, Department of the Army, Washington, DC 20310.

By Order of the Secretary of the Army:

Official:

KENNETH G. WICKHAM,
*Major General, United States Army,
The Adjutant General.*

W. C. WESTMORELAND,
*General, United States Army,
Chief of Staff.*

Distribution:

Active Army, ARNG, USAR: To be distributed in accordance with DA Form 12-9 requirements for AR, Personal Security Clearance—A (Quan Rqr Block No. 446)

PENTAGON LIBRARY



0001070384