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AR 635-200

JOINT MESSAGEFORM							SECURITY CLASSIFICATION UNCLASSIFIED		
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01 OF 07		RR			UUUU		141300Z	Oct	77
BOOK	MESSAGE HANDLING INSTRUCTIONS								

FROM: CDR MILPERCEN ALEX VA// DAPC-MSF-RS//

TO: ALL HOLDERS OF INITIAL DISTRIBUTION OF AR 635-200

UNCLAS:

Rec'd 11/3/77

SUBJECT: Interim Change 46-1 to AR 635-200 (ENLISTED SEPARATIONS)

REF A. MILPERCEN MSG 061400Z Jun 75
B. MILPERCEN MSG 261400Z Jun 75
C. MILPERCEN MSG 302228Z Mar 76

1. This interim change 46-1 is being distributed through publications pinpoint distribution system to all holders of AR 635-200, in accordance with DA Form 12-9A, and is effective 1 Nov 77. This change is made for the purpose of providing commanders a new pregnancy policy to include a counseling checklist as an aid to comprehensive counseling of pregnant enlisted women. It is intended that the checklist provide for greater standardization of counseling concerning options, entitlements and responsibilities. The change also provides a formal record of counseling as well as member's election to be discharged or continue on active duty. For members electing to continue on active duty, forthcoming changes to ARs 614-200, 614-100, 614-101, 612-2, 614-30 and DA Pam 600-8 will provide for dependent care planning and ARs 635-100 and 635-120 will provide pregnancy policy change for officers. In preparation for the forthcoming requirement for dependent care planning, each command should establish procedures for and begin to identify personnel in the following categories who have less than three years active Federal military service.

a. Army members who are married to other service members and have minor dependents (under age 18).

b. Army members who are sole parents (also includes sole custody if divorced or separated) of minor dependents.

c. Army members who have sole responsibility for care of dependents who are unable to provide for themselves (e.g., handicapped, infirm) regardless of the age of the dependents.

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2. Page 8-1, Section III, Chapter 8, AR 635-200, paragraph 8-8 is changed as follows:

8-8 General. a. When it has been determined that an enlisted woman is pregnant, she will be counseled in accordance with the Pregnancy Counseling Checklist, Figure 8-1. The counselor will explain to the service member that the purpose of the counseling is to provide her with complete information concerning her rights, entitlements and responsibilities with respect to continued active duty and that she will be afforded the opportunity, AS SHE DEEMS APPROPRIATE, to--

(1) Request discharge under the provisions of this chapter. She may request a specified discharge date which will not be later than 30 days prior to expected date of delivery or latest date her physician will authorize her to travel to her HOR or EOD destination, whichever date is earlier. The discharge authority may approve such requests provided there is no medical contraindication and this date may be accelerated by the discharge authority if the applicant cannot fully meet the performance requirements of her duty MOS.

(2) Elect retention on active duty.

A Statement of Counseling, figure 8-2, will be signed by the member concerned. [illegible] counseling is a command responsibility. The member will be granted a minimum of 7 days to consider the options available to her. Copies of the completed Statement of Counseling will be filed in the MPRJ.

c. When it has been determined that a woman was pregnant upon entry on active duty (EPTS pregnancies), she will be involuntarily discharged. (See para 5-39, AR 635-200).

d. Women who become pregnant while still in basic training or AIT status will be involuntarily discharged when it has been determined by the training commander having discharge authority, in coordination with a uniformed services physician, that the woman cannot fully participate in the training required because of her physical condition. The Training Commander will furnish the training requirements to the physician. (See para 5-39, AR 635-200).

e. When pregnancy is the only medical condition upon which discharge is requested, discharge will be accomplished without processing by a medical board or physical evaluation board. If there are other medical conditions which disqualify the

enlisted woman for retention, processing will be accomplished under the provisions of AR 40-3 and AR 635-40.

3. Following page 8-3, add Figures 8-1 and 8-2 as pages 8-4 and 8-5 respectively:

FIGURE 8-1

PREGNANCY COUNSELING CHECKLIST

Notice: Required by the Privacy Act of 1974.

Prior to soliciting any personal information in the course of counseling a service member, the counselor will advise the service member substantially as follows:

In the course of counseling you concerning the decisions you will have to make in connection with your pregnancy, I will request certain personal information from you. My only purpose in requesting this information is to assist you in planning how to meet your responsibilities to the child and to the military, and to determine if there is anything that I or the Army can do to assist you in meeting those responsibilities. You are not required to provide personal information to me, but Army Regulations do require that you complete a Statement of Counseling. If you choose not to provide personal information to me, however, I may not be able to effectively assist you. No use of the information will be made outside of DOD. My authority for requesting this information is 10 USC 3012.

The service member will be informed of the following:

__1. That the primary purpose of this counseling is to provide her with information upon which to make certain decisions and that the counselor will not influence or direct her toward any particular entitlements options.

__2. Options UP Chapter 8, AR 635-200 to remain on active duty or request discharge. NOTE: Abortion is an ethical matter to be decided by the member after consultation with her physician and other professional staff as appropriate.

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__3. Entitlement to maternity care, even if discharged, as provided in paragraph 2-25.1, and 4-46, AR 40-3.

__4. Provisions for maternity leave UP paragraph 8-5, AR 630-5. (A forthcoming change in policy will incorporate maternity leave into AR 40-3. Effective date unknown at this time).

__5. Provisions for the wear of maternity clothing (paragraph 1-6, AR 670-30).

__6. Local policies governing entitlement to BAQ or assignment to government family quarters, and BAS and when and how she would be eligible.

__7. Policy governing availability for worldwide assignment, paragraphs 3-2 and 3-3, AR 614-30.

__8. Policies governing assignment overseas and, if accompanied by dependent, requirement to make suitable arrangements for unaccompanied evacuation of the dependent in an emergency situation (e.g., mobilization).

__9. On permanent change of station the government will pay for transportation of the child only under the following circumstances:

(A) Member is in grade E-4 with over 2 years service or higher grade on effective date of PCS orders, and

(B) If traveling to, from or between oversea permanent stations member serves or has been approved to serve a "with dependents" tour and her child is command sponsored.

(C) When traveling to an overseas station member must have approval of the overseas Commander for concurrent travel of the child.

__10. Provisions governing involuntary separation for inability to perform prescribed duties, repetitive absenteeism, or nonavailability, when directed, for worldwide assignment, or unit deployment IAW paragraph 5-40, AR 635-200.

__11. Availability of legal assistance counseling concerning paternity laws governing child support, if applicable.

__12. Necessity, if she remains on active duty, of careful planning as to how she will care for her child without sacrifice of her military responsibilities and that she should consider the following:

a. Who will care for the child during duty hours and alerts, field duty and roster duty. *Consideration should be given to cost of nursery or* baby sitter care.

b. Plans for housing, access to duty, transportation arrangement, and availability of telephone.

c. Consideration of financial obligations that will accrue for such items as layette needs, child care, housing, transportation and other emergency needs and how these obligations will be met.

__13. Provisions for submission of a dependent care statement of counseling upon birth of the child, if applicable.

__14. Provisions authorizing separation for unsuitability of pregnant members whose substandard performance of duty is not solely attributable to the condition of pregnancy; such as, failure to perform prescribed duties due to defective attitude rather than physical limitation, failure to report to duty without medical or military authorization, or refusal of CONUS reassignment during first six months of pregnancy (para 13-5b(3), AR 635-200).

Figure 8-1 8-4

STATEMENT OF COUNSELING

Figure 8-2 DATE _____

I affirm that I have been counseled by _____(grade)(name)_____, this date on all items on the attached counseling checklist and I understand my entitlements and responsibilities. I understand that if I elect discharge I will be entitled to medical care at government expense at a military medical treatment facility up to 6 weeks post-partum for the birth of my child and that I may remain on active duty until 30 days prior to expected date of delivery or latest date my physician will authorize me to travel, whichever is earlier. I also understand that should I remain on active duty I will be expected to fulfill the terms of my

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enlistment contract. If I elect to remain on active duty, I understand that I must remain available for unrestricted service on a worldwide basis when directed and that I will be afforded no special consideration in duty assignments or duty stations based on my status as a parent.

S/_____

TO: Individual concerned FROM: Commander, Unit DATE CMT 1

Request your election of appropriate option indicated below and return within seven (7) days.

Signature of Commander

TO: Commander, Unit FROM: Individual Concerned DATE CMT 2

__During the counseling session there was no coercion on the part of the counselor influencing my decision.

_I elect discharge for reason of pregnancy UP Chapter 8, AR 635-200. I desire to remain on Active Duty until_____date_____(In no case later than 30 days prior to expected date of delivery).

__I elect to remain on Active Duty to fulfill the terms of my enlistment contract.

S/_____

_____

1 copy MPRJ
1 copy individual
1 copy file

FIGURE 8-2

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4. Paragraph 13-5b(3) is changed to add at the end of the paragraph the following:

This provision is applicable to members who are pregnant and whose substandard performance of duty is not solely attributable to the condition of pregnancy; such as, failure to perform prescribed duties due to defective attitude rather than physical limitation, failure to report to duty without medical or military authorization, or refusal of CONUS reassignment during first six months of pregnancy.

(NOTE: This provision does not preclude separation of pregnant service women under paragraph 5-37, AR 635-200, when appropriate).

5. Due to the high cost to the government of nonproductive time during prenatal and postpartum absence and increasing attrition rates following delivery but prior to ETS, it is imperative that pregnant service women be counseled regarding not only their entitlements but also their responsibilities to the Army and the realities of the potential hardships they may anticipate on active duty. Commanders and supervisors are reminded that it is not the intent of Department of the Army to allow the immediate release, after receiving pay and allowances during prenatal and postpartum absence, of enlisted women who opted prior to delivery to remain in the service unless they clearly show how circumstances have significantly changed.

AR 635-200

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BOOK | MESSAGE HANDLING INSTRUCTIONS

FROM: HQDA/DAPE-MPE-PS/WASH DC//

TO: ALL HOLDERS OF AR 635-200

SUBJECT: Interim Change to AR 635-200 Expires 3/25/77

1. This interim change is being distributed through publications pinpoint distribution system to all holders of AR 635-200, in accordance with DA Form 12-9A block _____. The primary purpose is to clarify policy regarding the retention of homosexuals in the Army. This change is effective upon receipt.

2. Add para 13-2e, AR 635-200 as follows:

Policy with respect to homosexuality. It is Department of the Army policy that homosexuality is incompatible with military service. A person with homosexual tendencies or who commits homosexual acts seriously impairs discipline, good order, morale and security of a military unit. Accordingly, when conditions exist which would support action under either paragraph 13-5a(7) or paragraph 13-5b(5), the member will be processed for discharge.

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FROM: HQDA/DAPE-MPE-PS/WASH DC//

TO: ALL HOLDERS OF AR 635-200

SUBJECT: Interim Change to AR 635-200

1. This interim change is being distributed through publications pinpoint distribution system to all holders of AR 635-200, in accordance with DA Form 12-9A block _____. The primary purpose is to make changes and clarify procedure regarding discharge for unsuitability by reason of personality disorder and the characterization of service for such discharges. This change is effective 22 February 1977.

2. Change Para 1-7, AR 635-200 to read:

"General Considerations. The type of discharge and character of service are of great significance to the soldier and must accurately reflect the nature of service performed. Eligibility for veterans benefits provided by law, eligibility for reentry into service, and acceptability for employment in the civilian community may be affected by these determinations. The type of discharge and character of service will be determined solely by the military record during the current enlistment or period of service, plus any extensions thereof, from which the soldier is being separated. It is of paramount importance that the soldier's performance of duty and conduct be accurately evaluated and be based on the overall period of service and not on any isolated actions or entries on the Enlisted Qualification record."

3. Change Para 1-9a, AR 635-200 to delete:

"Preservice and prior service activities."

4. Add to Para 1-9a "(3) Mental Status evaluation or other similar medical evaluation given during the period of service which is being characterized."

5. Change Para 13-5b(2) to read:

"Personality Disorder: As determined by medical authority (i.e., the diagnosis will have been established by a physician trained in psychiatry

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and psychiatric diagnosis) and described in the Diagnostic and Statistical Manual (DSM II) of Mental Disorders (section on mental disorders, International Classification of Diseases and Injuries - 8, *Diagnostic and Statistical Manual* (DSM II) of Mental Disorders, 2nd Edition, Committee on Nomenclature and Statistics American Psychiatric Association, Washington, DC 1968) this condition is a deeply ingrained, maladaptive pattern of behavior of long duration which interferes with the members ability to perform duty. Exception: Combat exhaustion and other acute situational maladjustments. No individual may be discharged pursuant to this paragraph unless he or she meets Army medical standards for retention."

6. Add to Para 13-10a: "(f) Individual is being considered for discharge under provisions of Para 13-5b(2)."

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HQDA WASH DC//DAPE-MPE-PS//

ALL HOLDERS OF AR 635-200 Rec'd 2/14/77

1. This interim change is being distributed through publications pinpoint distribution system to all holders of AR 635-200 in accordance with DA Form 12-9A block _____.

2. Pending revision of subject regulation Section III, pages 2-8 and 2-9 para 2-11b is superseded as follows:

b. Should the individual consent to retention in the service he will be requested to execute substantially the following request for retention in service which will be filed in the individual's DA Form 201. A copy of the request for retention will be forwarded to Cdr, US Army Enlisted Records and Evaluation Center, Fort Benjamin Harrison, Indiana 46249 for file in the member's OMPF as a permanent document.

REQUEST FOR RETENTION IN SERVICE

I, (Name, Grade, SSN, Organization), am being subjected to the exercise of criminal jurisdiction of the government of_____.

I am presently:

_____Awaiting dispostion of the charges by the authorities of the foreign government.

_____Undergoing trial in a court of the foreign government.

_____Awaiting a decision on my appeal of my conviction and sentence by a court of the foreign government.

I request that I be retained in the service beyond _____, the expiration date of my term of service, until final disposition of the charges against me by the foreign government and completion of administrative action to accomplish my separation from the Army. I have been informed that if my case results in civil conviction, I will be processed for elimination under the provisions of AR 635-206 and may be furnished a discharge certificate Under Other Than Honorable Conditions (DD Form 794A).

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MAJ Russell/DAPE-MPE-PS/52225
13 January 1977

A.W.SINGLETARY,COL,GS,CHIEF,ENL DIV/72929

Albert W. Singletary

02 02

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

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

_____
Signature of member

_____
Signature of counseling officer

2. This change is effective immediately.

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FROM: CDRMILPERCEN ALEX VA //DAPC-PAS-R//

TO: ALL HOLDERS OF AR 635-200

UNCLAS

SUBJ: Interim Change to AR 635-200

1. This change is being distributed through publications pinpoint distribution system to all holders of AR 635-200 and is effective immediately. This message corrects a publication error.

2. Page 12-13, paragraph 12-25b(2) is superseded as follows:

(2) When the applicant has had breaks in Army service or periods of prior Army service which have not been previously verified, one copy of DA Form 2339 (Application for Voluntary Retirement) will be submitted to the Commander, US Army Enlisted Records and Evaluation Center, ATTN: PCRE-RC, Fort Benjamin Harrison, IN 46249, requesting verification. It is important that inclusive dates for all service claimed, both active Federal service and inactive service, be furnished.

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CDRMILPERCEN ALEXVA//DAPC-PAS-S//

ALL HOLDERS OF AR 635-200

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SUBJECT: INTERIM CHANGE TO AR 635-200 AND 635-206

A. DA MESSAGE DAPC-PAS-S 241500Z (U) JULY 75 (DISTRIBUTED BY PINPOINT DISTRIBUTION), SUBJECT: AS ABOVE.

THE FOURTH SENTENCE OF PARAGRAPH 1, ABOVE REFERENCED MESSAGE IS CHANGED TO READ AS FOLLOWS:

"PAGE 14-4, PARAGRAPH 14-11A(6), CHAPTER 14, AR 635-200 IS CHANGED TO REQUIRE THE UNIT COMMANDER TO RECOMMEND THE TYPE OF DISCHARGE".

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DAPC-PAS-S, 17 Dec 75, 221-8732

JOHN F. FITZSIMONS, COL, GS, DEP
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FROM: CDRMILPERCEN ALEXVA//DAPC-PAS-S//

TO: ALL HOLDERS OF AR 635-200

SUBJECT: Interim Change to AR 635-200

1. This change is being distributed through publications pinpoint distribution system to all holders of AR 635-200 and is effective upon receipt. The primary purpose is to establish the Trainee Discharge Program (TDP) as paragraph 5-39, AR 635-200, to replace all wire messages on TDP, and to incorporate the TDP portions on pinpoint change 061400Z Jun 75, subject: Interim change to Chapters 6 and 8, AR 635-200, and the Trainee Discharge Program. It is emphasized that women who were pregnant prior to entry on active duty or initial active duty for training (IADT), will be involuntarily discharged. The limitations portion of wire messages is broadened to state that it is contrary to the intent of this policy for commanders to use this policy as a substitute for appropriate administrative action under para 5-38; chapter 13 and 14 of this regulation; Section VI, AR 635-206; processing through medical channels because of physical or mental defects; or appropriate disciplinary action. References to National Guard and Army Reserve regulations are included and procedures are defined for the discharge of Army National Guard (ARNG) trainees and Army Reserve (USAR) personnel. The following messages are superseded by this pinpoint change:

a. DA msg DAPE-MPE-PS 011510Z Aug 73, subj: Evaluation and Discharge of Enlistees before 180 Active Duty Days.

b. DA msg DAPE-MPE-PS 081451Z Aug 73, subj: Evaluation and Discharge of Enlistees before 180 Active Duty Days.

c. DA msg DAPE-MPE-PS 192015Z Feb 74, subj: Clarification of Trainee Discharge Program.

d. DA msg DAPE-MPE-PS 051958Z Nov 74, subj: Evaluation and Discharge of Enlistees before 180 Active Duty Days (Trainee Discharge Program).

e. DA msg DAPE-MPE-PS 182354Z Dec 74, subj: Trainee Discharge Program (TDP).

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5-39. The Trainee Discharge Program: a. This program provides that commanders may expeditiously discharge individuals who lack the necessary motivation, discipline, ability, or aptitude to become a productive soldier when these individuals:

(1) Were voluntarily enlisted in the Regular Army, Army National Guard (ARNG), or Army Reserve (USAR).

(2) Are in BCT or BT or in MOS training in AIT, a service school or OJT prior to award of the MOS for which being trained and will have completed no more than 179 days active duty, or initial active duty for training (IADT), on current enlistment by the date of discharge. Prior service personnel who meet this criteria are included in this program.

(3) Have demonstrated that they are not qualified for retention for one or more of the following reasons:

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

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

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

(d) Do not meet the moral, mental or physical standards for enlistment including disqualifying drug use in accordance with AR 601-210, NGR 600-200 (ARNG), or AR 140-111 (USAR). Pregnancy is a disqualifying medical condition for enlistment under Table 2-1, AR 601-210, paragraph 2-8, NGR 600-200, Table 2-2, AR 140-111, and para 2-14k, AR 40-501.

b. Discharge under the Trainee Discharge Program (TDP) because of medical disqualification (pregnancy).

(1) Enlisted women who are found to have been pregnant upon enlistment will be discharged under the Trainee Discharge Program. This also applies to

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enlisted women who enter into the Regular Army under the delayed entry program. Women who are discharged UP Trainee Discharge Program for pregnancies which occurred prior to entry on active duty or initial active duty for training (EPTS pregnancies) are not entitled to maternity care as provided in para 4-46, AR 40-3.

(2) Enlisted women who become pregnant while still in a training status will be involuntarily discharged under the Trainee Discharge Program when it has been determined by the training commander having discharge authority for TDP, in coordination with the medical officer (obstetrician), that the woman cannot fully participate in the training required for the MOS concerned because of her physical condition. The training commander will furnish the obstetrician the training requirements. When it has been determined that an enlisted woman can fully participate she will be retained unless she requests discharge UP chapter 8, AR 635-200.

(3) Women discharged UP Trainee Discharge Program for pregnancy which occurred after entry on AD or IADT are entitled to maternity care in a military medical facility only, IAW para 4-46, AR 40-3. It is extremely important that the following statement be included in the separate document offered these individuals upon discharge: Eligible for prenatal, delivery, and postnatal care for this pregnancy in military facilities only, IAW para 4-46, AR 40-3. This is necessary because the SPD (reason for discharge) is no longer entered on the individual's copy of the DD Form 214 (Report of Separation from Active Duty). These women will be counseled as to the importance of the document, and that medical care will not be provided in a military medical facility unless this document is presented.

c. Limitations. It is contrary to the intent of this policy for commanders to use this policy as a substitute for appropriate administrative action under para 5-38; chapters 13 and 14 of this regulation; Section VI, AR 635-206; processing through medical channels because of physical or mental defects; or appropriate disciplinary action.

d. Discharge in absentia may be executed under this paragraph providing the individual has completed the acknowledgement of this proposed discharge and the other procedures in paragraph e below have been accomplished prior to the individual going AWOL. If discharge in absentia is contemplated, the immediate

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commander will notify the individual's parents, spouse or guardian of the proposed action and reason therefor. However, processing of discharge action will not be delayed due to this notification requirement.

e. Procedures.

(1) General. This program is intended to provide a rapid means to process individuals for discharge. Commands should monitor procedures to insure that they remain as simple and decentralized as possible. The affected individual's immediate commander will personally notify the individual in writing of the proposed discharge and reason therefor. Notification will be substantially as in figure 5-5 which is authorized for local reproduction. In referenced letter paragraph 2 (reason for proposed action) state specific factual details which constitute the basis for this action including counseling, if appropriate, and dates and times of contributory events. Acknowledgement by the affected individual will be in the form of an indorsement returning the notification to the individual's immediate commander. This indorsement will be substantially as in figure 5-6 which is authorized for local reproduction. The immediate commander will forward his letter and the acknowledgement by indorsement through command channels to the commander exercising discharge authority. Once the statement that an individual elects not to have a separation medical examination is forwarded by the unit commander, it may be withdrawn only with the consent of the appropriate discharge approval authority.

(2) Separation procedures. Transfer processing activities will issue honorable discharge certificates and prepare DD Form 214's for all individuals discharged under provisions of this paragraph. Army National Guard (ARNG) trainees affected by this paragraph will be released from initial active duty for training (IADT) and discharged from their Reserve of the Army status. Use TC 306, App. A, AR 310-10. The MPRJ will be returned to the State Adjutant General of the State from which the individual entered on IADT with the original record of separation proceedings. USAR personnel will be discharged. Use TC 300, App. A, AR 310-10. A copy of the approved discharge proceedings will be attached to copy 7 of the DD Form 214 prepared for the individual and forwarded in accordance with the provisions of Table 3-1, AR 635-5 to the appropriate Army commander as follows:

First U.S. Army, ATTN: AFKA-PA-RC
Fifth U.S. Army, ATTN: AFKB-PA-R

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Sixth U.S. Army, ATTN: AFKC-PA-R

The MPRJ will be forwarded to Commander, RCPAC with the original record of separation proceedings. Copies of discharge orders will be furnished to the appropriate CONUSA or State Adjutant General, RCPAC and the individual's unit of assignment.

f. Discharge Authority. If the individual does not rebut the proposed discharge, the commander exercising special court-martial jurisdiction is authorized to order discharge. If the individual does rebut the proposed discharge, the commander exercising general court-martial jurisdiction is authorized to order discharge. Discharge authority may not be delegated. Discharge should be accomplished within 3 duty days following approval by the discharge authority.

g. Reason and Authority for Separation. The authority for discharge, paragraph 5-39, AR 635-200, and the reason as given in AR 635-5-1, will be included in directives or orders directing the individual to report to the appropriate transfer activity.

h. A discharge action control sheet (figure 5-7 which is authorized for local reproduction) is furnished for optional use.

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FROM: CDRMILPERCEN ALEX VA//DAPC-PAS-S//

TO: ALL HOLDERS OF AR 635-200 AND AR 635-206

SUBJECT: Interim Change to AR 635-200 and AR 635-206 Delegation of Authority

1. This change is being distributed through publications pinpoint distribution system to all holders of AR 635-200 and 635-206 and is effective immediately.

2. Pages 5-3 and 5-4, Section III, Chapter 5, AR 635-200, para 5-9c is changed as follows:

c. Line 3. After word paragraph add sentences "authority to approve, disapprove, or otherwise appropriately dispose of cases may be delegated to the commander's deputy, or other officer within his headquarters. Every action taken in accordance with such delegation will state the authority."

3. Page 5-4, Section III, Chapter 5, AR 635-200, para 5-9.1c is changed as follows:

c. Line 3. After word paragraph add sentences "authority to approve, disapprove, or otherwise appropriately dispose of cases may be delegated to the commander's deputy, or other officer within his headquarters. Every action taken in accordance with such delegation will state the authority."

4. Page 5-15, Section XIII, Chapter 5, AR 635-200 para 5-31b is changed as follows:

b. The commander specified in paragraph 2-17a will take action as set forth below. He may delegate the authority to approve, disapprove, or otherwise appropriately dispose of cases to his deputy, or other officer within his headquarters. Every action taken in accordance with such delegation will state the authority.

5. Section XIII, Chapter 5, AR 635-200, paragraph 5-32 as changed by pinpoint message 071400Z Feb 75. In message change 5-32b(1) as follows:

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(1) Line 4. After word discharge add sentence "authority to approve, disapprove, or otherwise appropriately dispose of cases may be delegated to the commander's deputy, or other officer within his headquarters. Every action taken in accordance with such delegation will state the authority."

(1) Line 4. Delete sentence "These commanders are not authorized to delegate this authority to any subordinate commanders without prior approval of the Secretary of the Army."

6. Page 5-22, Section XV, Chapter 5, AR 635-200, paragraph 5-38b is changed as follows:

b. Line 4. After word member add following sentences "authority to approve, disapprove, or otherwise appropriately dispose of cases may be delegated to the commander's deputy, or other officer within his headquarters. Every action taken in accordance with such delegat... will state the authority."

7. Page 7-1, Chapter 7, AR 635-200, paragraph 7-3. Add following sentences to end of paragraph.

7-3. "authority to approve, disapprove, or otherwise appropriately dispose of cases may be delegated to the commander's deputy, or other officer within his headquarters. Every action taken in accordance with such delegation will state the authority."

8. Page 13-1, Section I, AR 635-200, paragraph 13-4b is changed as follows: Add following sentence to end of paragraph.

b. "See para 13-17e and f and 13-26b for delegation authorized for post-board actions and actions when the board has been waived.

9. Page 13-2, Section I, Chapter 13, AR 635-200, paragraph 13-4c is changed as follows: add the following sentence to end of paragraph:

c. "This authority may not be delegated."

10. Page 13-9, Section IV, Chapter 13, AR 635-200, paragraph 13-17e is changed as follows: add the following sentences to end of paragraph.

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e. "This authority, except for the authority to direct an undesirable discharge, may be delegated to the convening authority's deputy or other officer within his headquarters. Every action taken in accordance with such delegation will state the authority."

11. Page 13-9, Section IV, Chapter 13, AR 635-200, paragraph 13-17f is changed as follows: add the following sentences to end of paragraph.

f. "This authority, except for the authority to direct an undesirable discharge, may be delegated to the convening authority's deputy or other officer within his headquarters. Every action taken in accordance with such delegation will state the authority."

12. Page 13-13, Section VI, Chapter 13, AR 635-200, para 13-26b is superseded as follows:

b. "The convening authority may delegate to his deputy, or other officer within his headquarters, the authority to approve, disapprove, or otherwise appropriately dispose of cases, except for the authority to direct an undesirable discharge. Authority to direct an undesirable discharge may be delegated to a general officer in command who has a judge advocate on his staff for cases arising in that command. Every action taken in accordance with such delegations will state the authority. When the officer exercising special court-martial jurisdiction is the convening authority, authority to approve, disapprove, or otherwise dispose of a case will not be delegated."

13. Page 14-1, Section I, Chapter 14, AR 635-200, paragraph 14-3b is changed as follows:

b. "This authority, including the authority to direct an undesirable discharge for reasons of fraudulent entry, may be delegated to a general officer in command who has a judge advocate on his staff for cases arising in that command. Authority to approve, disapprove, or otherwise appropriately dispose of cases, except for the authority to direct an undesirable discharge, may be delegated to the convening authority's deputy or other officer within his headquarters. Every action taken in accordance with such delegations will state the authority. All references to commanders exercising general court-martial jurisdiction, general

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court-martial convening authority, and general court-martial authority designated in in this chapter include this delegation."

14. Page 14-3, Section II, Chapter 14, AR 635-200, paragraph 14-6b is changed as follows: Add the following sentence to 14-6b(3):

(3) "See paragraph 14-12 for specific authorized delegation."

15. Page 14-5, Section II, Chapter 14, AR 635-200 paragraph 14-12a is changed as follows: Add the following sentence to end of paragraph:

a. "Authority to approve, disapprove, or otherwise appropriately dispose of these cases may be delegated to the convening authority's deputy or other officer within his headquarters. Every action taken in accordance with such delegation will state the authority."

16. Page 14-5, Section II, Chapter 14, AR 635-200, paragraph 14-12b is changed as follows: Add the following sentences to end of paragraph:

b. "authority to direct an undesirable discharge may be delegated to a general officer in command who has a judge advocate on his staff for cases arising in that command. Every action taken in accordance with such delegation will state the authority."

17. Page 14-5, Section II, Chapter 14, AR 635-200, paragraph 14-12e is changed as follows: Add the following sentence to end of paragraph:

e. "Authority to direct retention for fraudulent entry may not be delegated."

18. Page 14-5, Section II, AR 635-200, para 14-12f is superseded as follows:

f. The commander exercising general court-martial jurisdiction may direct retention of an individual when he believes that exceptional circumstances in a case warrant retention even though the individual entered the service with a non-waiverable disqualification or the evidence of fraudulent entry was concealment of a felony conviction by civil court or adjudication as a juvenile offender for a felonious offense. This authority may not be delegated.

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(1) In making recommendations and determinations on retention, the following factors should be considered by all commanders;

(a) Seriousness of offense(s) and length of time since last offense. In this regard, conviction for murder, rape, forcible sodomy, aggravated arson, sale or traffic in controlled substances, aggravated assault with intent to commit murder, rape, or any conviction resulting in confinement for two or more years or commitment to a mental institution are very serious offenses and should rarely be waivered, and then only with conclusive evidence of rehabilitation.

(b) Evidence of rehabilitation or maturity since conviction of offenses.

(c) Patterns of offenses which indicate individual is undesirable for service in a military environment.

(d) Age at time of offenses.

(e) Educational level - High School graduate, GED, etc.

(f) ACB scores.

(g) Performance of military duty and motivation to serve, including recommendations by commanders and others who have knowledge of the member's performance of duty and motivation.

(2) In those instances where there is an indication of recruiter malpractice, a copy of the case should be sent to CDR, USAREC, ATTN: USARCCS, Ft. Sheridan, IL 60037.

19. Page 14-8, Section III, Chapter 14, AR 635-200, paragraph 14-17d is superseded as follows:

d. The convening authority may delegate to his deputy or other officer within his headquarters the authority to approve, disapprove, or otherwise appropriately dispose of cases, except for the authority to direct an undesirable discharge. Authority to direct an undesirable discharge may be delegated to a

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general officer in command who has a judge advocate on his staff for cases arising in that command. Every action taken in accordance with such delegations will state the authority.

20. Page 15-4, Section II, Chapter 15, AR 635-200, paragraph 15-12c is superseded as follows:

c. The convening authority may delegate to his deputy or other officer within his headquarters the authority to approve, disapprove, or otherwise appropriately dispose of cases, except to direct an undesirable discharge. The authority to direct an undesirable discharge may be delegated to a general officer in command who has a judge advocate on his staff. Every action taken in accordance with such delegations will state the authority.

21. Page 8-1, Section I, Chapter 8, AR 635-200, paragraph 8-2 is superseded as follows:

8-2. Authority to discharge. Commanders specified in paragraph 2-17, Section VI, are authorized to approve the discharge of enlisted women under this chapter. This authority may be delegated to the commander's deputy or other officer within his headquarters. Every action taken in accordance with such delegations will state the authority.

22. Page 12-1, Section I, Chapter 12, AR 635-200, para 12-3a is changed as follows:

a. Delete "This authority will not be further delegated." Add "This authority may be delegated to the commander's deputy or other officer within his headquarters." Every action taken in accordance with such delegation will state the authority.

23. Page 3, Section I, AR 635-206, paragraph 3i as changed by change No. 4 is superseded as follows:

i. Convening authority. The officer who exercises general court-martial jurisdiction over the person considered for discharge under this regulation. Authority to approve, disapprove, or otherwise appropriately dispose of cases,

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except for authority to direct an undesirable discharge may be delegated to the convening authority's deputy or other officer within his headquarters. Authority to direct an undesirable discharge may be delegated to a general officer in command who has a judge advocate on his staff for cases arising in that command. Every action in accordance with such delegations will state the authority.

24. Pages 6 and 7, Section IV, AR 635-206, paragraph 11d is superseded as follows:

d. Authority to approve, disapprove, or otherwise appropriately dispose of cases, except for the authority to direct an undesirable discharge may be delegated to the convening authority's deputy or other officer within his headquarters. Authority to direct an undesirable discharge may be delegated to a general officer in command who has a judge advocate on his staff for cases arising in that command. Every action taken in accordance with such delegations will state the authority.

25. Page 13, Section VI, AR 635-206, paragraph 37a is superseded as follows:

a. The convening authority is authorized to order discharge or direct retention in military service when disposition of an individual has been made by a domestic court of the United States or its territorial possessions. Authority to approve, disapprove, or otherwise appropriately dispose of cases except to direct an undesirable discharge, may be delegated to the convening authority's deputy or other officer within his headquarters. Authority to direct an undesirable discharge may be delegated to a general officer in command who has a judge advocate on his staff. Every action taken in accordance with such delegations will state the authority.

26. Page 13, Section VI, AR 635-206, paragraph 37c is changed as follows: Add the following sentence to end of paragraph.

c. "Authority to approve, disapprove, or otherwise appropriately dispose of cases may be delegated to the convening authority's deputy, or other officer within his headquarters." Every action taken in accordance with such delegation will state the authority."

27. Page 2-12, Section VI, Chapter 2, AR 635-200, paragraph 2-17b is superseded as follows:

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b. Commanders exercising general courts-martial jurisdiction are authorized to order discharge under AR 635-206 and chapters 10, 11, 13, 14 and 15 of this regulation. This authority, except for chapter 11, may be delegated to a general officer in command who has a judge advocate on his staff for cases arising in that command. This includes the authority to direct an undesirable discharge. Authority to approve, disapprove, or otherwise appropriately dispose of cases may be delegated to the convening authority's deputy or other officer within his headquarters for chapters 6, 7, 8 and portions of chapters 5, 13, 14 and 15 of AR 635-200 and AR 635-206. See appropriate chapters for specific delegations authorized. Retirement approval authority is IAW Chapter 12. Every action taken in accordance with such delegations will state the authority.

28. Page 2-12, Section VI, Chapter 2, AR 635-200, paragraph 2-17c is changed as follows:

c. Add following sentence to end of paragraph "This authority may not be delegated."

29. Page 2-12, Section VI, Chapter 2, AR 635-200, paragraph 2-17d is changed as follows:

d. Add the following sentence to end of paragraph: "Authority to approve, disapprove, or otherwise appropriately dispose of cases may be delegated to the commander's deputy, or other officer within his headquarters. Every action taken in accordance with such delegation will state the authority."

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FROM: CDRMILPERCEN ALEX VA//DAPC-PAS-S//

TO: ALL HOLDERS OF AR 635-200

SUBJECT: Interim Change to AR 635-200

1. This change is being distributed through publications pinpoint distribution system to all holders of AR 635-200 and is effective upon receipt. The following messages are superseded by this pinpoint change:

a. DA msg DAPE-MPE-PS 082221Z Nov 74, subject: Expeditious Discharge Program (EDP)

b. DA msg DAPE-MPE-PS 111445Z Nov 74, subject: Change to Chapter 5, AR 635-200

c. DA msg DAPE-MPE-PS 112355Z Dec 74, subject: Change to Chapter 5, AR 635-200. Distributed only to Europe

d. DA msg DAPE-MPE-PS 211333Z May 75, subject: Expeditious Discharge Program

This message implements the Expeditious Discharge Program Army wide. Discharge authority is changed to authorize officers in grade of LTC (05) who are commanders of battalions and battalion-size units to direct discharges under this program. Further, a provision is added to provide for discharge in absentia when an individual absents himself without leave subsequent to the date the individual consents to discharge and the date the initiating commander formally recommends approval of the discharge. Loss ceilings and quotas are removed.

2. Para 5-37, Section XV, is superseded as follows:

5-37. Expeditious Discharge Program. a. General. This program provides that individuals who have demonstrated that they cannot or will not meet acceptable standards required of enlisted personnel in the Army, because of the existence of one or more of the following conditions, may be discharged:

(1) Poor attitude.

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(2) Lack of motivation.
(3) Lack of self-discipline.
(4) Inability to adapt socially or emotionally.
(5) Failure to demonstrate promotion potential.

b. Scope. This policy applies to all active Army personnel, including Army National Guard (ARNG) and Army Reserve (USAR) personnel ordered to active duty who have completed at least six months but not more than 36 months of continuous active duty at the time the member's immediate commander formally recommends discharge under this paragraph. For purposes of this policy, a break in service of not more than 90 days does not interrupt continuity of active duty. This program does not apply to ARNG and USAR members on any type of active duty for training (ADT).

c. Purpose. This policy will provide for the expeditious elimination of substandard, nonproductive soldiers before board or punitive action becomes necessary. These provisions are intended to relieve unit commanders of the administrative burden normally associated with processing eliminations for cause through administrative discharge boards by providing a means to discharge such personnel expeditiously before they progress to the point where board or punitive action becomes necessary. The program is not intended to be a panacea for normal personnel problems or a relief from the professional obligation of commanders to exercise effective leadership and exert a sincere effort to produce good soldiers from seemingly poor ones.

d. Limitations. It is contrary to the intent of this policy for commanders to do the following:

(1) To use this policy as a substitute for appropriate administrative action under para 5-38; chapters 13, 14, or 15 of this regulation; Section VI, AR 635-206; processing through medical channels because of physical or mental defects; or appropriate disciplinary action.

(2) To make arbitrary or capricious use of this authority.

(3) To force the separation of individuals who:

(a) Possess a potential for rehabilitation.

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(b) Decline discharge under this policy.

e. Identification and Screening.

(1) Individual characteristics that will assist in identifying individuals who should not be retained in the Army include, but are not limited to the following:

(a) Quitter.
(b) Hostility toward the Army.
(c) Inability to accept instructions or directions.
(d) Clearly substandard performance.
(e) Evidence of social/emotional maladjustment.
(f) Lack of cooperation with peers or superiors.

(2) Personnel identified as vulnerable for discharge under this program will generally fall into one of three categories:

(a) The individual who obviously cannot adjust to the Army environment.
(b) The individual who responds initially but within a short period of time demonstrates that he/she is incapable of permanent adjustment.
(c) The individual who completed BCT and AIT but later demonstrates that his/her potential for further service is doubtful.

f. Standards and Criteria

(1) No members shall be discharged under this program unless the Army member voluntarily consents to the proposed discharge. The Army member's acceptance of discharge may not be withdrawn after the date the discharge authority approves the discharge.

(2) Individuals discharged under EDP may be awarded an honorable or general discharge certificate as appropriate (see para 1-9).

(3) No member shall be awarded a general discharge under this paragraph unless given the opportunity to consult with an appointed counsel for consultation (see para 1-3c).

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(4) No member shall be given a general discharge by the discharge authority unless it was recommended by the commander initiating the recommendation for discharge. In cases in which the discharge authority disagrees with the recommendation for an honorable discharge, the case will be returned to the initiating commander with comment to that effect. The initiating commander may either initiate new proceedings under this paragraph or take other appropriate action.

(5) Discharge authorities may award an honorable discharge if general discharge is recommended by the initiating commander.

(6) When an individual being processed under this program absents himself without leave while in the continental United States, Alaska, Hawaii, or a US territory or possession, the Army member's discharge may be executed in absentia provided the absence occurre[illegible] [illegible]quent to the date the individual consented to discharge and the date the initiating commander formally recommended approval of the case. Discharge in absentia for this program does not apply to individuals absent in civil confinement or for whom civil or military trial or charges are pending. Absentia discharges will be approved by the discharge authority before executed.

(7) Discharge should be accomplished within 3 duty days following approval by discharge authority.

g. Procedures.

(1) The affected member's immediate commander will personally notify the member in writing of the proposed discharge, the reasons therefor, and the effect of the discharge. (See figure 5-3 for notification letter.) This form letter is authorized for local reproduction. In paragraph 2 of letter covering reasons for proposed action, state specific facts and incidents which are the basis for this action. The date in para 7 should allow the member at least 48 hours to consult with counsel when a general discharge is recommended.

(2) Under the provisions of paragraph f(3) above, counsel will, upon request, be provided to an individual recommended for a general discharge. Necessary administrative support will be made available to assist the individual in preparing the indorsement.

(3) Acknowledgement by the affected member will be in the form of an indorsement returning the notification to his/her immediate commander. (See figure 5-4

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for indorsement. This form indorsement is authorized for local reproduction.)

(4) If the affected member voluntarily consents to the proposed discharge, the immediate commander will forward his letter and the acknowledgement by indorsement through command channels to the commander exercising discharge authority The immediate commander's indorsement should include pertinent information such as number of article 15's, number of courts-martials and the number of times counselled The discharge authority will insure that the member has been fully counseled, that the recommendation for discharge is fully supported, and that such action is not in conflict with any provisions of this program. Reassignment for rehabilitation will be considered, if warranted.

(5) If the affected member does not consent to the proposed discharge, the case will be closed and other separation or disciplinary action taken if warranted.

(6) The discharge authority may disapprove a recommendation for discharge under this paragraph and return the case to the initiating commander for other disposition.

(7) Disposition of documents generated in the course of processing such cases will be as follows:

(a) When discharge is approved, the notification letter, acknowledgement indorsement, and each forwarding indorsement, including the discharge authority's approval will be made a part of the individual's permanent record (MPRJ).

(b) When the member does not consent to such discharge, or the recommended discharge is not approved, the pertinent documents will be retained in the member's MPRJ until he/she is reassigned or ETS, at which time they will be destroyed.

h. Discharge Authority. Lieutenant colonels (O5) who are commanders of battalions and battalion-size units are authorized to order discharge under this program. This authority may not be delegated.

i. Special Orders. The reason and authority for separation (item 9c, DD Form 214) will be entered in accordance with AR 635-5-1. Authority, para 5-37, AR 635-200, reason and RE Code 3 will be included in orders directing the member to report to an appropriate transfer activity for separation processing. Reason will be for

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"failure to meet acceptable standards for continued military service." Army National Guard members will be discharged from their "Reserve of the Army" status only, and will be returned to the control of the appropriate State National Guard authority for discharge. A copy of the approved proceedings will be forwarded to the Adjutant General of the state.

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FROM: CDRMILPERCEN ALEX VA//DAPC-PAS-S//

TO: ALL HOLDERS OF AR 635-200

SUBJECT: Interim change to Chapters 6 and 8, AR 635-200 and the Trainee Discharge Program

A. DA Msg 272024Z Dec 73, subj: Changes in Policy for Discharge of Enlisted Women for reason of marriage and pregnancy, Chapter 8, AR 635-200. (Rescinded by this pinpoint message)

B. DA Msg 061247Z Dec 72, subj: Interim change to AR 635-120 and AR 635-200 concerns leave of absence policies for pregnant women.

1. This change is being distributed through publications pinpoint distribution system to all holders of AR 635-200 and is effective upon receipt. This pinpoint change rescinds involuntary discharge of enlisted women for pregnancy with the exception of women in a training status and those who were pregnant prior to entry upon active duty (EPTS pregnancies). Denials of retention for any enlisted women not yet discharged for pregnancy or parenthood are automatically rescinded. These women will be retained unless they elect discharge. Pregnant women who elect discharge will be permitted to specify a later discharge date. Additionally, this message transfers the provisions for discharge for parenthood from Chapter 8 to Chapter 6 to include a provision for discharge of service members for "sole parenthood". Discharge authority may be delegated to the commander's deputy or other officer within his headquarters.

Part I - Pregnancy, Marriage, Parenthood - Hardship

2. Page 8-1, Section I, Chapter 8, AR 635-200, para 8-1 is superseded as follows:

8-1. Scope. This chapter establishes policy, sets forth procedures, and provides authority for voluntary discharge of enlisted women by reasons of marriage or pregnancy. The provisions of this chapter are applicable to all active Army enlisted personnel, including ARNGUS and USAR enlisted personnel ordered to active duty for training, other than annual training.

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3. Page 8-1, Section I, Chapter 8, AR 635-200, para 8-2 is changed as follows:

8-2. Add the following sentence to the end of the paragraph. "This authority may be delegated to the commander's deputy or other officer within his headquarters."

4. Page 8-1, Section II, Chapter 8, AR 635-200, para 8-3 is superseded as follows:

8-3. Authority. Women who enlisted, reenlisted or extended on or after 1 August 1973 will not be discharged by reason of marriage. Women whose current enlistment, reenlistment, or extension was prior to 1 August 1973 are authorized discharge by reason of marriage providing they meet the following requirements:

a. Served at least 18 months on her current enlistment.

b. Completed all obligated periods of service incurred through schooling or promotion as required by AR 600-200.

c. Served at least 6 months in the overseas command if application is submitted while serving overseas or subsequent to departure from home station enroute to overseas.

5. Page 8-1, Section II, Chapter 8, AR 635-200, para 8-6b is changed as follows:

b. Delete words "and SPN 220". Add following sentence to end of paragraph: "The reason will be IAW AR 635-5-1".

6. Page 8-1, Section III, Chapter 8, AR 635-200, para 8-8 is superseded as follows:

8-8. General. a. When it has been determined that an enlisted woman is pregnant, she will be afforded an opportunity to --

(1) Request discharge under the provisions of this chapter. Women who request discharge for pregnancy may request a specific date for discharge. The

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specified date will not be later than 60 days prior to expected date of confinement for personnel assigned to CONUS and 90 days prior to confinement for those assigned to overseas commands. This date may be accelerated by the discharge authority if the applicant cannot fully meet the perfomance requirements of her duty MOS.

(2) Submit an application for retirement, if eligible (Chapter 12).

b. When it has been determined that a woman was pregnant prior to entry upon active duty (EPTS pregnancies), she will be involuntarily discharged.

c. Women who become pregnant while still in a training status will be involuntarily discharged when it has been determined by the training commander having discharge authority, in coordination with the medical officer (obstetrician), that the woman cannot fully participate in the training required for the MOS concerned because of her physical condition. The Training Commander will furnish the obstetrician the training requirements.

d. If pregnancy is the only medical condition which is the basis for the discharge request, discharge will be accomplished without processing by a medical board or physical evaluation board. If there are other medical conditions which disqualify the enlisted woman for retention, processing will be accomplished under the provisions of AR 40-3 and AR 635-40.

Para c of 8-8 is rescinded.

7. Page 8-1, Section III, Chapter 8, AR 635-200, para 8-9 is superseded as follows:

8-9. Maternity Leave. Requests for leave of absence will be requested in accordance with AR 630-5.

A pregnant woman should understand she is to wear civilian maternity clothes as directed by her commander and to obtain her clothes at her own expense.

Note: DA msg 061247Z Dec 72, covering leave of absence for conditions of

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pregnancy, is in effect (except para c. as changed below) until these policies are included in the new AR 630-5 which will be published in the near future. Para c. of referenced message is changed to specify that requests for extension of convalescent leave beyond the six-week period will be submitted to DA. Requests containing full justification, will be forwarded through command channels to HQDA (DASG-HCC), Washington, DC 20310 with information copy to HQDA (DAPC-PAP-E), 200 Stovall Street, Alexandria, Virginia 22332.

8. Page 8-2, Section III, Chapter 8, AR 635-200, para 8-12 is rescinded.

9. Page 8-2, Section III, Chapter 8, AR 635-200, para 8-13 is changed as follows:

8-13. Change references to WAC commander to unit commander.

10. Page 8-2, Section III, Chapter 8, AR 635-200, para 8-14 is changed as follows:

8-14. Lines 4 and 5. Delete words "or of recent termination of pregnancy."

11. Page 8-3, Section III, Chapter 8, AR 635-200, para 8-16 b is changed as follows:

b. Replace words "and SPN 221" with "and reason IAW AR 635-5-1". Add following sentence to end of the paragraph. "This authority may be delegated to the commander's deputy or other officer within his headquarters."

12. Page 8-3, Section IV, Chapter 8, AR 635-200, is rescinded in its entirety.

13. Page 6-1, Section II, Chapter 6, AR 635-200. Para 6-4b(1) is added as follows:

(1) Parenthood of Married Servicewomen. A married servicewoman who becomes a parent by birth, adoption, or marriage (Stepparent), and whose child (or children) under 18 years of age reside within the household, may apply for discharge under hardship upon submission of supporting evidence that her roles of

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mother and service member are incompatible to the extent that she is unable to fulfill her military obligation without neglecting the child/children. Supporting evidence will be provided IAW para 6-8b(5).

14. Page 6-1, Section II, Chapter 6, AR 635-200. Para 6-4b(2) is added as follows:

(2) Sole Parents. Service members who are "sole parents", and whose child or children under 18 years of age reside within the household, may apply for discharge under hardship. A "sole parent" is defined as a parent who is single by reason of never having been married, or is divorced, or is a widow/widower. It is not the intent of this policy to allow the discharge of an enlisted woman who opted to remain in service to immediately be released after receiving pay and allowances during her confinement period (prenatal or postnatal absence). Supporting evidence will be provided IAW para 6-8b(5).

15. Pages 6-3 and 6-4, Section II, Chapter 6, AR 635-200. Para 6-8b(5) is added as follows:

(5) When the basis for the application is sole parenthood of a service member or parenthood of a married servicewoman, the supporting evidence will be in affidavit form and will substantiate the applicants claim that unexpected circumstances, or circumstances beyond his/her control, have occurred since acquired parenthood which prevent fulfillment of military obligations without resultant neglect of the child. Affidavits from the service members immediate commander and officer who is the job supervisor will be considered sufficient. Evidence in para 6-8a is not required for these applications.

16. Page 6-2, Section II, AR 635-200, para 6-7. Delete reference to DA Form 2476.

17. Page 6-3, Chapter 6, AR 635-200, para 6-8b(3) is clarified as follows:

(3) To eliminate crime conducive situations, pre-printed medical statement forms which require only a physician's signature will not be issued or used for hardship applications. Medical statements and certificates will be prepared by the physician.

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Part II - Trainee Discharge Program

A. DA msg 011510Z Aug 73, subject: Evaluation and Discharge of Enlistees before 180 Active Duty Days.

B. DA msg 081451Z Aug 73, subject as above.

C. DA msg 051958Z Nov 74, subject as above.

D. DA msg 192015Z Feb 74, subject: Clarification of Trainee Discharge Program.

E. Chapter 5, para 5-9, AR 635-200.

1. Discharge under the Trainee Discharge Program because of medical disqualification (pregnancy).

a. Women who become pregnant while still in a training status will be involuntarily separated under the Trainee Discharge Program because of medical disqualification when it has been determined by the training commander having discharge authority for TDP, in coordination with the medical oficer (obstetrician), that the woman cannot fully participate in the training required for the MOS concerned because of her physical condition. The Training Commander will furnish the obstetrician the training requirements. When it has been determined that an enlisted woman can fully participate she will be retained unless she requests discharge under the provisions of Chapter 8, AR 635-200.

b. Women discharged UP Trainee Discharge for pregnancy which occurred after entry on active duty are entitiled to maternity care IAW para 4-46, AR 40-3. It is extremely important that the following statement be included in the separate document offered these individuals upon separation, since the SPD issued will not indicate discharge was for pregnancy nor will it be entered on the DD Form 214 (Report of Separation from Active Duty); such members will be counseled as to the importance of the document, to include that no medical care will be provided in a medical facility unless this document is presented: Eligible for prenatal, delivery and postnatal care for this pregnancy in military medical facilities only, IAW para 4-46, AR 40-3.

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2. Discharge of individuals who did not meet physical standards for enlistment.

a. Para 1A(b) (c) of reference A authorizes discharge of trainees who do not meet the moral, mental, or physical standards for enlistment. This paragraph is expanded to include the following:

Reference D clarified the provisions of TDP by providing that EW who are found to be pregnant upon enlistment will be discharged under TDP for pregnancy as a disqualifying medical condition for enlistment under Table 2-1, AR 601-210 and paragraph 2-14k, AR 40-501. These women are not entitled to maternity care as provided in para 4-46, AR 40-3.

3. Pages 5-3 and 5-4, Section III, Chapter 5, AR 635-200, para 5-9b is changed as follows:

b. Line 4. Change "will not be discharged under this paragraph" to "may be retained in the service (with the exception of EPTS pregnancies) at the discretion of the commander."

The rationale for the change in b. is as follows:

(1) in some instances, by the time processing for discharge under this policy is completed, the individual may have completed training in a highly skilled MOS and retention is in the best interest of the government.

(2) The individual who elects to remain in the service may not meet other standards desired for retention.

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FROM: CDRMILPERCEN ALEX VA//DAPC-PAS-S//

TO: ALL HOLDERS OF AR 635-200

SUBJECT: INTERIM CHANGE TO AR 635-200

1. This change is being distributed through publications pinpoint distribution system to all holders of AR 635-200 and is effective upon receipt.

2. Page 1-3, Section III, Chapter 1, AR 635-200, para 1-9d(2) is rescinded.

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FROM: CDRMILPERCEN ALEX VA//DAPC-PAS-R

TO: All Holders of AR 635-100 and AR 635-200

SUBJECT: Interim Changes to AR 635-100 and AR 635-200

1. This change is being distributed through publications pinpoint distribution system to all holders of AR 635-100 and AR 635-200 and is effective 1 July 75 in accordance with DAPC-PAS Msg 021400Z May 75.

2. Individuals serving overseas on accompanied tours whose assignment instructions are issued on or after 1 July 1975 will be required to complete five-sixths of the prescribed tour prior to becoming retirement eligible. Examples: 30 months of a 36-month tour must have been completed or 20 months of a 24-month tour. This does not apply to individuals currently serving overseas or to those who receive assignment instructions prior to 1 July 1975.

3. Appropriate changes will be made to reference regulations when next printed changes are published.

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FROM: CDRMILPERCEN ALEX VA//DAPC-PAS-S//

TO: ALL HOLDERS OF AR 635-200

SUBJECT: Interim Change to AR 635-200 Paragraphs 5-32 and 5-12

1. This change is being distributed through publications pinpoint distribution system to all holders of AR 635-200 and is effective upon receipt.

2. Section XIII, pages 5-16 and 17, para 5-32, is superseded as follows:

5-32. Unfulfilled or erroneous enlistment commitments. a. Claims of unfulfilled enlistment commitments or erroneous enlistment commitments are processed in accordance with paragraph 5-5, AR 601-210 and paragraph 1-26, AR 601-280, as applicable.

b. Erroneous commitments discovered during processing and training.

(1) When an erroneous enlistment commitment is discovered while an individual is being processed at the reception station or undergoing basic or advanced individual training, the CONUS commander exercising general courts-martial jurisdiction may approve requests for discharge. These commanders are not authorized to delegate this authority to any subordinate commanders without prior approval of the Secretary of the Army. Prior to approving the request for discharge, the following actions should be taken to resolve individual cases and to determine alternate options available:

(a) Maximum use of the United States Army Recruiting Command (USAREC) Liaison office is encouraged to obtain information about all options available for which an individual is qualified. Alternate options can then be determined and guaranteed to the individual.

(b) To obtain waivers of low mental test scores or to obtain assistance in coordinating an alternate option, contact the Commander, US Army Military Personnel Center, ATTN: DAPC-EPT, 2461 Eisenhower Avenue, Alexandria, Virginia 22331 (AUTOVON 221-8478).

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(c) Insure that waivers are completed where appropriate.

c. Erroneous or unfulfilled commitments discovered after initial assignment.

(1) When it appears to the member's unit commander (assignment after the period prescribed in paragraph 5-32b(1)) that the individual's enlistment commitment was either erroneous or cannot be fulfilled, he will submit all pertinent facts in the case to HQDA (DAPC-EPA-R), 2461 Eisenhower Avenue, Alexandria, Virginia 22331 for determination as to whether:

(a) the enlistment commitment was erroneous because the individual did not meet the prerequisites for the option which must be determined prior to enlistment, or

(b) the enlistment commitment was appropriate when made but cannot be fulfilled.

d. When it is determined by the CG, Military Personnel Center that the enlistment commitment was erroneous and/or cannot be fulfilled, separation may be requested by the individual as follows:

(1) Non-prior-service Regular Army personnel serving on their first enlistment may request immediate separation or separation to be effective upon completion of 24 months' active military service.

(2) Individuals who were discharged from an AUS status to enlist may request separation to be effective upon completion of a total of 24 months' active service (prior AUS service plus service in the current enlistment).

(3) Regular Army personnel serving on a second or subsequent enlistment, having been discharged from a previous enlistment prior to the expiration of term of service for the purpose of reenlistment, may request separation to be effective when their active service in the current enlistment and last preceding enlistment equals the period stated in the last preceding enlistment contract.

*e. Separation pursuant to d above constitutes a reduction of the term of

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enlistment by adjustment of the ETS date. (Items 7 and 57, DD Form 4 (Enlistment Contract) will not be changed to reflect the lesser period of enlistment.) Such separation does not amount to the grant of an early separation and does not preclude the member from being granted early separation options which may be applicable to him.

f. If an enlistment is also erroneous under the provisions of paragraph 5-31 (failure to meet basic qualifications for enlistment or reenlistment, as distinct from failure to meet the prerequisites for the particular enlistment option), action will be taken first under the provisions of paragraph 5-31. If retention is authorized under that paragraph, action then will be taken under this paragraph.

g. This paragraph is not applicable to —

(1) Members who are eligible for separation under the provisions of paragraphs 5-6, 5-9, 5-31 (except as indicated in f above), or chapter 7 of this regulation, and paragraph 7-30, AR 600-200.

(2) Members who do not meet the medical fitness standards for retention (chapter 3, AR 40-501) and who are eligible for processing under AR 635-40.

h. Commanders specified in paragraph 2-17a are authorized to order the separation of personnel pursuant to the foregoing. Authority for separation (paragraph 5-32, AR 635-200) will be included in the directives or orders directing the individual to report to the appropriate transfer activity for separation processing.

(1) The following members will be discharged —

(a) Members who have not completed at least 4 months of active duty and/or have not been awarded an MOS.

(b) Members who have completed their service obligation under the Military Selective Service Act of 1967, as amended.

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(2) Members who have completed 4 months of active duty and have been awarded an MOS, but have not completed their service obligation under the Military Selective Service Act of 1967, as amended, will be transferred to the US Army Reserve.

3. Section V, page 5-6, para 5-12, is superseded as follows:

5-12. Lack of Jurisdiction. a. The discharge or release of an individual from the Army may be ordered by a US Court or judge thereof. The officer upon whom such an order or writ is served will report it immediately to The Judge Advocate General, as directed in AR 27-40, and will notify the Military Personnel Center, US Army, ATTN: DAPC-PAS-SE, 200 Stovall Street, Alexandria, Virginia 22332, who will take appropriate action to direct the discharge, release from active military service, or release from military control of the individual concerned. The notification to MILPERCEN will be by electrical message and will consist of a copy of the Advisory Report furnished The Judge Advocate General, in accordance with AR 27-40. Authority for separation (AR 635-200, Para 5-12) will be included in directives or orders directing the individual to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty, as appropriate.

b. Similar notification procedures will be taken upon the final judicial determination of a military judge, a president of a special court-martial, or military appellate agency that an individual is not currently a member of the Army.

c. In those instances where the convening authority of a general or special court-martial jurisdiction reasonably believes that the Army may lack jurisdiction over a member presently under his jurisdiction, he may, within his discretion, take one of the following alternative actions:

(1) Proceed to court-martial, and if the issue of jurisdiction is presented for consideration, it may be resolved before that forum.

(2) Cause a thorough inquiry to be initiated immediately. All allegations and relevant facts and circumstances giving rise to the claim will be examined, to include inquiry to appropriate recruiting officials, if the claim of lack of jurisdiction is based upon recruiter misconduct. In all cases, the

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possibility of constructive enlistment will be explored. The provisions of AR 15-6 will not apply to such inquiries. If the convening authority, based on the results of the inquiry is satisfied that the Army has jurisdiction over the member, he may elect to proceed to trial as outlined in paragraph 5-12c(1), above. In those instances when the convening authority concludes that the Army appears to lack jurisdiction over the soldier, he will submit the report of investigation, together with his recommendations, through his chain of command to the Military Personnel Center for a final determination whether the person is a member of the Army. Release, retention, or discharge action will be determined solely by Department of the Army; however, disposition of alleged violations of the Uniform Code of Military Justice is within the sole discretion of the court-martial convening authority.

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FROM: DA (DAPE) Wash DC//DAPE-MPE//

Rec'd 10/10/74

TO: All holders of initial distribution copies of AR 635-200

SUBJECT: Interim Change to Chapter 5, AR 635-200.

REFERENCES:

a. DA Message DAPE-MPP, 242110Z Sep 71, subj: Extension of Qualitative Management Program to Grades E-1 and E-2.

b. DA Message DAAG-PSS, 191425Z Oct 71, same subject as Reference a.

c. DA Message DAPE-MPP, 121443Z May 72, same subject as Reference a.

d. DA Message DAPE-MPP, 251505Z Aug 72, same subject as Reference a.

e. DA Message DAPE-MPP, 161705Z Feb 73, same subject as Reference a.

1. This message is being distributed through the publications pinpoint distribution system to all holders of AR 635-200. The widest possible dissemination of its contents is directed.

2. Significant change reflected herein is the approval authority for separation.

3. This change supersedes references a through e, above.

4. Para 5-37 is added to AR 635-200 as follows:

"5-37. Discharge for failure to demonstrate promotion potential.

a. General. Personnel whose performance of duty, acceptability for the service and potential for continued effective service fall below the standards required for enlisted personnel in the United States Army may be discharged in accordance with the following criteria. Discharge under this paragraph is limited to:

(1) Personnel who fail to be advanced to the grade of E-2 after four months active duty.

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(2) Personnel who fail to demonstrate potential to justify advancement to the grade of E-3 after attaining the normal time-in-service and time-in-grade criterion for promotion to grade E-3, without waiver, established in Chapter 7, AR 600-200.

b. Purpose. The philosophy of this policy is that commanders will be able to anticipate and preclude the development of conditions which clearly indicate that soldiers concerned are becoming problems to an extent likely to lead to board or punitive action which could result in their separation under conditions which would stigmatize them in the future. The purpose of this policy is to provide commanders appropriate means for separating such personnel before board or punitive action becomes necessary. It is contrary to the intent of this policy--

(1) To make arbitrary or capricious use of this authority.

(2) To unjustly force the separation of individuals who possess a potential to be rehabilitated.

c. Scope. This policy applies to RA enlistees, inductees, reserve component personnel ordered to active duty (including those ordered to active duty due to unsatisfactory participation in their reserve assignment) and personnel on active duty for training under REP 63.

d. Unit Commander responsibility.

(1) A commander who elects not to promote to E-2 or E-3 must counsel the individual verbally as to the reasons for his action, to include those circumstances which clearly indicate that the soldier's attitude and/or performance do not measure up to Army standards. If the commander suspects that the individual is deliberately attempting to use this policy as a means of avoiding service, the commanders must advise the soldier that he is demonstrating traits that could lead to board action for separation as unfit or unsuitable (Chapter 13).

(2) Counseling will be recorded in a written statement signed by the commander and the member. The written statement will also include, over the member's signature, a statement that he understands his status, what is expected of him, and what he can anticipate for nonperformance.

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(3) Commanders who elect not to promote to E-2 or E-3 may elect to initiate separation action under this paragraph within 30 days of such denial of promotion.

TO:

(4) If separation action is not initiated within 30 days after initial denial of promotion to E-2 or E-3, the commander may reconsider members in grade E-1 or E-2 for promotion in 30-day increments up to a total of four months after initial denial of promotion. At the end of each 30-day period the commander may promote, retain and counsel, or recommend discharge. Maximum use of this period to assist the soldier to overcome deficiencies is encouraged. At the end of the four-month period, the commander must promote to E-2 or E-3, or must initiate discharge action.

(5) When the commander elects to initiate separation action under this paragraph, he will forward a recommendation for discharge through channels to the commander having approval authority (f below). The recommendation will be for discharge for failure to demonstrate adequate potential for promotion and will include the following information:

(a) The commander's signed statement indicating the action taken and the counseling and advice previously given the soldier concerning the impact of failure to demonstrate the standards of conduct and ability required by the U. S. Army. The following statement, signed by the soldier concerned, will be added below the commander's signature: "I acknowledge having been counseled as stated above. I understand the impact of this action."

(b) The initiating commander's recommendation of the character of discharge to be awarded (honorable or general). Normally, an honorable discharge will be awarded unless the soldier's conduct clearly substantiates a general discharge (paragraph 1-9).

e. Intermediate commanders. Commanders in the chain of command will forward recommendations for discharge with a recommendation for approval, disapproval, or for reassignment for rehabilitation if, in their opinion, the circumstances in the case warrant such action. Each intermediate commander will insure that the member has been fully counseled, that the recommendation for discharge is fully documented, and that such action is not in conflict with any of the provisions of this paragraph

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f. Approval authority. Commanders exercising special court-martial jurisdiction are authorized to take final action in all cases involving separation with an honorable discharge. Cases in which a general discharge is recommended will be forwarded to commanders exercising general court-martial jurisdiction for final action. Approval authorities may issue honorable discharge certificates to individuals receiving unsatisfactory efficiency ratings as their final ratings when other circumstances clearly warrant an honorable discharge. The commanders having approval authority may:

(1) Approve or disapprove the recommendation. If he approves discharge and the soldier is stationed in CONUS or his area of residence, he will direct that discharge be accomplished immediately. Oversea commanders will, if discharge is approved, direct the return of the soldier to CONUS or his area of residence as soon as possible, with instructions for discharge upon arrival thereat.

(2) Approve the recommendation and suspend the discharge for any period of time not to exceed four months. Promotion during the period of suspension vacates the approved recommendation for discharge. If the soldier is not promoted by the end of the period of suspension, he will be discharged.

(3) Direct transfer of the individual concerned to another organization is his command for rehabilitation purposes.

g. Exceptions. This policy does not apply to:

(1) Soldiers whose conduct clearly warrants courts-martial action or administrative discharge by board action for reasons for which an undesirable discharge is authorized (Chapter 13 and 14, this regulation, and AR 635-206).

(2) Individuals who are not promoted to grade E-2 or E-3 due to hospitalization, emergency leave, or similar conditions beyond their control.

(3) Soldiers who have been reduced to grade E-1 or E-2 regardless of time in service.

(4) Individuals who have not attained the normal time-in-service/time-in-grade criterion for promotion without waiver.

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h. Separation orders. Authority for separation (para 5-37, AR 635-200) and SPN 21U will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel office designated to accomplish separation processing. Separation will be by discharge for active Army and USAR personnel. Army National Guard personnel will be discharged from their "Reserve of the Army" status, only, and returned to their State National Guard for appropriate disposition.

i. Transition training. Personnel to be discharged under this paragraph will be afforded the opportunity to receive preseparation vocational counseling and job placement services under the Army Transition Program in accordance with paragraph 30a and b, AR 621-5.

j. Reentry precluded. Individuals discharged under this paragraph will be ineligible to enlist or reenlist without a waiver. Accordingly, the DD Form 214 will be coded 'RE-3'."

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FROM: HQDA/WASH D.C/DAPE-MPE-PS

TO: ALL HOLDERS OF AR 635-200 (PERSONNEL SEPARATION - ENLISTED PERSONNEL)

UNCLAS

SUBJECT: CLARIFICATION OF CHAPTER 7, AR 635-200

1. THIS MESSAGE IS BEING DISTRIBUTED THROUGH PUBLICATIONS PINPOINT DISTRIBUTION TO ALL HOLDERS OF AR 635-200.

2. THE PURPOSE OF THIS MESSAGE IS TO CLARIFY PROVISIONS OF CHAPTER 7 - MINORITY AND SECTION XIII CHAPTER 5 - ERRONEOUS ENLISTMENT, AR 635-200.

3. CHAPTER 7, AR 635-200 IS THE SOLE AUTHORITY FOR DISCHARGE IN CASES OF MINORITY ENLISTMENT. THE FOLLOWING CLARIFICATION OF CRITERIA FOR DISCHARGE OF ENLISTED PERSONNEL FOR MINORITY IS MADE.

A. A MINOR WHO HAS ATTAINED THE AGE OF 18, BUT WHO ENLISTED AT AGE OF 17 WITHOUT PARENTS CONSENT IS NOT TO BE DISCHARGED UNDER PROVISIONS OF CHAPTER 7, AR 635-200.

B. A MINOR WHO ENLISTED AT THE AGE OF 17 WITH HIS PARENTS CONSENT, BUT FOR A PERIOD LONGER THAN THAT CONSENTED TO BY HIS PARENTS AND WHO HAS ATTAINED THE AGE OF 18 IS NOT TO BE DISCHARGED UNDER PROVISIONS

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OF CHAPTER 7, AR 635-200.

C. IF THE MINOR IS NOT UNDER CHARGES FOR A SERIOUS OFFENSE COMMITTED AFTER ATTAINING THE AGE OF 17 AND HAS NOT ATTAINED THE AGE OF 18, HE WILL BE SEPARATED UNDER THE PROVISIONS OF CHAPTER 7, AR 635-200 UPON APPLICATION BY THE MINORS PARENTS IF APPLICATION IS MADE WITHIN 90 DAYS OF HIS ENLISTMENT IN THE ARMY WITHOUT THEIR CONSENT.

D. THE FACT THAT A SPECIFIED TERM OF ENLISTMENT IS CONSENTED TO BY THE PARENTS OF A MINOR WHO IS 17 YEARS OF AGE, AND THIS TERM IS EXTENDED BY THE MINOR WITHOUT HIS PARENTS CONSENT, DOES NOT ENTITLE HIM TO DISCHARGE UNDER PROVISIONS OF CHAPTER 7, AR 635-200.

4. CHAPTER 5, SECTION XIII, AR 635-200, ERRONEOUS ENLISTMENT, IS NOT APPLICABLE TO THOSE PERSONNEL WHOSE BASIS FOR A CLAIM OF ERRONEOUS ENLISTMENT IS, OR EVER WOULD HAVE BEEN, A BASIS FOR PROCESSING UNDER THE PROVISIONS OF CHAPTER 7, AR 635-200.

5. COMMANDERS SPECIFIED IN SECTION VI, CHAPTER 2, AR 635-200 ARE AUTHORIZED TO ORDER DISCHARGE OR, RELEASE FROM MILITARY CONTROL OF AN INDIVIDUAL ON ACCOUNT OF MINORITY, AS APPROPRIATE. REQUESTS FOR RETENTION IN SERVICE UNDER PARA 7-5, AR 635-200 WILL BE FORWARDED, WITH APPROPRIATE DOCUMENTATION AND RECOMMENDATIONS, TO MILPERCEN (DAPC-PAS-

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S}, ALEXANDRIA, VIRGINIA 22332 FOR FINAL ACTION.

6. IF DOUBT EXISTS AS TO WHETHER A MINOR SHOULD BE EITHER RETAINED OR SEPARATED, CASE SHOULD BE FORWARDED WITH APPROPRIATE DOCUMENTATION TO MILPERCEN {DAPC-PAS-S}, ALEXANDRIA, VIRGINIA 22332 FOR DETERMINATION. MINORITY CASES SHOULD NOT BE FORWARDED TO COMMANDER, USA ENLISTMENT ELIGIBILITY ACTIVITY, ST. LOUIS, MO. FOR SUCH DETERMINATIONS.

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UNCLAS E F T O
MAAG, MILGP, MSN, USDAO RECEIVING DIRECT
SUBJECT: EARLY RELEASE POLICIES
A. AR 635-100.
B. AR 635-200.
C. DA MSG DTG 0417172 JUN 72 (NOTAL).
1. THE PURPOSE OF THIS MESSAGE IS TO ANNOUNCE CHANGES TO THE [illegible] EXISTING ARMY EARLY RELEASE POLICIES FOR BOTH OFFICER AND ENLISTED PERSONNEL. THESE CHANGES RESULTED FROM AN IN-DEPTH ANALYSIS OF THE CURRENT PROGRAMS WITH THE OBJECTIVE OF REVISING THEM TO MEET THE NEEDS OF THE CHANGING ENVIRONMENT, WHILE MAXIMIZING MANPOWER AVAILABILITY AND PROVIDING PROGRAMS WHICH ARE IN THE BEST INTERESTS OF BOTH THE ARMY AND THE INDIVIDUAL SOLDIER.
2. EARLY SEPARATION TO ACCEPT EMPLOYMENT (PARA [illegible] REF A) IS TERMINATED EFFECTIVE FOR ALL PERSONNEL WITH ETS [illegible] OCTOBER 1973. SEPARATION NOT AUTHORIZED AFTER 30 JUNE 1973.

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3. EARLY SEPARATION TO ACCEPT TEACHING POSITIONS (SECTION XXIV, PARA 3-87D, REF A) AND (PARA 5-20D, REF B) IS TERMINATED EFFECTIVE FOR

ALL PERSONNEL WITH ETS DATES ON OR AFTER 1 DECEMBER 1973.

4. THE CURRENT 150 DAY EARLY RELEASE POLICY FOR ENLISTED PERSONNEL RETURNING FROM A SHORT TOUR AREA (PARA 5-142 REF B) IS REDUCED TO 90 DAYS EFFECTIVE FOR PERSONNEL WITH DEROS DATES ON OR AFTER 1 MAY 1973. SOLDIERS WHO PRIOR TO THE DATE OF RECEIPT OF THIS MESSAGE HAVE AN APPROVED EXTENSION OF THEIR DEROS SO AS TO TAKE ADVANTAGE OF THE 150 DAY POLICY ARE NOT AFFECTED BY THIS CHANGE. VOLUNTARY EXTENSION OF DEROS TO TAKE ADVANTAGE OF THE NEW 90 DAY POLICY IS AUTHORIZED. ENLISTED PERSONNEL WITH MORE THAN 90 BUT LESS THAN 121 DAYS TO ETS UPON COMPLETION OF NORMAL TOUR AND WHO DO NOT INTEND TO REENLIST WILL BE INVOLUNTARILY EXTENDED TO QUALIFY FOR EARLY RELEASE UNDER THE ABOVE PROVISIONS (EXCLUDING HOSTILE FIRE ZONES).

5. THE RESERVE COMPONENTS IN-SERVICE RECRUITING PROGRAM (REF C) WHICH IS CURRENTLY OPERATIONAL IN CONUS AND HAWAII AND WHICH AUTHORIZES A 60 DAY EARLY RELEASE FOR ALL CATEGORIES OF ACTIVE ARMY ENLISTED PERSONNEL ACCEPTED FOR ARNG/USAR UNIT ASSIGNMENTS IS EXPANDED TO AUTHORIZE A 90 DAY EARLY RELEASE EFFECTIVE UPON RECEIPT OF THIS MESSAGE.

7. THE ABOVE POLICY CHANGES WILL BE REFLECTED IN FORTHCOMING CHANGES TO EXISTING REGULATIONS.

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Change No. 45

HEADQUARTERS
DEPARTMENT OF THE ARMY
Washington, DC, *27 August 1975*

PERSONNEL SEPARATIONS

ENLISTED PERSONNEL

Effective 27 September 1975

This change implements the Privacy Act of 1974 (5 U.S.C. 552a) by adding Privacy Act Statements for forms prescribed in this publication that are covered under the act.

AR 635-200, 15 July 1966, is changed as follows:

1. The following form(s) (colm b) will be reproduced locally on 8 x 10½ inch paper and made available on and after 27 September 1975 to the individual supplying data on form(s) in column a.

Column a	Column b
DA FORM 2339	DA FORM 2339-R, Privacy Act Statement

2. File this change sheet in front of the publication for reference purposes.

The proponent agency of this publication is the US Army Military Personnel Center.
(Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) direct to HQDA (DAPC-PAS) 200 Stovall St., Alexandria, VA 22332.

By Order of the Secretary of the Army:

FRED C. WEYAND
General, United States Army
Chief of Staff

Official:
VERNE L. BOWERS
Major General, United States Army
The Adjutant General

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DATA REQUIRED BY THE PRIVACY ACT OF 1974
(5 U.S.C. 552a)

TITLE OF FORM	PRESCRIBING DIRECTIVE
APPLICATION FOR VOLUNTARY RETIREMENT	AR 635-200

1. AUTHORITY

Chapters 61, 63 and 67 Title 10 USC

2. PRINCIPAL PURPOSE(S)

To obtain administrative action in regard to a voluntary request for retirement from the military service.

3. ROUTINE USES

Data contained on the form is used to determine service credit eligibility, retirement grade determination, desired place of retirement, mailing address for retirement pay, issuance of retirement certificate, election of SBP, and with information contained in the official military personnel file to issue appropriate retirement orders and other complete other administrative actions incident to retirement.

4. MANDATORY OR VOLUNTARY DISCLOSURE AND EFFECT ON INDIVIDUAL NOT PROVIDING INFORMATION

Disclosure is mandatory if svc mbr elect to apply for voluntary retirement. Failure to disclose required information results in svc mbr not being considered for voluntary retirement.

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AR 635-200
*C 44

CHANGE No. 44

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *6 August 1974*

PERSONNEL SEPARATIONS

ENLISTED PERSONNEL

Effective 4 December 1973 in accordance with message superseded below. This change rescinds the following early release programs: To attend school or to accept teaching positions and employment with a legally established law enforcement agency.

AR 635-200, 15 July 1966, is changed as follows:

1. Material changed is indicated by a star.
2. Remove old pages and insert revised pages as indicated below:

Remove pages	*Insert pages*
iii and iv	iii and iv
5-9 through 5-14.1	5-9 through 5-12

3. File this sheet in front of the publication for reference purposes.

The proponent agency of this regulation is USAMILPERCEN. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) direct to HQDA (DAPC-PAS) 200 Stovall St., Alexandria, VA 22332.

By Order of the Secretary of the Army:

CREIGHTON W. ABRAMS
General, United States Army
Chief of Staff

Official:
VERNE L. BOWERS
Major General, United States Army
The Adjutant General

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*This change supersedes DA message DAPE-MPE-PS 041900Z Dec 73, subject: Early Release Policies, and DA message DAPC-PAS-S 280930Z Jan 74 (U), subject: Interim Change to AR 635-200.

TAGO 59A—July 580-465—74

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AR 635-200
C 43

CHANGE No. 43

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *10 April 1974*

PERSONNEL SEPARATIONS

ENLISTED SEPARATIONS

Effective 1 June 1974

This change permits operational medical examinations for retiring military personnel and makes the retiree responsible for getting the examinations completed on time.

AR 635-200, 15 July 1966, is changed as follows:

1. Material changed is indicated by a star.
2. Remove old pages and insert revised pages as indicated below:

Remove pages	*Insert pages*
2-1 through 2-6	2-1 through 2-0.1
5-11 and 5-12	5-11 and 5-12
12-3 through 12-8	12-3 through 12-8
12-11 through 12-15	12-11 through 12-14

3. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is the US Army Military Personnel Center. *Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) direct to HQDA (DAPC-PAS-S), 200 Stovall St., Alexandria, VA 22332.*

By Order of the Secretary of the Army:

CREIGHTON W. ABRAMS
General, United States Army
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Official:
VERNE L. BOWERS
Major General, United States Army
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TAGO 511A—March 540-473*—74

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AR 635-200
*C 42

CHANGE No. 42

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *14 December 1973*

PERSONNEL SEPARATIONS

ENLISTED PERSONNEL

Effective 1 January 1974

This change provides instructions for appointment of counsel for consultation and counsel for representation for individuals being administratively discharged prior to expiration of term of service; rehabilitation of enlisted personnel requesting discharge for the good of the service; and processing of applications for a dependency or hardship discharge while member is temporarily in CONUS from an oversea assignment or en route to an oversea assignment. It also establishes the policy of discharging* in absentia *those alien deserters who have gone to a foreign country and have remained in a continuous state of desertion for 1 year or longer.

AR 635-200, 15 July 1966, is changed as follows:

1. Material changed is indicated by a star.
2. Remove old pages and insert new pages as indicated below:

Remove pages	*Insert pages*
i through vii	i through ix
1-1 through 1-2.1	1-1 through 1-2.1
1-5 through 1-9	1-5 through 1-9
5-19 through 5-21	5-19 through 5-23
6-1 through 6-5	6-1 through 6-5
9-1 and 9-2	9-1 and 9-2
9-9 and 9-10	9-9 and 9-10
10-1 through 10-3	10-1 through 10-5
11-1	11-1
12-1 and 12-2	12-1 and 12-2
13-1 through 13-14	13-1 through 13-16
14-1 through 14-8	14-1 through 14-8.2
	15-1 through 15-7
C-15 and C-16	C-15 and C-16

3. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is the US Army Military Personnel Center. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) direct to HQDA (DAPC-PAS-S), 200 Stovall St., Alexandria, VA 22332.

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*This change supersedes sections VII, VIII, IX, and X, AR 635-206, 15 July 1966; DA message DAAG, 10 Oct 72 (U), subject: Interim Change to Para 14-3, AR 635-200; Part VI, DA message DAPM-CPA 221315Z Nov 72 (U), subject: Interim Changes to Referenced ARs; DA message DAPE 081541Z Mar 73 (U), subject: Separation for unsuitability; DA message DAPC-PAS-S 011700Z June 73 (U), subject: Interim Change to Chapter 6, AR 635-200; DA message DAPE-MPE Sep 73 (U), subject: Interim Change to Chapter 5, AR 635-200; DA message DAAG-PSS-S 171529Z Nov 72 (U), subject: Interim Change to Para 5-21, AR 635-200.

By Order of the Secretary of the Army:

CREIGHTON W. ABRAMS
General, United States Army
Chief of Staff

Official:

VERNE L. BOWERS
Major General, United States Army
The Adjutant General

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AR 635-200
*C 41

CHANGE No. 41

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *25 July 1973*

PERSONNEL SEPARATIONS

ENLISTED PERSONNEL

Effective 1 August 1973, except for changes made by messages superseded below, which were effective as announced therein

This change modifies paragraph 2-16 to make it consistent with paragraph 13-2d, to require that members ordered discharged under paragraph 2-16 be reassigned to transfer activities for separation, to exclude from its provisions individuals transferred to the VA under DA Cir 600-85; makes changes throughout chapter 12; and incorporates the changes made by the messages superseded below.

AR 635-200, 15 July 1966, is changed as follows:

1. Added or changed material is indicated by a star.

2. Remove old pages and insert new pages as indicated below:

Remove pages	*Insert pages*
i through vi	i through vi.1
1-1 and 1-2	1-1 through 1-2.1
2-11 and 2-12	2-11 through 2-12.1
5-3 through 5-4.1	5-3 through 5-4.1
5-18.1 through 5-22	5-19 through 5-21
12-1 through 12-15	12-1 through 12-15

3. File this change sheet in front of the publication for reference purposes.

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*This change supersedes DA message DAAG, 27 April 1972, subject: Interim Change to Chapter 12, AR 635-200 (distributed by pinpoint distribution); and DAPC-PAS ALARACT message 081720Z May 73, subject: Interim Change to AR 635-200.

The proponent agency of this regulation is the US Army Military Personnel Center. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) direct to HQDA (DAPC-PAS), 200 Stovall St., Alexandria, VA 22332.

By Order of the Secretary of the Army:

CREIGHTON W. ABRAMS
General, United States Army
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Official:

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AR 635-200
*C 40

CHANGE No. 40

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *5 December 1972*

PERSONNEL SEPARATIONS
ENLISTED PERSONNEL

Paragraph 5-31d was effective 1 June 1972 in accordance with message superseded below; other changes are effective 15 January 1973.

This change adds new provisions to paragraphs 2-2, 5-31, and 5-32 and makes clarifying changes in paragraphs 2-15, 2-16, 2-17, and 5-9.

AR 635-200, 15 July 1966, is changed as follows:

1. New or changed material is indicated by a star.
2. Remove old pages and insert revised pages as indicated below:

Remove pages	*Insert pages*
2-1 through 2-2.1	2-1 through 2-2.1
2-9 through 2-12	2-9 through 2-12
5-3 and 5-4	5-3 and 5-4
5-15 through 5-18	5-15 through 5-18.1

3. File this change sheet [illegible]nt of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) direct to HQDA (DAAG-PSS-S) WASH DC 20314.

By Order of the Secr[illegible]y of the Army:

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Chief of Staff

Official:
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***This change supersedes DA message DAAG 011130Z Jun 72 (U). Subject: Interim Change to paragraph 5-31, AR 635-200.**

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TAGO 206A—November 510-409*—72

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AR 635-200
*C 39

CHANGE No. 39

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *23 November 1972*

PERSONNEL SEPARATIONS

ENLISTED PERSONNEL

Effective 15 January 1973

This change precludes the erroneous discharge of personnel prior to completion of appellate review. It adds chapter 13, which provides for discharge of enlisted personnel for unfitness or unsuitability previously contained in AR 635-212.

AR 635-200, 15 July 1966, is changed as follows:

1. Added or changed material is indicated by a star.
2. Remove old pages and insert new pages as indicated below:

Remove pages	*Insert pages*
v and vi	v and vi
11-1	11-1
13-1	13-1 through 13-14
	C-1 through C-16

3. File this sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) direct to HQDA (DAAG-PSS-S), WASH DC 20314.

By Order of the Secretary of the Army:

CREIGHTON W. ABRAMS
General, United States Army
Chief of Staff

Official:
VERNE L. BOWERS
Major General, United States Army
The Adjutant General

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***This change supersedes AR 635-212, 15 July 1966, including all changes; and DA messages DAPE-MPP 242020Z Jul 72 (FOUO), subject: Reinstatement of Rehabilitation Requirements under the Provisions of AR 635-212; and DAPE-MPP 041624Z Aug 72 (U), subject: Reinstatement of Rehabilitation Requirements under the Provisions of AR 635-212.**

TAGO 249A—November 510 1635—72

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AR 635-200
*C 38

CHANGE No. 38

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *23 August 1972*

PERSONNEL SEPARATIONS
ENLISTED PERSONNEL

Effective 1 October 1972

This change authorizes the discharge of enlisted personnel who have concealed an arrest record; incorporates guidance of section V, AR 635-206 as chapter 14; and provides added instructions for counsel assigned to members being considered for discharge.

AR 635-200, 15 July 1966, is changed as follows:

1. Added and changed material is indicated by a star.
2. Remove old pages and insert new pages as indicated below:

Remove pages	*Insert pages*
----------	v and vi
1-5 and 1-6	1-5 and 1-6
5-21	5-21 and 5-22
10-3 and 10-4	10-3
----------	13-1
----------	14-1 through 14-10

3. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) direct to HQDA (DAAG-PSS-S) WASH DC 20314.

By Order of the Secretary of the Army:

BRUCE PALMER, JR.
General, United States Army
Acting Chief of Staff

Official:
VERNE L. BOWERS
Major General, United States Army
The Adjutant General

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USAR: D (qty rqr block No. 545)

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This change supersedes section V, AR 635-206, 15 July 1966.

TAGO 80A—August 510-466*—72

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AR 635-200
*C 37

CHANGE No. 37

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *21 June 1972*

PERSONNEL SEPARATIONS

ENLISTED PERSONNEL

The change in section XI, chapter 5 was effective upon receipt of the message being superseded. The change in chapter 8 is effective 1 July 1972.

This change revises instructions pertaining to separation of sole surviving sons and clarifies the language used pertaining to terminated pregnancies.

AR 635-200, 15 July 1966, is changed as follows:

1. Changed material is indicated by a star.
2. Remove old pages and insert revised pages as shown below:

Remove pages	*Insert pages*
5-13 and 5-14	5-13 through 5-14.1
8-1 through 8-2.1	8-1 and 8-2

3. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) direct to HQDA (DAAG-PSS-S) WASH DC 20314.

By Order of the Secretary of the Army:

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

Official:
VERNE L. BOWERS,
Major General, United States Army,
The Adjutant General.

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*This change supersedes DA message DAAG 1 May 1972, subject: Interim Change to section XI, chapter 5, AR 635-200. (Distribution was made to all holders of AR 635-200.)

TAGO 727A—June 480-476*—72

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CHANGE No. 36

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *19 April 1972*

PERSONNEL SEPARATIONS

ENLISTED PERSONNEL

Effective 1 June 1972

This change amends paragraph 10-1 to clarify the type of conduct which may serve as a basis for discharge for the good of the service.

AR 635-200, 15 July 1966, is changed as follows:

1. Material changed is indicated by a star.
2. Remove old pages and insert revised pages as indicated below:

Remove pages	*Insert pages*
v	v
10-1 and 10-2	10-1 and 10-2

3. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) direct to HQDA (DAAG-PSS-S), Washington, DC 20314.

By Order of the Secretary of the Army:

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

Official:
VERNE L. BOWERS,
Major General, United States Army,
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TAGO 601A—April 480-474—72

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AR 635-200
C 35

CHANGE No. 35

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, 6 April 1972

PERSONNEL SEPARATIONS

ENLISTED PERSONNEL

Effective 1 May 1972

This change revises paragraph 5-10, Discharge for the purpose of immediate enlistment or reenlistment, to bring it in line with and preclude conflict with procurement regulations, and removes the "seasonal" requirement from paragraph 5-21, Employment.

AR 635-200, 15 July 1966, is changed as follows:

1. Changed material is indicated by a star.
2. Remove old pages and insert new pages as indicated below:

Remove pages	*Insert pages*
5-4.1 and 5-4.2	5-4.1
5-11 and 5-12	5-11 and 5-12

3. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) direct to HQDA (DAAG-PSS-S), Washington, DC 20314.

By Order of the Secretary of the Army:

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

Official:
VERNE L. BOWERS,
Major General, United States Army,
The Adjutant General.

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AR 635-200
C 34

CHANGE No. 34

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *3 March 1972*

PERSONNEL SEPARATIONS
ENLISTED PERSONNEL

Effective 15 April 1972

This change establishes procedures for the discharge in absentia of individuals in an excess leave status when the appellate review of a court-martial sentence to a punitive discharge is completed and affirmed sentence ordered executed.

AR 635-200, 15 July 1966, is changed as follows:

1. New or changed material is indicated by a star.
2. Remove old pages and insert revised pages as indicated below:

Remove pages	Insert pages
11-1	11-1

3. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) direct to HQDA (DAAG-PSS-S) Washington, D.C. 20314.

By Order of the Secretary of the Army:

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General, United States Army,
Chief of Staff.

Official:
VERNE L. BOWERS,
Major General, United States Army,
The Adjutant General.

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TAGO 513A—February 480-472—72

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AR 635-200
C 33

CHANGE No. 33

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *8 February 1972*

PERSONNEL SEPARATIONS
ENLISTED PERSONNEL

Effective 1 March 1972

This change updates the statutory references and provides for a 90 day time period within which the parents or guardian must act to gain the member's discharge in some minority cases.

AR 635-200, 15 July 1966, is changed as follows:

1. New or changed material is indicated by a star.
2. Remove old pages and insert revised pages as indicated below.

Remove pages	*Insert pages*
iii and iv	iii and iv
7-1 through 7-5	7-1 through 7-3

3. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) direct to HQDA (DAAG-PSS) Washington, DC 20314.

By Order of the Secretary of the Army:

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

Official:
VERNE L. BOWERS,
Major General, United States Army,
The Adjutant General.

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TAGO 440A—January 480-473—72

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AR 635-200
*C 32

CHANGE No. 32

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *3 November 1971*

PERSONNEL SEPARATIONS
ENLISTED PERSONNEL

Effective in accordance with DA messages superseded below

This change revises paragraph 2-4a as to the conditions under which a commander exercising general courts-martial jurisdiction may retain a member beyond his ETS, and adds section XV (Involuntary Separation) to chapter 5.

AR 635-200, 15 July 1966, is changed as follows:

1. New or changed material is indicated by a star.
2. Remove old pages and insert revised pages as indicated below.

Remove pages	*Insert pages*
2-3 through 2-4.1	2-3 and 2-4
	5-21

3. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) direct to HQDA (DAAG-PSS), Washington, DC 20314.

By Order of the Secretary of the Army:

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

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Major General, United States Army,
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*This change supersedes DA message AGPO 161345Z Sep 71 (U), subject Interm Change to AR 635-200, and DA message DAAG-PSS 041408Z Oct 71 (U), same subject.

TAGO 236A—October 480-468—71

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AR 635-200
C 31

CHANGE No. 31

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *13 October 1971*

PERSONNEL SEPARATIONS
ENLISTED PERSONNEL

Effective 1 December 1971

This change outlines procedures for processing applications for separation due to hardship and dependency submitted by members temporarily in CONUS from an oversea assignment. Revision also provides for submission of application on DA Form 2476 (Application for Separation—Hardship or dependency).

AR 635-200, 15 July 1966, is changed as follows:

1. New or changed material is indicated by a star.
2. Remove old pages and insert revised pages as indicated below:

Remove pages	*Insert pages*
iii through v	iii through v
6-1 through 6-6	6-1 through 6-5
A-1 and A-2	A-1 and A-2
	B-1 and B-2

3. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) direct to HQDA (DAAG-PSS), Washington, DC 20314.

By Order of the Secretary of the Army:

W. C. WESTMORELAND,
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Chief of Staff.

Official:
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TAGO 181A—October 480-468°—71

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AR 635-200
*C 30

CHANGE No. 30

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *23 September 1971*

PERSONNEL SEPARATIONS
ENLISTED PERSONNEL

Effective 15 November 1971

This change removes the restriction from para 2-2d to permit individuals with approved early releases who qualify for the maximum early release period and such early release date falls on a Saturday, Sunday or legal holiday, to be separated on the last working day preceding such Saturday, Sunday or legal holiday, and adds para 2-2.1 requiring certain retirement-eligible personnel to be counseled on the consequences of being discharged at ETS in lieu of reenlisting or extending their enlistment, as appropriate, so as to fulfill existing service obligations as a prerequisite to retirement.

AR 635-200, 15 July 1966, is changed as follows:

1. Changed material is indicated by a star.
2. Remove old pages and insert new pages as indicated below:

Remove pages	*Insert pages*
2-1 and 2-2	2-1 through 2-2.1
	2-13 and 2-14

3. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) direct to The Adjutant General, ATTN: AGPO, Department of the Army, Washington, DC 20314.

By Order of the Secretary of the Army:

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

Official:
VERNE L. BOWERS,
Major General, United States Army,
The Adjutant General.

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*This change supersedes so much of DA message AGPO 041528Z May 71 (U) subject: Interim Change to AR 635-200, as pertains to AR 635-200.

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AR 635-200
C 29

CHANGE No. 29

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *18 August 1971*

PERSONNEL SEPARATIONS
ENLISTED PERSONNEL

Effective 15 October 1971

This change delegates the authority to major Army oversea commnaders to disapprove requests for separation overseas.

AR 635-200, 15 July 1966, is changed as follows:

1. Added material is indicated by a star.
2. Remove old pages and insert revised pages as indicated below.

Remove pages	*Insert pages*
3-1 and 3-2	3-1 and 3-2

3. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) direct to The Adjutant General, ATTN: AGPO, Department of the Army, Washington, DC 20314.

By the Order of the Secretary of the Army:

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

Official:
VERNE L. BOWERS,
Major General, United States Army,
The Adjutant General.

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AR 635-200
*C 28

CHANGE No. 28

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *6 August 1971*

PERSONNEL SEPARATIONS

ENLISTED PERSONNEL

Effective 1 October 1971

AR 635-200, 15 July 1966, is changed as follows:

1. Major changes are as follows and are indicated by a star.

a. A provision is added to paragraph 1-13 that a convening authority may forward a case to TAG, DA when a board of officers has recommended retention and he believes discharge is in Army's best interest.

b. Paragraph 2-4*a* is revised as to conditions under which a commander exercising general courts-martial jurisdiction is authorized to retain a member beyond his ETS.

c. Paragraph 5-9.1, discharge for failure after enlistment to qualify medically for flight training, is added.

d. "Leave for compassionate reasons" is deleted from paragraph 5-14*c* and provisions for returnees from long tour areas are clarified.

e. Paragraph 5-19 is modified to cover personnel medically evacuated from a hostile fire area for hospitalization in a long tour area who are within 150 days of ETS when released from the medical facility.

f. Paragraph 5-19.1, physical disqualification for duty in MOS, is added.

g. Paragraph 5-24 is changed to cover individuals who qualify as sole surviving sons based on the 100 percent physical disability of a father, brother, or sister which occurred either *prior or* subsequent to entry on active duty or ADT.

h. Paragraph 5-31 on erroneous enlistment is revised.

i. Section XIV, Early Separation of Personnel Denied Reenlistment Under Qualitative Management Program, is added to chapter 5.

j. Paragraph 8-3 is modified to correct an editorial omission.

2. Remove old pages and insert revised pages as indicated below.

Remove pages—	*Insert pages—*
iii and iv	iii and iv
1-7 and 1-8	1-7 through 1-9
2-3 and 2-4	2-3 through 2-4.1
5-3 through 5-4.1	5-3 through 5-4.2
5-7 through 5-10	5-7 through 5-10.1
5-13 through 5-15	5-13 through 5-19
6-3 and 6-4	6-3 and 6-4
8-1 and 8-2	8-1 through 8-2.1

*This change supersedes DA message AGPO 022100Z Feb 70 (U), DA message AGPO 221622Z Jan 71 (U), DA message AGPO 260252Z Feb 71 (U), DA message AGPO 101600Z Mar 71 (U), DA message AGPO 151617Z Jun 71 (U), and DA message AGPO 221505Z Jun 71 (U), subjects: Interim Change to AR 635-200.

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3. File this change sheet in front of the publication for reference purposes.

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By Order of the Secretary of the Army:

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

Official:

VERNE L. BOWERS,
Major General, United States Army,
The Adjutant General.

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AR 635-200
C 27

CHANGE No. 27

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *16 April 1971*

PERSONNEL SEPARATIONS
ENLISTED PERSONNEL

Effective 15 May 1971

This change amends chapter 8 to provide for waiver for retention on active duty in cases of pregnancy or parenthood.

AR 635-200, 15 July 1966, is changed as follows:

1. Changed material is indicated by a star.
2. Remove pages 8-1 through 8-5 and insert revised pages 8-1 through 8-3.
3. File this change in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) direct to The Adjutant General, ATTN: AGPO, Department of the Army, Washington, DC 20314.

By Order of the Secretary of the Army:

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

Official:
VERNE L. BOWERS,
Major General, United States Army,
The Adjutant General.

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Reference

AR 635-200
*C 26

CHANGE No. 26

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *12 April 1971*

PERSONNEL SEPARATIONS

ENLISTED PERSONNEL

Effective 1 July 1971

This change delegates retirement approval authority to specified commanders and medical review authority on reports of medical examination for retirement to specified staff surgeons; adds policy guidance and instructions regarding 10 percent increase in retired pay based on extraordinary heroism, grade title on retired list of former Command Sergeants Major, and eligibility for advancement to higher grades; modifies the requirement for verifying Army service; includes instructions for completing and distributing DA Form 3713 (Data for Retired Pay); updates instructions for completing DA Form 2339 (Application for Voluntary Retirement); includes cited forms and the addresses of State and territory adjutants general as appendixes; and updates references.

AR 635-200, 15 July 1966, is changed as follows:

1. The added or changed material is indicated by a star.

2. Remove old pages and insert revised pages as indicated below:

Remove pages	*Insert pages*
v	v
12-1 through 12-8	12-1 through A-1 and A-2

3. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) direct to The Adjutant General, ATTN: AGPO, Department of the Army, Washington, DC 20315.

*This change supersedes DA message AGPO 061648Z Mar 70 (U), subject: Retired Grade of Former Command Sergeants Major.

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Major General, United States Army,
The Adjutant General.

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AR 635-200
*C 25

CHANGE No. 25

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *14 January 1971*

PERSONNEL SEPARATIONS
ENLISTED PERSONNEL

Effective 19 November 1970 in accordance with DA message 191839Z Nov 70

This change provides additional guidance to field commands for administration of enlisted personnel who request discharge for the good of the service or submit a resignation in lieu of court-martial.

AR 635-200, 15 July 1966, is changed as follows:

1. New or changed material is indicated by a star.
2. Remove old pages and insert new pages as indicated below.

Remove pages—	*Insert pages—*
9-3 and 9-4	9-3 and 9-4.
9-9 and 9-10	9-9 and 9-10.
10-1 through 10-4	10-1 through 10-4.

3. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) to The Adjutant General, ATTN: AGPO, Department of the Army, Washington, DC 20314

By Order of the Secretary of the Army:

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

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

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ARNG: A (qty rqr block No. 542).
USAR: D (qty rqr block No. 545).

*This change supersedes DA message AGPO 191839Z Nov 70 (U), subject: Interim Change to AR 635-200.

TAGO 571A—January 430-471*—71

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AR 635-200
*C 24

CHANGE No. 24

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, 4 November 1970

PERSONNEL SEPARATIONS

ENLISTED PERSONNEL

This change amends paragraph 1-12 to delete the requirement for field commanders to provide instruction on the benefits of the different types of discharges to personnel at completion of 6 months active duty; updates the statutory reference in paragraph 2-1 and modifies paragraph 2-3b to include personnel serving induction periods; clarifies paragraph 8-3 so that commanders will understand that the separation of a married enlisted woman is mandatory upon her request, rather than discretionary on the part of the commander. Chapter 12 is changed to reduce the time an enlisted member may submit his retirement application from 12 months prior to his requested retirement date to 6 months, and requires that report of medical examination must accompany retirement application. In addition, this change provides for discharge in lieu of release to the Reserve of personnel who are separated by reason of dependency or hardship.

AR 635-200, 15 July 1966, is changed as follows:

1. Added or changed material is indicated by a star.
2. Remove old pages and insert revised pages as indicated below:

Remove pages—	*Insert pages—*
1-5 and 1-6	1-5 and 1-6
2-1 and 2-2	2-1 and 2-2
6-5 through 6-7	6-5 and 6-6
8-1 and 8-2	8-1 and 8-2
12-1 through 12-4	12-1 through 12-4

3. File this change sheet in front of the publication for reference purposes.

*This change supersedes paragraph 1 of DA message AGPO 301615Z Sep 70 (U), Subject: Enlisted Retirements for Length of Service; and paragraph 1 of DA message AGPO 272153Z Oct 70 (U), Subject: Interim change to AR 635-200.

TAGO 272A—November 430-469 O—70

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By Order of the Secretary of the Army:

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Official:
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AR 635-200
*C 23

CHANGE No. 23

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, 25 September 1970

PERSONNEL SEPARATIONS
ENLISTED PERSONNEL

Effective 2 September 1970 in accordance with DA message AGPO 022037Z Sep 70

This change provides for the separation of enlisted personnel who are delivered to the civil authorities in accordance with AR 633-1 and execution of a discharge in absentia under AR 635-206, AR 635-212, and chapter 10, this regulation.

AR 635-200, 15 July 1966, is changed as follows:

1. Changed material is indicated by a star.
2. Remove pages 2-11 and 2-12 and insert revised pages 2-11 and 2-12.
3. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) to The Adjutant General, ATTN: AGPO, Department of the Army, Washington, DC 20314.

By Order of the Secretary of the Army:

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

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

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USAR: D (qty rqr block No. 545).

*This change supersedes DA Message AGPO 022037Z Sep 70(U), subject: Interim change to AR 635-200.

TAGO 199A—October 480-468—70

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AR 635-200
*C 22

CHANGE No. 22

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *8 September 1970*

PERSONNEL SEPARATIONS

ENLISTED PERSONNEL

Effective 12 August 1970 in accordance with DA message AGPO 122043Z Aug 70

This change clarifies paragraph 5-20a(2) as to cases to be forwarded to The Adjutant General, Headquarters, Department of the Army; modifies paragraph 5-21 to exclude reservists ordered to active duty due to unsatisfactory participation; and makes section XII, chapter 5, applicable to oversea personnel.

AR 635-200, 15 July 1966, is changed as follows:

1. Changed material is indicated by a star.
2. Remove pages 5-11 through 5-15 and insert revised pages 5-11 through 5-15.
3. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) to The Adjutant General, ATTN: AGPO, Department of the Army, Washington, DC 20314.

By Order of the Secretary of the Army:

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Chief of Staff.

Official:
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Major General, United States Army,
The Adjutant General.

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ARNG: A (qty rqr block No. 542).
USAR: D (qty rqr block No. 545).

*This change supersedes so much of DA message AGPO 122043Z Aug 70(U), subject: Interim Changes to AR 635-7, AR 635-100, and AR 635-200, as pertains to AR 635-200.

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AR 635-200
C 21

CHANGE No. 21

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *31 August 1970*

PERSONNEL SEPARATIONS

ENLISTED PERSONNEL

This change corrects printer's error in Change 20, 9 July 1970.

AR 635-200, 15 July 1966, is changed as follows:

1. Corrected material is indicated by a **star**.
2. Remove pages 5-11 and 5-12 and insert corrected pages 5-11 and 5-12.
3. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) to The Adjutant General, ATTN: AGPO, Department of the Army, Washington, DC 20315.

By Order of the Secretary of the Army:

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Major General, United States Army,
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AR 635-200
*C 20

CHANGE No. 20

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *9 July 1970*

PERSONNEL SEPARATIONS
ENLISTED PERSONNEL

Effective 1 September 1970

This change adds instructions to chapter 12 pertaining to the completion and submission of DA Form 2339 (Application for Voluntary Retirement), incorporates pertinent provisions relative to retirement at a CONUS location of choice and updates references. Additionally, it requires that report prescribed by AR 190-10 be submitted if, in the review of individual's case file, it is determined that such report is applicable.

AR 635-200, 15 July 1966, is changed as follows:

1. The added or changed material is indicated by a star.
2. Remove old pages and insert revised pages as indicated below:

Remove pages	*Insert pages*
2-9 and 2-10	2-9 and 2-10
5-11 and 5-12	5-11, 5-12, and 5-12.1
12-3 through 12-7	12-3 through 12-8

3. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) to The Adjutant General, ATTN: AGPO, Department of the Army, Washington, DC 20314.

By Order of the Secretary of the Army:

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

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

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USAR: D (qty rqr block No. 545).

***This change supersedes so much of DA message AGPO 251916Z May 70 (U), subject: Interim changes to AR 635-100, AR 635-200, AR 635-206, and AR 635-212 as pertains to AR 635-200, and so much of DA message AGPO 222038Z Jun 70 (U), subject: Interim changes to AR 635-100 and AR 635-200 as pertains to AR 635-200.**

TAGO 8A—July 430-465*—70

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AR 635-200
*C 19

CHANGE No. 19

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *14 April 1970*

PERSONNEL SEPARATIONS
ENLISTED PERSONNEL

Effective 19 March 1970 in accordance with DA message AGPO 192137Z March 1970

This change adds provisions to paragraph 12-6 to permit retired enlisted personnel to request that their advancement on the retired list to higher enlisted grades be deferred.

AR 635-200, 15 July 1966, is changed as follows:

1. Added material is indicated by a star.
2. Remove pages 12-1 and 12-2 and insert revised pages 12-1 through 12-2.
3. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) to The Adjutant General, ATTN: AGPO, Department of the Army, Washington, DC 20315.

By Order of the Secretary of the Army:

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

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

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USAR: D (quan rqr block No. 545).

*This change supersedes DA message AGPO 192137Z March 1970 (U), subject: Interim Change to AR 635-200.

TAGO 729A—April 390-474 ,ea—70

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AR 635-200
*C 18

CHANGE No. 18

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, 3 April 1970

PERSONNEL SEPARATIONS
ENLISTED PERSONNEL

Effective 15 May 1970

This change provides for separation to attend a vocational/technical school when requirements are met; requires that enlisted women who are pregnant at the time of discharge be informed that they are authorized medical treatment for that pregnancy in military facilities only; permits qualified personnel serving in long tour areas to apply for early release for police employment and adds the legally established law enforcement agencies of the U.S. territories to those for which early release may be granted.

AR 635-200, 15 July 1966, is changed as follows:

1. Changed material is indicated by a star.
2. Remove old pages and insert new pages as indicated below:

Remove pages	*Insert pages*
iii and iv	iii and iv.
1-7 through 1-9	1-7 and 1-8.
2-11 and 2-12	2-11 and 2-12.
5-7 through 5-16	5-7 through 5-15.
6-3 and 6-6	6-3 through 6-5.
8-3 and 8-4	8-3 and 8-4.

3. File this change sheet in front of publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) to The Adjutant General, ATTN: AGPO, Department of the Army, Washington, DC 20315.

By Order of the Secretary of the Army:

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

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

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USAR: D (quan rqr block No. 545).

*This change supersedes DA Message AGPO-P 122153Z Feb 70 (U), subject: Interim Change to AR 635-200.

TAGO 661A—April 390-474*—70

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AR 635-200
C 17

CHANGE No. 17

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *9 February 1970*

PERSONNEL SEPARATIONS
ENLISTED PERSONNEL

Effective 1 March 1970

This change, together with revised AR 635-7, will permit qualified enlisted personnel serving in long tour areas to be given early release for police employment.

AR 635-200, 15 July 1966, is changed as follows:

1. The added or changed material is indicated by a star.
2. Remove pages 5-15 and 5-16 and insert revised pages 5-15 and 5-16.
3. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) to The Adjutant General, ATTN: AGPO, Department of the Army, Washington, DC 20315.

By Order of the Secretary of the Army:

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General, United States Army,
Chief of Staff.

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

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CHANGE No. 16

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *26 November 1969*

PERSONNEL SEPARATIONS
ENLISTED PERSONNEL

Effective 1 January 1970

This change adds a reference in paragraph 2-2e to the pertinent provisions of AR 635-10 for determining the reserve assignment to be included in orders for personnel being released from active duty and returned or transferred to a reserve component.

AR 635-200, 15 July 1966, is changed as follows:

1. The paragraph which has been changed is indicated by a star.
2. Remove pages 2-1 and 2-2 and insert revised pages 2-1 and 2-2.
3. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) to The Adjutant General, ATTN: AGPO-P, Department of the Army, Washington, DC 20315.

By Order of the Secretary of the Army:

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

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

Distribution:
To be distributed in accordance with DA Form 12-9 requirements for AR, Personnel Separations:
Active Army: A (qty rqr block No. 542).
NG: A (qty rqr block No. 542).
USAR: D (qty rqr block No. 545).

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TAGO 402A—November 390-469[illegible]—69

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AR 635-200
*C 15

CHANGE No. 15

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *12 November 1969*

PERSONNEL SEPARATIONS
ENLISTED PERSONNEL

Effective 15 August 1969 in accordance with DA message AGPO-P 151449Z Aug 69

This change clarifies the provisions of paragraph 5-20a on the effective date of early separation to attend school.

AR 635-200, 15 July 1966, is changed as follows:

1. Material which has been changed is indicated by a star.
2. Remove pages 5-9 and 5-10 and insert revised pages 5-9, 5-10, and 5-10.1.
3. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) to The Adjutant General, ATTN: AGPO, Department of the Army, Washington, DC 20315.

By Order of the Secretary of the Army:

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

Official:

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

Distribution:

To be distributed in accordance with DA Form 12-9 requirements for AR, Personnel Separations:

Active Army: A (quan rqr block No. 542).
ARNG: A (quan rqr block No. 542).
USAR: D (quan rqr block No. 545).

*This change supersedes so much of DA message AGPO-P 151449Z Aug 69 (U), subject: Interim Changes to AR 645-200 and AR 635-100, as pertains to AR 635-200.

TAGO 358A—November 390-469[illegible]—69

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AR 635-200
*C 14

CHANGE No. 14

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *4 October 1969*

PERSONNEL SEPARATIONS
ENLISTED PERSONNEL

Effective 16 September 1969 in accordance with DA message AGPO-P 161511Z Sep 69.

AR 635-200, 15 July 1966, is changed as follows:

1. Paragraph which has been changed is indicated by a star.
2. Remove pages 1-5 and 1-6 and insert revised pages 1-5 and 1-6.
3. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) to The Adjutant General, ATTN: AGPO, Department of the Army, Washington, DC 20315.

By Order of the Secretary of the Army:

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

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

Distribution:
To be distributed in accordance with DA Form 12-9 requirements for AR, Personnel Separations:
Active Army: A (quan rqr block No. 542).
ARNG: A (quan rqr block No. 542).
USAR: D (quan rqr block No. 545).

*This change supersedes so much of DA message AGPO-P 161511Z Sep 69 (U), subject: Changes to AR's 630-10, 635-200, and 635-206 as pertains to AR 635-200.

TAGO 274A—October 390-468—69

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AR 635-200
*C 13

CHANGE No. 13

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *19 August 1969*

PERSONNEL SEPARATIONS

ENLISTED PERSONNEL

Effective 8 July 1969 in accordance with DA message 915445

This change announces a change in the effective date of early separation to attend school or to accept teaching position.

AR 635-200, 15 July 1966, is changed as follows:

1. Paragraphs which have been changed are indicated by a star.
2. Remove pages 5-9 and 5-10 and insert revised pages 5-9 and 5-10.
3. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) to The Adjutant General, ATTN: AGPO, Department of the Army, Washington, DC 20315.

By Order of the Secretary of the Army:

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

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

Distribution:

To be distributed in accordance with DA Form 12-9 requirements for AR, Personnel Separations:
Active Army: A (quan rqr block No. 542).
ARNG: A (quan rqr block No. 542).
USAR: D (quan rqr block No. 545).

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*This change supersedes DA message 915445, 8 July 1969.

AGO 108A—August 390-468—69

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AR 635-200
*C 12

CHANGE No. 12

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *10 July 1969*

PERSONNEL SEPARATIONS

ENLISTED PERSONNEL

Effective 1 August 1969

This change revises Chapter 10 to specify that a request for discharge for the good of the service may be submitted by an individual whose conduct has rendered him triable by court-martial any time after court-martial charges are preferred against him, and to provide for the withdrawal of a request for discharge for the good of the service under certain conditions.

AR 635-200, 15 July 1966, is changed as follows:

1. Added or changed material is indicated by a star.
2. Remove old pages and insert revised pages as indicated below:

Remove pages—	*Insert pages—*
5-7 and 5-8	5-7 and 5-8
10-1 and 10-2	10-1 and 10-2

3. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) to The Adjutant General, ATTN: AGPO, Department of the Army, Washington, DC 20315.

By Order of the Secretary of the Army:

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

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

Distribution:
To be distributed in accordance with DA Form 12-9 requirements for AR, Personnel Separations:
Active Army: A (qty rqr block No. 542).
NG: A (qty rqr block No. 542).
USAR: D (qty rqr block No. 545).

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*This change supersedes DA message 913584, 20 June 1969.

TAGO 29A—July 890-465—69

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AR 635-200
C 11

CHANGE No. 11

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, D.C., *21 May 1969*

PERSONNEL SEPARATIONS
ENLISTED PERSONNEL
Effective 1 July 1969

AR 635-200, 15 July 1966, is changed as follows:

1. This change revises paragraph 2-17*b* which relieves commanders exercising general court-martial jurisdiction of the requirement to administer actions relating to undesirable discharges for personnel in subordinate commands which are commanded by a general officer with a judge advocate on his staff. Also, paragraph 5-32*c*(2)(*a*) has been revised to require those individuals who reenlist prior to ETS from an RA status, to complete their initial service obligation. Minor changes to paragraphs 2-2 and 10-6 are included.
2. Added or changed material is indicated by a star.
3. Remove old pages and insert new pages as indicated below:

Remove pages	*Insert pages*
2-1 and 2-2	2-1 and 2-2
2-11 and 2-12	2-11 and 2-12
5-9 through 5-12	5-9 through 5-12
5-15 and 5-16	5-15 and 5-16
10-1 and 10-2	10-1

4. File this sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) to The Adjutant General, ATTN: AGPO, Department of the Army, Washington, D.C. 20315.

By Order of the Secretary of the Army:

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

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

Distribution:
To be distributed in accordance with DA Form 12-9 requirements for AR, Personnel Separation:
Active Army: A (quan rqr block No. 542).
ARNG: A (quan rqr block No. 542).
USAR: D (quan rqr block No. 545).

TAGO 1182A—May 340-475°—69

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AR 635-200
*C 10

CHANGE No. 10

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, D.C., *25 April 1969*

ENLISTED PERSONNEL
PERSONNEL SEPARATIONS

Changes in chapter 5 are effective 7 March 1969 in accordance with DA message 900218; changes in chapter 8 are effective 1 April 1969 in accordance with DA message 903276.

AR 635-200, 15 July 1966, is changed as follows:

1. Significant changes are as follows:

a. Provides that inductees who did not meet medical fitness standards for entering the Army will be processed the same as Regular Army personnel.

b. Provides that enlisted women may be discharged by reason of marriage when they meet certain requirements.

2. Paragraphs which have been changed are indicated by a star.

3. Remove old pages and insert revised pages as shown below:

Remove pages	*Insert pages*
5-1 through 5-4.2	5-1 through 5-4.1
8-1 and 8-2	8-1 and 8-2

4. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) to The Adjutant General, ATTN: AGPO, Department of the Army, Washington, D.C. 20315.

By Order of the Secretary of the Army:

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

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

Distribution:
To be distributed in accordance with DA Form 12-9 requirements for AR, Personnel Separations
Active Army: A (qty rqr block No. 542).
ARNG: A (qty rqr block No. 542).
USAR: D (qty rqr block No. 545).

*This change supersedes so much of DA message 900218, 7 March 1969, as pertains to AR 635-200, and Part I, DA message 903276, 1 April 1969.

TAGO 1098A—April 840-474*—69

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AR 635-200
*C 9

CHANGE No. 9

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, D.C., *6 March 1969*

PERSONNEL SEPARATIONS
ENLISTED PERSONNEL

Effective 1 March 1969

AR 635-200, 15 July 1966, is changed as follows:

1. Added or changed material is indicated by a star.
2. Remove old pages 5-4.1 and 5-4.2 and insert revised pages 5-4.1 and 5-4.2.
3. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements to The Adjutant General, ATTN: AGPO, Department of the Army, Washington, D.C. 20315.

By Order of the Secretary of the Army:

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

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

Distribution:
To be distributed in accordance with DA Form 12-9 requirements for AR, Personnel Separations:
Active Army: A (qty rqr block No. 542).
NG: A (qty rqr block No. 542).
USAR: D (qty rqr block No. 542).

*This change supersedes paragraph 1c, DA message 889925, 9 December 1968.

TAGO 897A—February 340-472—69

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AR 635-200
* C 8

CHANGE No. 8

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, D.C., *11 October 1968*

ENLISTED PERSONNEL

PERSONNEL SEPARATIONS

AR 635-200, 15 July 1966, is changed as follows:

1. Material which has been modified or added is indicated by a star.
2. Remove old pages and insert new pages as indicated below:

Remove pages—	*Insert pages—*
2-9 and 2-10	2-9 and 2-10.
5-15 and 5-16	5-15 and 5-16.
9-3 and 9-4	9-3 and 9-4.
9-9 and 9-10	9-9 and 9-10.
10-1 and 10-2	10-1 and 10-2.
10-3 and 10-4	10-3 and 10-4.
12-3 and 12-4	12-3 and 12-4.

3. File this change sheet in front of the publication for reference purposes.

11 October 1968 — C 8, AR 635-200

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements to The Adjutant General, ATTN: AGPO, Department of the Army, Washington, D.C. 20315.

By Order of the Secretary of the Army:

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

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

Distribution:
To be distributed in accordance with DA Form 12-9 requirements for AR, Personnel Separations:
Active Army: A (Quan Rqr Block No. 542).
ARNG: A (Quan Rqr Block No. 542).
USAR: D (Quan Rqr Block No. 545).

*This change supersedes DA messages 879408, 10 September 1968 and 882483, 3 October 1968.

TAGO 418A—October 840-468—68

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AR 635-200
*C 7

CHANGE No. 7

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, D.C., *11 September 1968*

PERSONNEL SEPARATIONS

ENLISTED PERSONNEL

AR 635-200, 15 July 1966, is changed as follows:

1. New or changed material is indicated by a star.
2. Remove old pages and insert revised pages as indicated below:

Remove pages	*Insert pages*
5-3 through 5-4.2	5-3 through 5-4.2
5-9 and 5-10	5-9 and 5-10

3. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements to The Adjutant General, ATTN: AGPO, Department of the Army, Washington, D.C. 20315.

By Order of the Secretary of the Army:

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

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

Distribution:
To be distributed in accordance with DA Form 12-9 requirements for AR, Personnel Separations:
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ARNG—A (quan rqr block No. 542).
USAR—D (quan rqr block No. 545).

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*This change supersedes DA message 875195, 6 August 1968, and DA message 875516, 9 August 1968.

TAGO 302A—September 340-467 —68

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AR 635-200
*C 6

CHANGE No. 6

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, D.C., *20 August 1968*

PERSONNEL SEPARATIONS

ENLISTED PERSONNEL

AR 635-200, 15 July 1966, is changed as follows:

1. Changed material is indicated by a star.
2. Remove old pages and insert revised pages as indicated below:

Remove pages —	*Insert pages —*
1-5 thru 1-6.1	1-5 and 1-6.
5-7 and 5-8	5-7 and 5-8.

3. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements to The Adjutant General, ATTN: AGPO, Department of the Army, Washington, D.C. 20315.

By Order of the Secretary of the Army:

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

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

Distribution:
To be distributed in accordance with DA Form 12-9 requirements for AR, Personnel Separations:
Active Army: "A" (quan rqr block No. 542).
NG: "A" (quan rqr block No. 542).
USAR: "D" (quan rqr block No. 545).

*This change supersedes so much of DA message 870626, 2 July 1968, as pertains to AR 635-200.

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TAGO 163A—August 340-466*—68

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AR 635-200
*C 5

CHANGE No. 5

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, D.C., *12 June 1968*

PERSONNEL SEPARATIONS
ENLISTED PERSONNEL

AR 635-200, 15 July 1966, is changed as follows:

1. Material which has been modified or added is indicated by a star.
2. Remove old pages and insert new pages as indicated below:

Remove pages—	*Insert pages—*
v	v
1-1 and 1-2	1-1 and 1-2
	12-1 through 12-7

3. This transmittal sheet should be filed in the front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements to The Adjutant General, ATTN: AGPO, Department of the Army, Washington, D.C. 20315.

By Order of the Secretary of the Army:

HAROLD K. JOHNSON,
General, United States Army,
Chief of Staff.

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

Distribution:
To be distributed in accordance with DA Form 12-9 requirements for Military Personnel Procedures, Enlisted:
Active Army and NG: A. *USAR:* D.

*This change supersedes AR 635-230, 19 August 1960, including all changes.

TAGO 1311A—June 300-476*—68

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AR 635-200
*C 4

CHANGE No. 4

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, D.C., *9 April 1968*

PERSONNEL SEPARATIONS

ENLISTED PERSONNEL

AR 635-200, 15 July 1966, is changed as follows:

1. Changed material is indicated by a star.
2. Remove old pages and insert new pages as indicated below:

Remove pages—	*Insert pages—*
iii through v	iii through v.
5-1 through 5-4	5-1 through 5-4.2
5-9 through 5-10.1	5-9 and 5-10.
	5-15 and 5-16.
6-1 through 6-4.1	6-1 through 6-4.

3. This transmittal sheet should be filed in the front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements to The Adjutant General, ATTN: AGPO, Department of the Army, Washington, D.C. 20315.

By Order of the Secretary of the Army:

HAROLD K. JOHNSON,
General, United States Army,
Chief of Staff.

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

Distribution:
To be distributed in accordance with DA Form 12-9 requirements for Military Personnel Procedures, Enlisted:
Active Army: A. *NG:* A. *USAR:* D.

This change supersedes DA message 842978, 7 December 1967 and DA message 850597, 7 February 1968.

TAGO 1001A—April 300-474°—68

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AR 635-200
*C 3

CHANGE No. 3

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, D.C., *22 December 1967*

PERSONNEL SEPARATIONS
ENLISTED PERSONNEL

AR 635-200, 15 July 1966, is changed as follows:

1. Changed material is indicated by a star.
2. Remove old pages and insert new pages as indicated below:

Remove pages—	Insert pages—
i through vi	i through vii.
2-1 through 2-6	2-1 through 2-6.
2-9 through 2-12	2-9 through 2-12.
3-1 and 3-2	3-1 and 3-2.
5-3 through 5-6	5-3 through 5-6.
8-1 and 8-2	8-1 and 8-2.

3. This transmittal sheet should be filed in the front of the publication for reference purposes.

The proponent of this regulation is the Office of The Adjutant General. Users are invited to send comments and suggested improvements to The Adjutant General, ATTN: AGPO, Department of the Army, Washington, D.C. 20315.

By Order of the Secretary of the Army:

HAROLD K. JOHNSON,
General, United States Army,
Chief of Staff.

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

Distribution:
To be distributed in accordance with DA Form 12-9 requirements for Military Personnel Procedures, Enlisted:
Active Army: A. *NG:* A. *USAR:* D.

*This change supersedes AR 635-204, 5 December 1958; DA message 829207, 22 August 1967; and DA message 842171, 1 December 1967.

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TAGO 645A—Dec. 300-470*—67

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AR 635-200
*C 2

CHANGE No. 2

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, D.C., *30 June 1967*

PERSONNEL SEPARATIONS

ENLISTED PERSONNEL

AR 635-200, 15 July 1966, is changed as follows:

1. Paragraphs that are being changed are indicated by a bold star.
2. Remove old pages and insert new pages as indicated below:

Remove pages—	Insert pages—
1-5 and 1-6	1-5 and 1-6, 1-6.1
	5-13
7-1 and 7-2	7-1 and 7-2
7-5	7-5.

3. This transmittal sheet should be filed in front of the publication for reference purposes.

[AGPO]

By Order of the Secretary of the Army:

HAROLD K. JOHNSON,
General, United States Army,
Chief of Staff.

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

Distribution:
To be distributed in accordance with DA Form 12-9 requirements for Military Personnel Procedures, Enlisted:
Active Army: A. *NG:* A. *USAR:* None.

*This change supersedes DA message 819508, 15 June 1967, and DA message 777512, 10 August 1966.

TAGO 5A—July 300-465*—67

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AR 635-200
*C 1

CHANGE No. 1

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, D.C., *1 June 1967*

PERSONNEL SEPARATIONS

ENLISTED PERSONNEL

AR 635-200, 15 July 1966, is changed as follows:

1. Changed material is indicated by a star.
2. Remove old pages and insert new pages as indicated below:

Remove pages—	Insert pages—
1-1 through 1-4	1-1 through 1-4
1-7 through 1-9	1-7 through 1-9
2-9 through 2-12	2-9 through 2-12
3-1 and 3-2	3-1 and 3-2
5-7 through 5-10	5-7 through 5-10.1
6-1 through 6-4	6-1 through 6-4.1
8-1 through 8-5	8-1 through 8-5
10-1 and 10-2	10-1 and 10-2
	11-1

3. This transmittal sheet should be filed in the front of the publication for reference purposes.

[AGPO]

By Order of the Secretary of the Army:

HAROLD K. JOHNSON,
General, United States Army,
Chief of Staff.

Official:

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

Distribution:

To be distributed in accordance with DA Form 12-9 requirements for Military Personnel Procedures, Enlisted:

Active Army: A. *NG* A. *USAR: None.*

This change supersedes paragraphs 3 and 5, DA message 781990, 13 September 1966; paragraph 5, DA message 788111, 27 October 1966, and DA message 803710, 2 March 1967, DA message 809840, 12 April 1967, and DA message 812939, 2 May 1967.

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AR 635-200

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PERSONNEL SEPARATIONS

ENLISTED PERSONNEL

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*C 42, AR 635-200
AR 635-200

ARMY REGULATION
No. 635-200

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *15 July 1966*

PERSONNEL SEPARATIONS

ENLISTED PERSONNEL

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SUPERSESSION LIST

This regulation supersedes the following:

AR 635-200, 8 April 1959, including C 1, 23 December 1959; C 2, 26 October 1960; C 5, 15 November 1961; C 6, 10 May 1962; C 8, 13 November 1962; C 9, 14 March 1963; C 10, 3 March 1964; C 11, 21 October 1964.

AR 635-205, 11 January 1960, including C 4, 21 July 1961; C 5, 15 November 1961; C 7, 9 November 1962; C 8, 28 November 1962; C 10, 12 July 1963; C 12, 4 March 1964; C 13, 1 November 1965.

AR 635-207, 12 January 1961, including C 2, 21 March 1962; C 3, 4 March 1964.

AR 635-210, 17 February 1961, including C 4, 5 September 1962; C 5, 25 June 1965.

AR 635-220, 4 June 1956, including C 1, 15 January 1957; C 2, 18 November 1957; C 3, 8 April 1959.

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AR 635-207, 12 January 1961, including C 2, 21 March 1962; C 3, 4 March 1964.

AR 635-210, 17 February 1961, including C 4, 5 September 1962; C 5, 25 June 1965.

AR 635-220, 4 June 1956, including C 1, 15 January 1957; C 2, 18 November 1957; C 3, 8 April 1959.

Change 1, 1 June 1967, superseded--
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Change 2, 30 June 1967, superseded--
DA messages 819508, 15 June 1967, and 777512, 10 August 1966.

Change 3, 22 December 1967, superseded--
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Change 4, 9 April 1968, superseded--
DA messages 842978, 7 December 1967, and 850597, 7 February 1968.

Change 5, 12 June 1968, superseded--
AR 635-230, 19 August 1960, including all changes.

Change 6, 20 August 1968, superseded--
So much of DA message 870626, 2 July 1968, as pertains to AR 635-200.

Change 7, 11 September 1968, superseded--
DA messages 875195, 6 August 1968, and 875516, 9 August 1968.

Change 8, 11 October 1968, superseded--
DA messages 879408, 10 September 1968, and 882403, 3 October 1968.

Change 9, 6 March 1969, superseded--
Paragraph 1c, DA message 889925, 9 December 1968.

Change 10, 25 April 1969, superseded--
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Change 12, 10 July 1969, superseded--
DA message 913584, 20 June 1969.

Change 13, 19 August 1969, superseded--
DA message 915445, 8 July 1969.

Change 14, 4 October 1969, superseded--
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Change 15, 12 November 1969, superseded--
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Change 18, 3 April 1970, superseded--
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Change 19, 14 April 1970, superseded--
DA message AGPO 192137Z Mar 70 (U), subject: Interim Change to AR 635-200.

Change 20, 9 July 1970, superseded-- So much of
DA message AGPO 251916Z May 70 (U), subject: Interim changes to AR 635-100, AR 635-200, AR 635-206, and AR 635-212 as pertains to AR 635-200, and so much of DA message AGPO 222038Z Jun 70 (U), subject: Interim changes to AR 635-100 and AR 635-200 as pertains to AR 635-200.

Change 22, 8 September 1970, superseded--
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Change 23, 25 September 1970, superseded--
DA message AGPO 022037Z Sep 70(U), subject: Interim change to AR 635-200.

Change 24, 4 November 1970, superseded--
Paragraph 1 of DA message AGPO 301615Z Sep 70(U), subject: Enlisted Retirements for Length of Service; and paragraph 1 of DA message AGPO 272153Z Oct 70(U), subject: Interim change to AR 635-200.

Change 25, 14 January 1971, superseded--
DA message AGPO 191839Z Nov 70(U), subject: Interim Change to AR 635-200.

Change 26, 12 April 1971, superseded--
DA message AGPO 061648Z Mar 70(U), subject: Retired Grade of Former Command Sergeants Major.

Change 38, 23 August 1972, superseded--
Section V, AR 635-206, 15 July 1966.

CHAPTER 1

GENERAL PROVISIONS

Section I. GENERAL

1-1. Purpose. This regulation provides—

a. The authority for separation of enlisted personnel upon expiration of term of service (ETS).

b. The authority and general provisions governing the separation of enlisted personnel prior to ETS.

c. The procedures for implementation of laws and policies governing voluntary retirement of enlisted personnel of the Regular Army by reason of length of service.

d. The criteria governing the issuance of honorable, general, and undesirable discharge certificates.

1-2. Scope. *a.* This regulation applies to all Active Army enlisted personnel and Reserve component personnel ordered to active duty (AD) including active duty for training (ADT) under the Reserve Enlistment Program of 1963, (REP 63), unless specifically excluded. Unless specifically provided for, the provisions of this regulation, as well as all regulations in the 635-series dealing with the discharge of enlisted personnel, are binding upon field commanders but not upon HQDA.

b. The provisions of chapter 12 govern the retirement of Regular Army enlisted personnel, male or female, who are retiring in their Regular Army enlisted status.

★1-3. Definitions. For the purpose of this regulation the following apply:

a. Administrative Discharge Board. A board of officers appointed to render findings based on facts obtaining or believed to obtain in a case and to recommend retention in the service or discharge, giving reason, and the type of separation or discharge certificate to be furnished.

b. Administrative separation. Discharge or release from AD upon expiration of enlistment or required period of service, or prior thereto, as prescribed by the Department of Army or by law, but specifically excluding separation by sentence of a general or special court-martial.

c. Appointed counsel for consultation. A qualified counsel who is a commissioned officer of The Judge Advocate General's Corps who is appointed to consult with and advise, at the outset of any initiated elimination proceedings, an individual being processed for separation under the provisions of paragraph 5-38 and chapters 9, 10, 13 and 14 of this regulation, AR 635-206, and other administrative separation proceedings where required by applicable Army regulations. This officer will advise the individual concerning the basis for his contemplated separation and its effect, the rights available to him/her, and the effect of any action taken by him/her in waiving such rights. Consulting counsel may advise the individual regarding the merits of the contemplated separation action when, in his professional judgment, such advise is appropriate. Consulting counsel, however, should inform the individual that he cannot represent him before a board of officers unless also appointed as counsel for representation. Communications between the individual and his consulting counsel regarding the merits of the separation action are privileged communications between the attorney and his client.

d. Appointed counsel for representation. A counsel appointed to represent an individual who is being processed for separation during the course of any hearing before a board of officers. Such counsel will possess the qualifications in (1) or (2) below, as applicable. The appointed counsel for representation and the appointed counsel for consultation need not be the same individual.

(1) The appointed counsel for an individual being processed for separation which could result in issuance of an undesirable discharge under the provisions of chapter 13 or 14 or AR 635-206, is a lawyer within the meaning of the Uniform Code of Military Justice, Article 27(b)(1), unless appropriate authority certifies in the permanent record that a lawyer with these qualifications is not available and states the qualifications of the substituted nonlawyer counsel. (See fig. 1-1 for an example of certificate of nonavailability.)

(2) The appointed counsel for an individual being processed for separation by reason of unsuitability need not meet the qualifications described in (1) above; however, if he is not a lawyer, he must be a commissioned officer in the grade of first lieutenant or higher.

e. Convening authority. The officer authorized by Army regulations to convene an administrative discharge board and take final action on a specified type of discharge.

f. Discharge. Discharge is complete severance from all military statuses.

g. Discharge authority. The officer authorized by Army regulations to take final action on specified types of discharge.

h. Member, enlisted person, and individual. An enlisted man or woman of the Army, including all persons enlisted or inducted in any component of the Army in active Federal service unless otherwise indicated or obviously inappropriate.

i. Military behavior. The conduct of the individual while a member of the Army.

j. Military record. An account of a member's behavior while in military service, including general comportment and performance of duty.

k. Release from active duty. Termination of AD status and transfer or reversion to a Reserve component not on AD. Personnel enlisted or inducted who have a Reserve obligation under Title 10, United States Code, the Military Selective Service Act of 1967, as amended, or any other provision of law, are transferred from the US Army Reserve (USAR). Members of the Army National Guard of the United States (ARNGUS) and US Army Reserve (USAR) revert from an AD status to their respective components to complete unexpired enlistments and/or unfulfilled obligations.

l. Separation. Separation is a general term which includes release from AD, release from military control of persons without a military status, discharge, and retirement.

Section II. SEPARATION CERTIFICATES

1-4. Statutory authority. Title 10, United States Code, section 3811, provides that a discharge certificate will be given to each lawfully inducted or enlisted member of the Army upon discharge from the Service.

1-5. Discharge certificates. Discharge certificates are furnished all enlisted and inducted personnel when they are discharged. Instructions for the completion of the various types of discharge certificates are in AR 635-5. The issuance of discharge certificates is governed by this regulation. The five types of discharge certificates are as follows:

DD Form No.	*Type of discharge*	*Character of discharge or separation*	*Given by—*
256A	Honorable	Honorable	Administrative action
257A	General	Under honorable conditions	Administrative action
258A	Undesirable	Under conditions other than honorable	Administrative action
259A	Bad Conduct	Under conditions other than honorable	Sentence of special or general court-martial.
260A	Dishonorable	Dishonorable	Sentence of general court-martial.

1-6. DD Form 214 (Report of Separation from Active Duty). Individuals who are discharged or released from AD or ADT will be furnished a factual record of their military service, the character and duration of service, and the type of separation on DD Form 214. Instructions for the completion and distribution of DD Form 214 are contained in AR 635-5.

Section III. FACTORS GOVERNING ISSUANCE OF HONORABLE, GENERAL AND UNDESIRABLE DISCHARGE CERTIFICATES

1-7. General considerations. Because the type of separation may significantly influence the individual's civilian rights and eligibility for benefits provided by law, eligibility for reentry into the Service, and acceptability for employment in civilian industry, it is essential that all pertinent factors be considered so that the type of separation will accurately reflect the nature of the service rendered. The type and character of separation issued upon administrative separation from current enlistment or period of service will be determined solely by the mem-

ber's military record during that enlistment or period of service, plus any extensions thereof prescribed by law or by the Secretary of the Army, or accomplished with the consent of the member. The evaluation of an individual's service and conduct will be based on his overall period of current service rather than any disqualifying entries in his Enlisted Qualification Record during a particular portion of such service.

1-8. Separation as it affects the individual. Both the honorable and general discharge entitles an individual to full Federal rights and benefits. However, an undesirable or bad conduct discharge may or may not deprive the individual of veterans' benefits administered by the Veterans Administration; a determination by that agency is required in each individual case. A Dishonorable Discharge deprives the individual of all veterans' benefits and may deprive him of civil rights.

1-9. Characterizing a member's service. *a. Preservice and prior service activities.* The following will not be considered in determining the type and character of separation to be issued:

(1) Preservice activities.

★(2) Prior service activities, including but not limited to records of convictions by courts-martial, records of nonjudicial punishment, records of absence without leave, or commission of other offenses for which punishment was not imposed.

b. Military record. Character of service will be determined only by the member's military record of the current enlistment of current period of service, which record includes an individual's military behavior and performance of duty. In the case of a Reserve member on active duty who is to be discharged, the characterization of the period of service from which he is discharged will be based solely on his military behavior and performance of duty during his current period of service while he was actually performing active duty, or active duty for training.

c. Screening of records. A member's records of current enlistment or of his current period of service, only, will be carefully screened for data which would have a bearing on the final decision as to the type of discharge to be awarded. A checklist will be prepared to assist in the overall evaluation, to include the following data:

(1) Length of time served in the enlistment of period of service.

(2) Promotions and dates thereof.

(3) Demotions, if any, and dates thereof. Where there has been a demotion, the specific reason should be listed.

(4) Whether there is a record of time lost, and if so, whether due to AWOL and/or confinement or other reason.

(5) Whether there has been disciplinary action under Article 15, UCMJ, and *if so, list the specific offenses* which resulted in such action.

(6) Whether there has been any conviction by court-martial, and if so, note offenses, findings, and sentence.

(7) Make note of member's conduct and efficiency evaluations.

(8) Make note of favorable communications or recommendations for the individual.

(9) Make note of any derogatory data, other than Article 15 actions and courts-martial.

(10) Make note of any citations and awards.

(11) Where derogatory data has been revealed, make note of whether there is evidence or other indication of successful rehabilitation.

(12) Make note of any medical or other data meriting consideration in the overall evaluation.

d. Honorable discharge.

(1) An honorable discharge is a separation with honor. Issuance of an honorable discharge will be conditioned upon proper military behavior and proficient performance of duty during the member's current enlistment of current period of service with due consideration for the member's age,

length of service, grade, and general aptitude. Where a member has served faithfully and performed to the best of his ability and has been cooperative and conscientious in doing his assigned tasks, he may be furnished an honorable discharge. Where there have been infractions of discipline, the extent thereof should be considered, as well as the seriousness of the offense(s). A member will not necessarily be denied an honorable discharge solely by reasons of a specific number of convictions by courts-martial or actions under Article 15 of the Uniform Code of Military Justice. It is the pattern of behavior and not the isolated instance which should be considered the governing factor in determination of character of service to be awarded.

(2) A member's service will be characterized as honorable by the commanding officer authorized to take such action or higher authority when a member is eligible for or subject to separation and it has been determined that he merits an honorable discharge under the following standards:

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(a) Has conduct ratings of at least "Good."

(b) Has efficiency ratings of at least "Fair."

(c) Has not been convicted by a general court-martial.

(d) Has not been convicted more than once by a special court-martial.

(3) Notwithstanding the foregoing criteria, an honorable discharge may be furnished when disqualifying entries in the individual's military record are outweighed by subsequent honest and faithful service over a greater period of time during the current term of service. Careful consideration will be given to the nature of the offense and sentence adjudged by a court-martial and when, in the opinion of the office effecting discharge these have not been too serious and severe, and the remainder of the service in the enlistment has been such that an honorable discharge would have been granted had the conviction not occurred, an honorable discharge may be awarded. When there is doubt as to whether an honorable or general discharge should be furnished, the doubt should be resolved in favor of the individual.

(4) Where otherwise ineligible, an individual may receive an honorable discharge if he has, during his current enlistment, period of obligated service, or any extensions thereof, received a personal decoration, or is separated as a result of a disability incurred in line of duty.

(5) Regardless of previous record, a former prisoner with a suspended discharge who was restored to duty to complete an existing enlistment or obligation to serve will be furnished the type of discharge certificate to which his service subsequent to restoration entitles him.

e. General discharge.

(1) A general discharge is a separation from the Army under honorable conditions of an individual whose military record is not sufficiently meritorious to warrant an honorable discharge. When a member's service is characterized as general, except when discharged by reason of misconduct, unfitness, unsuitability, homosexuality, or security, the specific basis for such separation will be included in the individual's military personnel record.

(2) A general discharge may be issued if an individual has been convicted of an offense by general court-martial or has been convicted by more than one special court-martial in the current enlistment period or obligated service or any extension thereof. The decision is discretionary; if there is evidence that the individual's military behavior

has been proper over a reasonable period of time subsequent to the conviction(s), he may be considered for an honorable discharge (*c* and *d* above).

(3) A member's service may be characterized as general by the commanding officer authorized to take such action or higher authority when the member is eligible for or is subject to separation and it has been determined, under the prescribed standards, that separation is warranted.

f. Undesirable discharge. An undersirable discharge is an administrative separation from the Service under conditions other than honorable. It may be issued for unfitness, misconduct, homosexuality, or for security reasons.

(1) *Special considerations.* Whenever an undesirable discharge is authorized by regulation, a member may be awarded either an honorable or general discharge if, during the current or a prior enlistment or period of service or voluntary or involuntary extension of either, he has been awarded a personal decoration, or if warranted by the particular circumstances of a specific case.

(2) *Consideration required.* Commanders and members of boards of officers responsible for recommending discharges to be furnished and commanders having responsibility for determining finally the type of discharge to be issued are urged to consider all facets of a particular case involving discharge so that a fair decision will result.

★1-10. Issuance of an undesirable discharge. An undesirable discharge will be directed only by a commander exercising general court-martial jurisdiction, a general officer in command who has a judge advocate officer on his staff (if authority has been delegated to him pursuant to applicable Army regulations for cases arising in his command), or by higher authority, based on the approved recommendation of a board of officers, unless the member waives the board or resigns, or requests discharge for the good of the Service. Prior to such action, the following procedures and safeguards must be observed:

a. A member who is under military control will be notified in writing that his discharge has been recommended pursuant to a specific regulation and will be given the specific allegations on which the proposed action is based. He will also be advised that he has the following rights:

(1) To consult with a consulting counsel (para 1-3*c*).

(2) To present his case before an administrative discharge board.

(3) To be represented at any hearing by appointed counsel for representation (para 1-3*d*); military counsel of his own choice, provided such counsel is reasonably available; or civilian counsel at his own expense.

(4) To submit statements in his own behalf.

(5) With the exception of (1) above, to waive the above rights in writing.

(6) To withdraw his waiver of his rights listed in (2), (3) and (4) above any time prior to the date the discharge authority orders, directs, or approves his discharge and requests that his case be presented before a board of officers. The member will be required, within a reasonable time (not less than 48 hours), to consult with a consulting counsel ((1) above) prior to waiving the rights listed in (2), (3) and (4) above. If he elects to waive his rights, the member will personally sign a waiver. His consulting counsel will advise him in accordance with paragraph 1-3*c* and will sign the written waiver as witness, indicating that he is a commissioned officer of The Judge Advocate General's Corps. If the member refuses to consult with a consulting counsel, he will be ordered to do so by his commander. If he persists in his refusal, a statement to this effect will be prepared by the commander and included in the file. Separation action will then proceed as if the member had consulted with a consulting counsel.

b. If a member waives his rights, the discharge authority may disapprove the waiver and refer the case to an administrative discharge board, or direct retention on active duty, or direct discharge by reason of unfitness,

misconduct, or security. If discharge is directed, the type of certificate will be specified.

c. A member unable to appear in person before an administrative discharge board by reason of confinement by civil authorities will be advised (by registered mail) of the proposed discharge action, the type of discharge certificate that may be issued, and the fact that action has been suspended to give him the opportunity to exercise the following rights:

(1) To consult by correspondence with a counsulting counsel (para 1-3*c*). (Consulting counsel's name and address will be included.)

(2) To request appointment of a counsel for representation; a named military counsel, if available; or employ civilian counsel at his own expense to represent him and, in his absence, present his case before [illegible]ministrative discharge board.

(3) To submit statements in his own behalf.

(4) To waive the foregoing rights, either in writing or by declining to reply to the [illegible]tter of notification within 30 days from the date of receipt.

d. A member beyond military control by reason of unauthorized absence may be issued an undesirable discharge in absentia only under the direction of HQDA. Notification of the imminent discharge action and the effective date will be sent by registered mail to the record address of the member or to the next of kin, as appropriate. Separation of members of the Reserve components will be subject to the limitations of Title 10, USC, 1163.

e. A member who submits a resignation under the provisions of paragraph 9-7 or requests discharge as prescribed in chapter 10 may be issued an undesirable discharge without board action, provided he has been afforded the opportunity (not less than 72 hours) to consult with a consulting counsel (para 1-3*c*) and provided he certifies in writing that he understands that he will receive a discharge under other than honorable conditions and the adverse nature of such a discharge and the possible consequences. The member must personally sign his written resignation or request for discharge. His consulting counsel will sign as a witness, indicating that he is a commissioned officer of The Judge Advocate General's Corps. A member may not waive consultation with a consulting counsel (*a* above).

f. An individual who holds a status in a Reserve component as a commissioned or warrant officer will include in his statement whether a waiver of board hearing does or does not apply to his Reserve status.

1-11. Determination of character of service.

a. In all cases requiring an administrative discharge board or waiver thereof, the discharge of an enlisted member will be characterized by the officer authorized to approve such a separation or by higher authority. In all other cases, the character of separation will be determined by the immediate commanding officer of the last unit to which the member was assigned or attached prior to his separation processing at the transfer facility, except when otherwise directed by higher authority. The officer characterizing the service will—

(1) Review the individual's military record and determine the character of separation to be awarded in accordance with governing criteria.

(2) Enter in the "Remarks" section of DA Form 20 (Enlisted Qualification Record) the character of separation to be issued upon separation.

b. Commanders of transfer activities will examine each enlisted qualification record of personnel undergoing transfer processing and will issue the type of discharge ordered by the discharge authority (sec. VI, chap. 2) with the characterization determined by the appropriate officer (*a* above).

c. The commanders of transfer activities will change neither the type nor character of separation except in those instances when the member's conduct, subsequent to the determination by the discharge authority and the characterization by the appropriate officer (*a*

above) warrants a change in type or character of separation. When no administrative discharge board is convened, the commander of the transfer activity may issue an honorable or general discharge. Appropriate entries will be made in the individual's enlisted qualification record with the reason for the determination or characterization by the commander of the transfer activity.

1-12. Orientation on the types of discharges. AR 350-21 requires that a comprehensive explanation be given enlisted personnel entering on active duty regarding the types of discharge certificates, the basis for issuance of each type, and their possible effect on reenlistment, civilian employment, veterans' benefits, and related matters. While it is incumbent upon the commanders specified in that regulation to insure that newly enlisted or inducted personnel receive this instruction, all commanders should institute periodic orientation programs to emphasize the importance and benefits of an honorable discharge. Failure of an enlisted member to receive or understand such instruction, however, will in no event be considered a bar to or defense in an administrative or court-martial proceeding.

1-13. Limitations on administrative discharge and board hearings. ★*a.* Discharges pursuant to this regulation should not be based on conduct which has already been considered at a prior administrative or judicial proceeding and disposed of in a manner indicating that discharge is not warranted. Accordingly, administrative discharges under the provisions of chapters 13 and 14, of this regulation, AR 604-10, and AR 635-206 are subject to the following limitations.

(1) No member will be considered for administrative discharge because of conduct which has been the subject of judicial proceedings resulting in an acquittal or action having the effect thereof. The determination whether an action has the effect of an acquittal will be determined solely by HQDA, pursuant to a request submitted by the convening authority through command channels.

(2) No member will be considered for administrative discharge because of conduct which has been the subject of administrative proceedings resulting in a final determination that the member should be retained in the service.

(3) No member will be considered for administrative discharge because of conduct which was considered by a general or special court-martial if a sentence to a punitive discharge was authorized to be adjudged but was not adjudged, or was disapproved or suspended on review by the convening authority or any appellate agency, and remains suspended.

b. The limitations in *a* above are not applicable when—

(1) Substantial new evidence, fraud, or collusion is discovered, which was not known at the time of the original proceeding, despite the exercise of due diligence, and which will probably produce a result significantly less favorable for the member at a new hearing.

(2) Subsequent conduct by the member warrants considering him for discharge. Such conduct need not independently justify the member's discharge, but must be sufficiently serious to raise a question as to the member's potential for further useful military service. This exception, however, does not permit further consideration of conduct of which the member has been absolved in a prior final factual determination by an administrative or judicial body.

(3) An express exception has been granted by HQDA, pursuant to a request by a convening authority through channels that, due to the unusual circumstances of the case, administrative separation should be accomplished.

c. No convening authority will direct discharge if a board recommends retention, nor will he authorize the issuance of a discharge of less favorable character than that recommended by the board. A convening authority, however, may direct retention when discharge is recommended, or he may issue a discharge of a more favorable character than that recommended.

★*c.*1 A convening authority may forward a case to HQDA (DAPC-PAS-S), 200 Stovall St., Alexandria, VA 22332, when a board of officers had recommended retention and he believes, due to unusual circumstances of the

case, that discharge is warranted and in the Army's best interest. HQDA may grant discharge authority. Discharge will be under honorable conditions and the member will be awarded an honorable or general discharge certificate.

d. If, in his review of a case in which separation has been recommended by the board, the convening authority notes a defect in the proceedings which he deems to be harmless, he will take such final action as he deems appropriate, subject to c above. With respect to substantial defects, he may take one of the following actions:

(1) Direct retention.

(2) If the board has failed to make findings or recommendations required by the applicable regulations, return the case to the same board for compliance with the regulations concerned.

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

(4) If the board committed an error which materially prejudiced a substantial right of the respondent, the convening authority may set aside the findings and recommendations and refer the case to a new board for a rehearing. No member of the new board will have served on a prior board which considered any of the same amtter against the respondent. The new board may be furnished the evidence properly considered by the first board, to include extracts from its record of testimony of witnesses not deemed by the convening authority to be reasonably available to testify at the rehearing. Additional admissible evidence may be furnished to or obtained by the new board. The convening authority may, upon due notice to the respondent, incorporate new allegations based on subsequent conduct of the respondent. Unless the new board considers substantial additional evidence unfavorable to the respondent, the convening authority may not approve any portion of the findings and recommendations of the new board which is less favorable to the member than the action of the first board.

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

Section IV. DETERMINING RETENTION, SEPARATION OR SUSPENSION

1-14. Retention, separation, or suspension. In determining whether a member should be retained or be administratively separated, the individual's entire military record, including records of nonjudicial punishment imposed during a prior enlistment or period of service, all records of conviction by courts-martial and any other factors which are material and relevant may be evaluated. Commanding officers, investigating officers, administrative discharge boards, and other agencies charged with making such determinations will consider records of nonjudicial punishment imposed during a prior enlistment or period of service only if such records of punishment would have, under the particular circumstances of the case, a direct and strong probative value in determining whether retention or administrative separation is appropriate.

a. Cases in which the circumstances may warrant use of such records ordinarily will be limited to those involving patterns of conduct which would become manifest only over an extended period of time.

b. When a record of nonjudicial punishment imposed during a current enlistment or period of service is considered, isolated incidents and events which are remote in time, or have no probative value in determining whether retention or separation should be accomplished, will have minimal influence on the determination.

c. If a decision is made that a member should be administratively separated, section III of this chapter applies in determining the type of discharge.

1-15. Suspension of execution of approved discharge. *a.* In order to afford a highly deserving member a probationary period to demonstrate

successful rehabilitation prior to expiration of his enlistment or period of obligated service, the discharge authority or higher authority may suspend execution of an approved discharge for a period not to exceed 6 months. During the period of suspension, the member will be afforded an opportunity to demonstrate that he is capable of behaving properly under varying conditions during the probationary period and that he can perform his assigned duties efficiently.

b. Upon satisfactory completion of the probationary period, the authority who suspended the discharge will cancel execution of the approved discharge. If the individual has been transferred to the command of another discharge authority, the discharge will be canceled by the new discharge authority or higher authority.

c. If there is additional misconduct on the part of the member during the probationary period or actions which constitute substandard performance of duty or demonstrate characteristics of unsuitability, the commander concerned or the convening authority, whichever is appropriate, will take one of the following actions:

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

(2) Vacate suspension of the approved discharge when the member has been beyond military control for 15 days or more and discharge him in absentia.

(3) Advise the enlisted person in writing that vacation action is being considered and the reasons which warrant such consideration. The enlisted person will be given an opportunity to furnish information in his own behalf or decline to make any statement. The commander taking the action will consider any information the individual submits in his own behalf and will—

(*a*) Vacate suspension of approved discharge and execute discharge, or

(*b*) Continue to suspend execution of the approved discharge.

CERTIFICATE

DATE _____

HQ, 118th Infantry Division, Fort Jackson, South Carolina

Counsel within the meaning of paragraph 1-3*d*(1), AR 635-200 is unavailable to represent Private (E-2) John A. Doe, 000-00-0000, of this command, whose case has been referred to an administrative discharge board convened under (AR 635-200) (AR 635-206).

Captain James R. Cronkite, 000-00-0000, Infantry, is appointed counsel for the above named individual. Captain Cronkite has performed 10 years of active service. During this time he has acted as recorder and as counsel for respondents before administrative discharge boards. He also has served as a summary court and as a trial and defense counsel in special court-martial. (State other qualifications.) This officer's mature judgment and his knowledge of administrative board procedures qualify him to act as appointed counsel in this case.

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Commanding

★*Figure 1-1.*

CHAPTER 2

SEPARATION OF ENLISTED PERSONNEL

Section I. ELIGIBILITY FOR SEPARATION

2-1. Statutory authority. Title 10, United States Code, section 1169, provides that no enlisted member of the Army may be discharged before his term expires except—

a. As prescribed by the Secretary of the Army.

b. By sentence of a general or special court-martial.

c. As otherwise provided by law.

2-2. *Discharge or release from the Active Army* upon termination of enlistment, period of induction, and other periods of active duty or active duty for training. *a.* The periods of military service required of all members of the Army will be in accordance with applicable laws. Periods for which enlistment is authorized are set forth in NGR 25-1, AR 140-111, and AR 601-210. Periods for which individuals are inducted or ordered to active duty are prescribed by law.

b. The following aliens will not be separated *prior to the full period for* which enlisted or inducted purely as a matter of convenience, except as provided in paragraph 5-2:

(1) Aliens who enlisted in the Regular Army for a period of 3 years (see section 328, Act of 27 June 1952 (66 Stat. 249; 8 USC 1439) for requirements as to naturalization).

(2) Aliens who were enlisted or inducted in the Army for a period of 24 months active duty and who were in the United States at the time of enlistment or induction (see section 4, Act of 24 October 1962 (76 Stat. 1247; 8 USC 1254)).

If performance or conduct does not justify their retention, they will be processed for separation under appropriate regulations.

c. Personnel who are physically unfit for retention (chap. 3, AR 40-501) but who were accepted for, or continued in, military service under the provisions of AR 635-40 or similar directives, will not be separated by reason of expiration of term of service unless processing for separation by reason of physical disability is waived.

★*d.* Subject to the provisions of section V of this chapter, an individual enlisted, inducted, or ordered to active duty normally will be discharged or released from active duty on the date upon which he completes the period for which enlisted, inducted, or ordered to active duty. However, an individual other than those listed in *b* above, whose term of service expires or who otherwise becomes eligible for discharge or release from active duty on a Saturday, Sunday, or legal holiday may, with his consent, be discharged or released to or transferred to the United States Army Reserve on the last working day prior to normal date of discharge or release. An individual listed in *b* above, whose term of service expires or who otherwise becomes eligible for separation on a Saturday, Sunday or legal holiday, may, with his consent, be released from active duty and be transferred to the United States Army Reserve on the last working day prior to his normal date of discharge or release, if otherwise appropriate, *but may not be discharged* on such date. Individuals whose rate of pay is subject to change on a Saturday, Sunday, or legal holiday upon which they would be separated will not be discharged until their normal separation date unless they request otherwise. The actual date of release or discharge will be recorded in item 9d, DD Form 214. Personnel released from active duty and transferred to the United States Army Reserve upon completion of the term of service for which inducted or ordered into active Federal service, or released to their reserve component upon completion of active duty, will not be discharged until completion of their reserve obligation.

e. AR 135-90 and AR 135-91 define the various service obligations incurred by military personnel upon initial entry into military service and prescribe the methods of fulfillment. Enlisted personnel who will not continue or reenter on active duty in another status will be released by separation orders to the Army National Guard of the United States or to the United States Army Reserve as set forth in paragraph E-1, AR 635-10 (under *Separation orders*, pages E-5 and E-6).

f. A noncitizen who incurred a reserve obligation upon entry into military service but who at time

of release from active duty fails or refuses to give a mailing address within the United States, Puerto Rico, the Virgin Islands, Guam, or the Canal Zone, but gives only an address in a foreign country as a permanent mailing address (item 33, DD Form 214, Report of Separation from Active Duty), thus showing his intention to reside permanently outside the United States, is not eligible for transfer to the United States Army Reserve. He will be discharged upon and by reason of having completed the period of service for which enlisted or inducted, but will be advised prior to such discharge that it may permanently bar him from United States citizenship.

g. Members of the Army National Guard of the United States and the United States Army Reserve ordered to active duty for a period in excess of 90 days will, upon release from active duty, revert to control of the appropriate reserve component.

h. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 will be out-processed in accordance with AR 612-201.

i. Individuals serving as cadets in military academies whose expiration of enlisted term of service occurs while individual is serving in such capacity will be discharged or released, as appropriate.

j. An enlisted person who at the time of entry on active duty held an appointment as a United States Army Reserve commissioned or warrant officer, or who while on active duty accepts appointment and such appointment is still current, will not be transferred to the United States Army Reserve in his enlisted status but will be discharged. Special orders discharging the individual will be prepared as prescribed in AR 310-10 and will indicate that the individual is transferred to the United States Army Reserve in his commissioned or warrant grade. Discharge to enter another military status does not terminate the individual's military service obligation incurred under title 10, United States Code, subsection 651a.

k. The discharge authority delegated to commanders by this regulation shall not include the authority to discharge a member under court-martial sentence to dishonorable or bad conduct discharge, prior to the completion of appellate review, unless the discharge authority intends such discharge action as a remission of the conviction.

2-2.1. Counseling required for certain retirement-eligible personnel. *a.* Each enlisted member of the Regular Army who, upon expiration of term of service, will have completed 20 or more years of active Federal service will be counseled by his personnel officer regarding his options and their consequences in accordance with the following if he:

(1) Has a service obligation remaining which would require extension of his current enlistment, or reenlistment, to complete.

(2) May be ineligible for immediate or subsequent reenlistment for any reason.

b. Counseling will be accomplished during the sixth month prior to the member's ETS, whether or not he states an intention to submit an application for retirement.

★*c.* The member will be required to sign a statement that he has been counseled and that he fully understands the consequences of being discharged upon ETS rather than extending or reenlisting in order to complete a service obligation (see para 12-12*b*(5), this regulation, and para 4-3, AR 601-280, concerning enlistment extensions), or of retiring if he is ineligible to reenlist. The formats in figures 2-1 and 2-2 will be reproduced locally for this purpose. Figure 2-1 will be used for personnel affected by *a*(1) above and figure 2-2 for personnel affected by *a*(2) above. The statement will be completed in duplicate and both copies will be signed by the member. The original signed statement will be forwarded to the Commander, US Army Enlisted Records Center, Fort Benjamin Harrison, IN 46249, for file in the member's OMPF as a permanent document. The signed copy of the statement will be placed in the member's MPRJ as an action-pending document.

d. The following information will be imparted to the service member during his counseling session:

★(1) Under 10 USC 3914 and 3917 an enlisted member must be on active duty at the time he applies for retirement, and retirement must be accomplished while he is on active duty. Individuals whose reenlistment is precluded for any reason will not be retained beyond the last day of the month in which their ETS falls, or have their enlistments extended solely because of failure to apply for, or late application for retirement, or to complete a medical examination in conjunction with retirement (*see sec V, chap. 12, re latter*).

(2) A member who elects to be discharged upon ETS rather than reenlist or extend his enlistment, as appropriate, to complete a service obligation (para 12-9) will not be eligible to enlist until 93 days following his discharge. The subsequent reenlistment may be in a grade lower than the grade held at the time of discharge. Thus, retirement during that term of service would also have to be in the lower grade unless the individual is promoted to a higher grade during such period of service prior to his retirement, or is eligible to retire under 10 USC 3917 (30 or more years of active Federal service).

(3) Retirement cannot be retroactive. Therefore, a member who is discharged, later reenlists, and then retires, cannot be placed in a retired pay status for the period between his discharge and subsequent reenlistment. His retired pay will be based on the grade in which he is retired.

(4) Individuals precluded from reenlistment for any reason (e.g., provisions of the Qualitative Management Program, chap. 4, AR 600-200) would forfeit their retirement eligibility altogether, since there would be no way for them to regain an active duty status for the purpose of applying for retirement.

e. The failure to counsel an enlisted member under this paragraph will not operate to alter his status or entitlement to any benefits.

Section II. DISCHARGE, RELEASE FROM ACTIVE DUTY, OR RELEASE FROM ACTIVE DUTY FOR TRAINING AFTER EXPIRATION OF PERIOD OF ACTIVE DUTY OR ACTIVE DUTY FOR TRAINING

2-3. Time lost to be made good. Every individual in active Federal service who renders himself unable for more than 1 day to perform duty will be liable, after a return to full duty status, to serve for such period as is necessary to complete his full term of service or obligation, exclusive of such time lost.

a. Lost time in the sense of this regulation refers to periods of more than 1 day during which an individual on active duty is unable to perform duty because of—

(1) Desertion.

(2) Absence without proper authority.

(3) Confinement under sentence.

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

(5) Intemperate use of drugs or alcoholic liquor.

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

★*b.* Time lost during an enlistment or induction period will be made good at the end of the enlistment or induction period, except that when an enlistment or period of induction is extended by law, time lost will be made good at the end of the extension. This requirement may be waived by *Headquarters, Department of the Army. Recommendations* for waiver of time lost will be submitted to HQDA (DAPC-PAS-S), 200 Stovall St., Alexandria, VA 22332 when the discharge authority considers that because of unusual or extenuating circumstances waiver of time lost is in the best interest of the individual and the Government.

c. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 (trainees performing at least 4 months ADT will be required to make up time lost except that commanding officers of training installations are authorized to waive this requirement if the individual has completed the required training and the commander does not consider it would be in the best interest of the service to retain the individual on active duty for training to make good time lost. Commanding officers of training installations are authorized to issue necessary amendatory orders extending the initial period of active duty for training in the cases of reservists who are required to make good time lost while undergoing active duty for training. Five copies of each amended order issued prior to release from ADT date indicated in original orders will be furnished the State adjutant general or the commander that issued the original active duty for training orders.

d. Enlisted members of the Army National Guard of the United States and the United States Army Reserve who are being released from active duty because the unit in which they were ordered to active duty is being returned as a unit to inac-

tive status will not be retained on active duty to make good time lost.

2-4. When investigation is initiated with view to trial by court-martial or member is awaiting trial or result of trial. *a.* A member may be retained beyond the expiration of his term of service by a general court-martial convening authority, or his designee, when an investigation of his conduct has been initiated with a view to trial by court-martial; charges have been preferred; or the member has been apprehended, arrested, confined or otherwise restricted by the appropriate military authority. However, if charges have not been preferred, the member shall not be retained more than 30 days beyond the expiration of his terms of service without the personal approval of the general court-martial convening authority concerned.

b. An individual who, on the date on which he would otherwise be eligible for discharge or release from active duty, is awaiting trial or result of trial by court-martial will not be discharged or released from active duty until final disposition of the court-martial charges. For effective date of discharge, see section V, this chapter. Enlisted personnel under sentence to dishonorable or bad conduct discharge will not be discharged prior to completion of appellate review, unless so directed by Headquarters, Department of the Army. If the individual is absent without leave at the time appellate review is completed, the punitive discharge may be executed notwithstanding his absence.

2-5. En route to United States or to territory of origin. Whenever an individual is held in service after the expiration of his period of service under the conditions set forth in *a* and *b* below, he will be regarded as having been so retained for the convenience of the Government.

a. As a casual for separation. An individual en route as a casual to the United States from overseas will not under any circumstances be separated until he has arrived at his destination.

b. As a member of an organization. An individual whose period of service expires while at sea en route to the United States with his organization and who signifies his intention to reenlist for the same organization on the day following discharge will be discharged and reenlisted at sea. Those who do not signify their intention to reenlist will be held in the service until they arrive in the United States.

★2-6. Requiring medical care or sick in hospital when the period of service expires and disease or injury has been determined as incurred incident to service. Except as provided in paragraphs 2-2.1*d*(1) and 12-11*d*(2), and section V, chapter 12, any enlisted person, except those on active duty for training (ADT) on orders which are self-terminating, whose period of service will expire while requiring medical care or during the course of hospitalization for a disease or injury which finally has been determined to have been incurred incident to service (in line of duty) may, with his consent, be retained in service beyond the period of his service in order that he may complete the required medical care or hospitalization, and, if required, be brought before a physical evaluation board (see AR 635-40; for ADT cases, see AR 135-200). The final determination whether a member's disease or injury was incurred incident to service, referred to in this paragraph and in paragraph 2-7, is the decision of the Secretary of the Army in the line-of-duty investigation of the member's disease or injury conducted under the provisions of AR 600-33. The enlisted person will be counseled for retention on active duty by an officer authorized to administer oaths pursuant to the Uniform Code of Military Justice, Article 136 (authority of Armed Forces personnel to administer oaths, take acknowledgements, and perform other notarial acts as contained in AR 600-11). He will furnish the enlisted person with the list of retention advantages in *d* below, will explain orally the advantages, and will have the enlisted person execute an affidavit as shown in *e* below, whether or not retention is desired. In those instances in which the individual has been determined to be mentally incompetent or otherwise unable to give consent, the next of kin or legal representative will be furnished the list of retention advantages and will be requested to furnish an affidavit as to the decision regarding retention. Any enlisted person so retained will receive at Government expense medical care, hospitalization, pay and allowances (including expense money authorized by law and credit for longevity), and will be subject to forfeiture in the same manner and to the same extent as if the period of service had not expired. See DOD Military Pay and Allowances Entitlements Manual.

a. Any individual whose period of service will expire while requiring medical care or during the course of hospitalization may be held in service without his consent to make good time lost under title 10, United States Code, section 972.

b. No enlisted person may be held in service beyond the expiration of his term of service without his written consent in affidavit form or, in the case of mentally incompetent personnel, without the written consent in affidavit form of the next of kin or legal representative, solely to provide further medical care or to effect further hospitalization and subsequent separation or retirement for physical disability. The affidavit will be filed in the individual's Military Personnel Records Jacket, US Army (DA Form 201) and forwarded to US Army Enlisted Records Center, Fort Benjamin Harrison, IN 46249, when transfer processing has been completed. Individuals for whom authority to retain beyond expiration of term of service is not granted will be discharged or released from active duty on the date of expiration of term of service. A hospitalized individual so discharged or released from active duty may be permitted to remain in the hospital as a pay patient at his own expense and without military status if his condition is such that he is physically unable to leave the hospital at the time of discharge or release from active duty or in mentally incompetent cases, if his discharge would be attended by danger to himself or others. In any such case in which the individual is eligible for authorized hospitalization as a beneficiary of the Veterans Administration or, if ineligible for Veterans Administration hospitalization but transfer to a State, county, municipal, or private institution may be effected, the hospital commander will take appropriate action to arrange for and effect transfer. In cases in which the next of kin or legal representative does not authorize retention in the service beyond expiration of term of service of a mentally incompetent patient, disposition will be made in accordance with AR 40-3. If a mentally incompetent patient has been determined to be dangerous to himself or others and the next of kin does not elect to assume responsibility for the patient and the patient is not eligible for transfer to a Veterans Administration hospital, the hospital commander will follow procedures outlined in paragraph 6-22*b*, AR 40-3.

c. If it is impossible to locate the next of kin of a mentally incompetent patient, or the next of kin does not indicate whether the individual should be retained or discharged, the hospital commander will not discharge the individual but will continue, when appropriate, physical disability processing. The hospital commander will immediately forward full details of the case, including reasons for not completing physical disability processing by the date of expiration of term of service, and action to secure consent of next of kin for retention, by the most expeditious means to HQDA (DAPC-PAS-RD), 200 Stovall St., Alexandria, VA 22332. Disposition instructions will be issued by the Secretary of the Army.

d. An enlisted person whose period of service will expire while requiring medical care or during the course of hospitalization will be advised concerning the advantages of remaining on active duty (DA Pam 608-2) and furnished the following list of retention advantages, provided the disease or injury for which medical care is being provided or for which hospitalized was incurred incident to service (in line of duty):

(1) Advantages while remaining on active duty for further medical care or continued hospitalization or while being processed for disability benefits are—

(*a*) Medical care and/or hospitalization provided.

(*b*) Receipt of normal benefits such as pay, allowances to include class Q allotment, if authorized, and exchange and commissary privileges.

(*c*) Eligibility for dependent medical care.

(*d*) Accumulation of additional active service creditable for longevity and retirement for length of service.

(*e*) State income tax benefits where allowed by the laws of the State concerned.

(2) Advantages if processed and found eligible for disability separation are—

(*a*) If permanently retired, election of retirement pay based on either basic pay multiplied by the percentage of disability involved (30 to 75 percent), or basic pay multiplied by 2½ percent multiplied by years of total active service. If temporarily retired, however, the same election of pay is authorized, but the minimum pay will

not be less than 50 percent of basic pay while temporarily retired (AR 37-104-1). If discharged for disability, may be entitled to receive severance pay.

(*b*) To the extent retirement pay is based on the percent of disability involved, such pay is excluded in the computation of gross income reportable for taxation.

c. An enlisted person whose period of service will expire during the receipt of medical care or course of hospitalization will execute the following affidavit:

WITH THE ARMY OF THE UNITED STATES, SS
AFFIDAVIT

At _____

Personally appeared before me, the undersigned, authorized by law to administer oaths pursuant to the Uniform Code of Military Justice, Article 136, one _____ who, after being advised by me of the rights and advantages of remaining in an active duty status in the Army beyond the scheduled date of his expiration of term of service for the purpose of continuing medical care or hospitalization and, if eligible, subsequent separation or retirement for physical disability under the provisions of chapter 61, title 10, USC, and after being duly sworn, deposes and says:

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

_____
(Signature of member)

_____
(Grade and organization of officer administering oath)

_____
(Signature of officer administering oath)

2-7. Retained in service pending final line of duty determination for disease or injury and disposition subsequent to finding. ★*a*. Except as provided in paragraph 2-2.1*d*(1) and 12-11*d*(2) and section V, chapter 12, an enlisted member whose period of service will expire during the course of continued medical care or hospitalization may be retained in service with his consent pending final determination whether the disease or injury was incurred incident to service and for disability evaluation processing. An enlisted person desiring retention in service will execute the affidavit in *c* below.

b. When it is determined that the member's disease or injury was incurred incident to service, the provisions of paragraph 2-6 will be complied with.

c. When it has been determined that the member's disease or injury was not incurred incident to service and he has an unfitting condition which requires processing through disability channels, he may continue to be retained to complete the disability evaluation processing of his case.

d. When it is finally determined that the member's injury or disease for which an enlisted member is receiving medical care or is hospitalized

was not incurred incident to service and there is no unfitting condition requiring processing through physical disability processing channels, the member will be discharged or released from active duty, as appropriate. If a member has time lost to be made good under the provisions of paragraph 2-3, date of expiration of term of service will be established as of the day prior to injury or onset of disease. Where continued hospitalization is deemed necessary, the medical treatment facility commander may, in his discretion, afford continued hospitalization to a member who has been separated from the service on expiration of term of service. If such continued hospitalization after separation is afforded, charges will be collected from the patient by the medical treatment facility concerned at the pay-patient rate applicable for the fiscal year involved.

e. An enlisted person whose period of service will expire during the course of continued medical care or hospitalization pending final determination whether the disease or injury for which he is receiving medical care or hospitalization was incurred incident to service will execute the following affidavit:

WITH THE ARMY OF THE UNITED STATES, SS
AFFIDAVIT

At _____

Personally appeared before me, the undersigned, authorized by law to administer Oaths pursuant to the Uniform Code of Military Justice, Arti-

cle 186, one _____, who, after being advised of the advantage of remaining in an active status in the Army beyond the scheduled date of his expiration of service for the purpose of continuing medical care or hospitalization and, if eligible, subsequent separation or retirement for physical disability under the provisions of chapter 61, title 10, U.S.C., and after being duly sworn, deposes and says:

"I, _____, have been fully advised by the undersigned officer of the advantage that may accrue to me by voluntarily remaining on active duty in the Army beyond the scheduled date of expiration of my term of service for the purpose of continuing medical care or hospitalization and, if eligible, subsequent separation or retirement for physical disability under the provisions of chapter 61, title 10, U.S.C., and have been further fully advised that if I elect instead to be discharged or released from active duty as scheduled, I will not, after such discharge or release from active duty, be eligible for separation or retirement for physical disability.

"I, _____, have also been advised that if it is finally determined that the disease or injury for which I am currently receiving medical care or hospitalization was not incurred in line of duty, I will be separated from the service or relieved from active duty on receipt of notice of such final determination by the commander of the medical facility at which I am being treated. I understand that after I have been separated from the service or released from active duty, I may receive continued hospitalization and medical care at the discretion of the commander of the medical facility at which I am being treated. Where such continued hospitalization or medical care after separation or release is afforded, I understand that I will be charged by the medical treatment facility concerned at the pay-patient rate applicable for the fiscal year involved.

"I, _____, have also been advised that if it is finally determined that the disease or injury for which I have been receiving medical care or hospitalization was not incurred in line of duty, I shall be entitled, during the period from the date of expiration of my term of service to the date of my separation or release from active duty, to the following benefits only:

(1) Medical care or hospitalization.

(2) Exchange and commissary privileges.

(3) Eligibility for dependent medical care.

"Wherefore in consideration of the above, I (do) (do not) desire retention on active duty in the Army beyond the scheduled date of expiration of my term of service."

_____

(Signature of member)

_____

(Grade and organization of officer administering oath)

_____

(Signature of officer administering oath)

2-8. **Retained to undergo treatment for class 4 or 5 dental defects.** Any enlisted person whose period of service will expire during the time he is in need of or is receiving treatment for class 4 or 5 dental defects (AR 40-3) which are incapacitating or likely to interfere with duties in military or civilian life may, with his consent, be retained in the service beyond the expiration of his period of service until he has received appropriate treatment or prosthetic dental appliances.

2-9. **Indebtedness.** An individual who is otherwise eligible for discharge or release from active duty will not be retained in the service to satisfy an indebtedness to the Government or to an individual, or for the purpose of obtaining remission of indebtedness. When practicable and justifiable, action toward remission (section C, chapter 10, part 2, AR 37-104) will be taken in advance of the date on which the individual is eligible for discharge or release from active duty.

2-10. **Retention for miscellaneous reasons.** If it is desired to retain an individual beyond his expiration of term of service for a reason, other than those covered by paragraphs 2-3 through 2-8, request for approval of such action must be submitted to The Adjutant General, Department of the Army.

Section III. RETAINED IN SERVICE BEYOND ETS WHILE SUBJECT TO CRIMINAL JURISDICTION OF FOREIGN COURTS BUT NOT PHYSICALLY CONFINED BY SUCH COURTS

2-11. *Retention beyond ETS.* Retention in service under the provisions of this paragraph is intended solely to permit the United States Government to fulfill its obligations under current jurisdictional agreements with friendly governments.

a. In all cases wherein it appears that final action on the civil charges will not be completed prior to the date of the accused's release from the service because of expiration of his term of service, the following action will be taken:

(1) The foreign officials will be advised of the man's pending separation and requested to grant the accused permanent permission to depart from their jurisdiction.

(2) If the foreign officials decline to grant such departure, they will be afforded the opportunity to accept custody of the accused in time to prevent, as a member absent in the custody of civil authorities, his separation from the service.

(3) In the event the foreign officials decline to permit departure of the accused, or to accept his custody, efforts will be made to obtain the voluntary written consent of the accused for his retention in the service beyond expiration of his term of service, until such time as final action on the civil charges have been completed. Before such consent is obtained he will be advised that since he is subject to the UCMJ it is possible that courts-martial charges may be preferred against him if the foreign government does not proceed with the case. However, preferral of courts-martial charges will not be resorted to solely as a device to insure the accused's retention in the service. If, in a particular case, the convening authority has previously decided not to prefer courts-martial charges, so much of the above as requires that he be informed of such a possibility will be disregarded.

b. Should the individual consent to retention in the service he will be requested to execute substantially the following affidavit which will be filed in the individual's DA Form 201. A copy of the affidavit will be forwarded to Headquarters, Department of the Army, ATTN: AGPO-SS.

AFFIDAVIT

See MSG 172002 JAN77

I, (_____) am being subjected
(Name, grade, SSN, organization)
to the exercise of criminal jurisdiction of the government of _____
_____. I am presently:

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

I request that I be retained in the service beyond _____, the
(Date)
expiration date of my term of service, until such time as final action on charges against me by the foreign government has been completed.

I have been advised of my rights under Article 31, UCMJ. I have also been informed that since I am subject to the UCMJ it is possible that courts-martial charges may be preferred against me if the foreign government does not proceed with its case. I certify that this request for retention in the service is not the result of coercion, force, or threat of harm, nor have I been promised any benefits by the military authorities of the United States.

_____
(Signature of member)

c. If neither of the provisions of *a* above can be complied with, the case, with full details, will be referred through channels to HQDA (DAAG-PSS), WASH DC 20314, for instructions. Care will be exercised to insure that each case is submitted prior to the date of the individual's expiration of term of service.

Section IV. SEPARATION PRIOR TO EXPIRATION OF TERM OF SERVICE

2-12. Discharge or release from active duty prior to expiration of period of service. ★*a.* Except as indicated in *b* and *c* below, when separation is to be accomplished prior to expiration of enlistment, period for which inducted, or ordered to active duty or active duty for training of REP 63 trainees, it will be accomplished under whichever of the following chapters of this regulation or other regulations that are appropriate by the commander as specified in section VI:

(1) Conscientious objection	AR 635-20
(2) Convenience of the Government.	Chapter 5
(3) Dependency or hardship	Chapter 6
(4) Discharge and reenlistment in the Army National Guard of the United States while on active duty.	AR 601-280
(5) Discharge for the good of the service.	Chapter 10
(6) Dishonorable and bad conduct discharge.	Chapter 11
(7) Fraudulent entry	Chapter 14
(8) Marriage, pregnancy, or parenthood.	Chapter 8
(9) Military Personnel Security Program.	AR 604-10
(10) Minority	Chapter 7
(11) Misconduct (AWOL, conviction by civil court, desertion).	Chapter 14
(12) Physical disability	AR 635-40
(13) Separation and reentry of nonregular personnel or extension of active duty.	AR 601-280
(14) Unfitness or unsuitability.	Chapter 13

b. When discharge or release from active duty is to be accomplished prior to expiration of enlistment, induction, or period for which ordered to active duty or active duty for training, time lost

during such term of service need not be made good, except that in cases where discharge or release for the convenience of the Government is to be accomplished under the provisions of sections VI, VII, VIII, and IX, chapter 5, the expiration of term of required service of an individual with time lost will be adjusted to include such lost time (adjusted ETS). Early discharge for the purpose of immediate reenlistment in the Regular Army under the provisions of paragraph 5-10, where the member concerned has lost time, may be accomplished only upon waiver, where required, of the disqualification for reenlistment created by loss of time as set forth in AR 601-280.

c. Enlisted personnel under sentence to dishonorable or bad conduct discharge will not be discharged or released from active duty prior to completion of appellate review, unless so directed by Headquarters, Department of the Army.

★*d.* When resignation is accepted under the provisions of paragraph 9-5, 9-6, 9-7, 9-8, or 9-9, or when individual is discharged under the provisions of chapter 10, 13 or 14 of this regulation or AR 635-206, the case file of the individual will be reviewed by the commander having authority to approve discharge to determine whether the reporting requirements set forth in AR 190-10 are applicable. When such conditions exist in an individual's case file, the report required by AR 190-10 will be submitted.

Section V. EFFECTIVE DATE OF DISCHARGE

2-13. Effective date of discharge. *a.* The discharge of an enlisted person for the reasons listed in (1), (2), and (3) below is effective at 2400 hours on the date of notice of discharge, and the enlisted person will be so notified.

(1) Discharge by reason of expiration of term of service.

(2) Discharge for the purpose of continuing on active duty in the same or another status.

(3) Discharge from a reserve component status under honorable conditions and is entitled to travel time.

b. Release from active duty of an enlisted person is effective at 2400 hours on the date of release when the individual—

(1) Is transferred to the US Army Reserve for the purpose of completing a Reserve obligation incurred under the Military Selective Service Act of 1967, as amended.

(2) Reverts to the jurisdiction of the US Army Reserve or the State National Guard to complete the unexpired portion of an enlistment contract in such component.

(3) Is transferred to the temporary disability retired list under the provisions of AR 635-40.

c. Discharge for all reasons, other than those set forth in *a* above, is effective at time of notice to the enlisted person of discharge.

d. Notice of discharge may be either—

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

★(2) Constructive, when actual delivery of the discharge certificate cannot be accomplished owing to the absence of the individual to be discharged. For example, such a situation would arise if the individual were on leave or in the hands of civil authorities. Receipt by the individual's organization at his proper station of the order directing his discharge will be deemed sufficient notice. Except when the individual was on leave when discharged, the date of receipt of the order and the reason why actual notice thereof was not given will be entered, by indorsement, on the back of the discharge certificate. If delivery of the discharge certificate cannot be made, it will be forwarded to the National Personnel Records Center (Military Personnel Records), General Services Administration, 9700 Page Boulevard, St. Louis, MO 63132, together with a statement of the reasons therefor.

2-14. Mentally incompetent. The effective date of discharge of a mentally incompetent individual may also be constructive, as when he has been placed in an institution. See AR 635-40.

2-15. When retained in service awaiting trial or result of trail. When an individual is retained in service as prescribed in paragraph 2-4, the effective date of his discharge or release from active duty depends upon the result of his trial or the disposition made of the case. Examples are given below.

a. An individual who has previously lost no time which he is required to make good under title 10, United States Code, section 972, who is con-

fined awaiting trial will, if acquitted subsequent to expiration of term of service date, be discharged or released from active duty within 5 days after date of announcement of acquittal, and will be regarded as having been retained in service for the convenience of the Government.

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

c. An individual who is retained under the provisions of paragraph 2-4, with a view to trial by court-martial and court-martial charges are not preferred or are disposed of without trial, will be separated within 5 days after the decision is made and will be regarded as having been retained in service for the convenience of the Government.

★**2-16. Absent without leave or in hands of civil authorities.** *a.* Except as provided in *c, d,* and *e* below and chapter 13, or when directed by Headquarters, Department of the Army, an individual in the hands of civil authorities will not be separated from military service. Morning report entries for individuals in the hands of civil authorities will be made in accordance with table 3-8, AR 680-1. An individual in the hands of civil authorities does not accrue service creditable for completion of his period of enlistment, induction, or order to active duty except for any period in which he was on an authorized leave status. Upon return to military control, an individual's expiration of term of service date will be computed. When an individual's term of service has expired, his separation will be accomplished within 5 days of his return to military control and he will be regarded as having been retained in service for the convenience of the Government. For pay and allowances, see DODPM.

b. The provisions of this paragraph do *not* apply to individuals who are transferred to a Veterans' Administration hospital under the provisions of DA Cir 600-85.

c. Discharge of individuals absent without leave or who have been convicted by the civil authorities is governed by AR 635-206 except for those individuals who have been sentenced by court-martial to dishonorable or bad conduct discharges.

d. When an individual who is being processed for discharge under the provisions of chapter 10 or 14 of this regulation, or AR 635-206, absents himself without leave or is absent in the hands of civil authorities, or an individual who is being processed under the provisions of chapter 13 absents himself without leave, while in the continental United States, Alaska, Hawaii, a US territory or possession or his area of residence, his discharge may be executed notwithstanding such absence, provided the recommendation for discharge is approved by the commander exercising general or special court-martial jurisdiction, as appropriate, and provided the absence occurred subsequent to the date—

(1) The completed board proceedings (when the board has recommended discharge) are forwarded through channels to the commander exercising general or special court-martial jurisdiction, as appropriate, or

(2) When a board hearing is not required or has been waived, the case is forwarded through channels to the commander exercising general or special court-martial jurisdiction, as appropriate, recommending discharge.

e. An individual in a duty status who is delivered to civil authorities, in accordance with AR 600-40 prior to expiration of his term of service, will be credited with the period of time in the hands of civil authorities in the computation of his expiration of term of service date unless he is finally convicted prior to expiration of term of service. When his term of service expires, he will be separated in absentia by reason of expiration of term of service. A type A medical examination as prescribed in chapter 10 and appendix IX, AR 40-501, will be administered prior to separation. The commander exercising general or special court-martial authority,

as appropriate, will schedule such examination to be accomplished at the nearest Armed Forces medical treatment facility, if feasible, or by civilian physicians on the staff of a civilian facility, or by fee-basis physicians employed for this purpose. The fees prescribed by AR 40–330 will apply for medical examinations, and consultations accomplished by civilian physicians. If the medical examination is accomplished by a civilian physician the report (SF 88, SF 93, and consultation reports) will be reviewed by a military physician prior to separation action.

f. Report of Separation from Active Duty (DD Form 214) and orders will be dispatched by certified mail, with return receipt requested to the individual at the address provided for that purpose. If the forms are returned unclaimed, or for any other reason prove undeliverable, they will be forwarded, along with report of action, to the National Personnel Records Center (Military Personnel Records), GSA, 9700 Page Boulevard, St. Louis, MO 63132, for file with the individual's records. Distribution of DD Form 214 will be made in accordance with AR 635–5.

g. Individuals whose discharges are ordered under this paragraph will be reassigned from the unit of assignment from which AWOL or absent in the hands of civil authorities to appropriate transfer activities for separation. Reassignment will not be accomplished earlier than the effective date of separation. (See para 3–4*d*, AR 680–3, for reporting such separations to HQDA (DAPC-PSS-M).)

Section VI. AUTHORITY TO ORDER SEPARATION AND ACCOMPLISH SEPARATION

2–17. Authority to order discharge or release from active duty prior to expiration of period of service. Subject to the limitation imposed by subparagraph 2–2*k*, authority is granted to the following commanders to order discharge or release from active duty of enlisted personnel prior to expiration of their enlistment, induction, or period for which ordered to active duty. Except as authorized herein, these commanders are not authorized to delegate this authority to subordinate commanders without prior approval of the Secretary of the Army.

a. Discharge or release from active duty, except as provided in paragraphs *b* through *d*, below:

★(1) Commanders of all units and installations which are commanded by, or are under the normal command of a general officer.

(2) Commanders of units or installations having general court-martial jurisdiction.

★(3) Commanders of the following medical treatment facilities:

(*a*) Brooke Army Medical Center.
(*b*) Walter Reed Army Medical Center.
(*c*) Fitzsimons Army Medical Center.
(*d*) Letterman Army Medical Center.
(*e*) Madigan Army Medical Center.
(*f*) William Beaumont Army Medical Center.
(*g*) US Army Medical Center, Fort Gordon.
(*h*) Valley Forge General Hospital.

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

b. Commanders exercising general court-martial jurisdiction are authorized to order discharge under AR 635–206 and chapters 10, 11, 13, and 14 of this regulation. This authority may be delegated, except for chapter 11, to a general officer in command who has a judge advocate on his staff for cases arising in that command. Every action taken pursuant to such a delegation will state the authority therefor.

c. Commanders exercising special court-martial jurisdiction are authorized to order discharge for unsuitability under chapter 13.

d. Commanders of all units and installations which are commanded by or are under the normal command of general officers and colonels are authorized to order discharge for pregnancy under section III, chapter 8.

2–18. Expiration of term of service. Separation will be accomplished by the transfer facility

processing the member for separation (see AR 635-10), pursuant to the discharge order issued by the appropriate commander.

2-19. Reason and authority for separation. The specific reason and authority for separation entered in item 11c, DD Form 214 (Report of Separation from Active Duty) will be entered as shown in AR 635-5.

2-20. Action by commanders having discharge authority. Commanders having discharge authority directing discharge or release from active duty of an enlisted person will comply with the provisions of AR 635-10.

_____
(Date individual and counseling officer sign statement)

STATEMENT OF RETIREMENT-ELIGIBLE MEMBER—
REMAINING SERVICE OBLIGATION

1. My current ETS is _____.
(Date)

2. My current service obligation (as indicated below) will not be completed until _____.
(Date)

( ) 12 months at current station.
( ) 12 months from arrival of dependents at my current station.
( ) Military or civilian course of instruction.
( ) Promotion lock-in.

3. I understand that if I do not reenlist or extend my enlistment, as appropriate, in order to complete my service obligation, I will be discharged upon my ETS and may forfeit my retirement eligibility.

4. I understand that if I am discharged upon my ETS because I failed to reenlist or extend my enlistment, as appropriate, I will not be eligible to enlist until 93 days following the date of my discharge and that such reenlistment may be in a grade lower than that in which I was discharged upon my ETS.

5. I fully realize that if I am discharged upon by ETS and later reenlist, I may only retire in the grade in which then serving and my retirement will not be retroactive to the date of my prior discharge.

6. I understand that I may submit my retirement application no earlier than six months, and no later than three months, prior to my ETS (or desired retirement date if it is earlier than my ETS). If circumstances beyond my control prevent me from applying within this time frame, I understand that I must consult my commanding officer or personnel officer about requesting an exception to policy or an extension of service (paragraph 12-12*b*(6), AR 635-200).

_____
(Signature of individual)

_____
(Typed name, grade and SSN)

_____
(Signature of counseling officer)

_____
(Typed name, grade, branch and SSN)

★*Figure 2-1*

_____
(Date individual and counseling officer sign statement)

STATEMENT OF RETIREMENT-ELIGIBLE MEMBER—
NOT ELIGIBLE TO REENLIST

1. My current ETS is _____
(date)

2. I understand that I will not be eligible to reenlist following my ETS for the following reason: (cite appropriate reason or regulatory authority).

3. I understand that, although I will be retirement eligible upon my ETS, I will be precluded from applying for retirement once I have been released from active duty.

4. I understand that I may submit my retirement application no earlier than six months, and no later than three months, prior to my ETS (or desired retirement date if it is earlier than my ETS). If circumstances beyond my control prevent me from applying within this time frame, I understand that I must consult my commanding officer or personnel officer about requesting an exception to policy or an extension of service (paragraph 12-12b(6), AR 635-200).

_____
(Signature of individual)

_____
(Typed name, grade and SSN)

_____
(Signature of counseling officer)

_____
(Typed name, grade, branch and SSN)

★*Figure 2-2*

CHAPTER 3

SEPARATION OF ENLISTED PERSONNEL IN FOREIGN COUNTRIES

3-1. Scope. This chapter prescribes the rules governing the separation of enlisted personnel in foreign countries. It governs only the place of separation and does not prescribe substantive rules for discharge or other separations.

3-2. Separation in foreign countries. *a.* An individual eligible for separation who is serving in a foreign country may be separated therein, provided—

(1) He requests separation in that country.

(2) His separation in that country is not precluded by any provision of paragraphs 3-3*a*, 3-4, and 3-5.

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

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

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

b. No individual will be separated in a foreign country until he has obtained all documents necessary to his lawful continued presence in that country.

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

(1) Revocation action pursuant to paragraph 24, AR 604-5 has been taken against the individual concerned during his current term of enlistment.

(2) The individual's access to defense information is suspended pursuant to paragraph 17*b*, AR 604-5 at the time the decision is made whether or not to separate an enlisted member in a foreign country.

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

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

3-3. Enlisted personnel confined pursuant to the sentence of a foreign court. *a.* Enlisted personnel confined in a foreign penal institution pursuant to the sentence of a foreign court may be separated from the service under provisions of section VI, AR 635-206, during their period of confinement only—

(1) With the approval of Headquarters, Department of the Army.

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

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

b. When the oversea commander considers separation of such enlisted person prior to the completion of his sentence to confinement to be appropriate, he will forward request for approval for such separation to The Adjutant General, ATTN: AGPO-SS, Department of the Army, with a report which will include the following information:

(1) Name, grade, SSN.

(2) Last organization and assignment.

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

(4) Court before which tried.

(5) Date and place of trial.

(6) Offense(s) of which enlisted person was convicted.

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

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

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

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

(11) Place and condition of confinement.

(12) Possibility for parole and facts pertinent thereto.

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

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

(15) A report concerning board proceedings as set forth in section IV, AR 635-206.

3-4. Enlisted personnel under investigation by foreign authorities or sentence by foreign court but not confined pursuant to that sentence. *a.* Enlisted personnel whose sentences to confinement by foreign courts are not suspended and who are not confined pending appellate action, and enlisted personnel who are not confined but who are charged with or are under investigation for offenses subject to the jurisdiction of foreign authories for which a sentence to confinement could be imposed will not be considered for separation in the foreign country until final action in the matter has been taken by the foreign authorities. After final action by the foreign authorities, such enlisted personnel may be considered for separation in the foreign country under paragraph 3-2 or 3-3, whichever is appropriate.

b. Enlisted personnel who are accepted for service in a foreign country but who are not stationed in that country may be returned to the place of acceptance and there separated if paragraph 3-2 is complied with. If the enlisted person concerned is in possession of appropriate documents entitling him entry into the country of acceptance, specific consent of that country for his separation in its territory need not be obtained.

3-5. Separation of enlisted personnel sentenced by foreign courts. The provisions of paragraph 3-3 will in no event be construed as prohibiting a commander from initiating action under the provisions of section VI, AR 635-206, when an enlisted person in his command is confined in a foreign penal institution, with a view toward discharge of such enlisted person after release from confinement and return to the United States or its territorial possessions.

3-6. Personnel eligible for return from overseas for discharge or release from active duty. Individuals scheduled for return to the continental United States, its Territories, or possessions, for discharge or release from active duty will be processed for return in accordance with AR 635-10.

CHAPTER 4

NATURALIZED PERSONNEL SEPARATED UNDER OTHER THAN HONORABLE CONDITIONS

4-1. Scope. This chapter prescribes the procedures for notifying the Immigration and Naturalization Service when naturalized personnel are separated under other than honorable conditions.

4-2. Revocation of citizenship. The citizenship of members of the United States Armed Forces who are naturalized under section 329 of the Immigration and Nationality Act of 1952 (66 Stat. 250) or under section 1 of the Act of 30 June 1953 (67 Stat. 108; 8 U.S.C. 1440*a*) may be revoked if such members are subsequently separated from the military service under other than honorable conditions. The Immigration and Naturalization Service, Department of Justice is responsible for the institution of revocation of citizenship proceedings in such cases.

4-3. Notification to Immigration and Naturalization Service. When a naturalized individual is separated under conditions other than honorable, the dischargee's commanding officer will notify the Immigration and Naturalization Service, Department of Justice, Washington, D.C., 20536, by letter as to the facts and date of discharge. The letter should contain the address of proposed residence after discharge, the number of certificate of naturalization, if available, the name under which the individual was naturalized if different than the name at the time of discharge, the date and place of birth, and the date and place of naturalization.

CHAPTER 5

SEPARATION FOR CONVENIENCE OF THE GOVERNMENT

Section I. GENERAL

5-1. Scope. This chapter sets forth the conditions under which enlisted personnel may be discharged, released from active duty or active duty for training, or released from military control, for the convenience of the Government.

5-2. Exclusion from applicability. The provisions of this chapter are not applicable to aliens described in *a* and *b* below, except for the purpose of immediate enlistment or reenlistment, to accept appointment and entry on active duty as a commissioned or warrant officer, to be released to Reserve components to fulfill a Reserve obligation, or unless authorized by the Secretary of the Army.

a. Aliens who enlisted in the Regular Army for a period of 3 years (see section 328, Act of 27 June 1952 (66 Stat. 249; 8 U.S.C. 1439) for requirements as to naturalization).

b. Aliens who were enlisted or inducted in the Army for a period of 24 months' active duty and who were in the United States at the time of enlistment or induction (see section 4, Act of 24 October 1962 (76 Stat. 1247; 8 U.S.C. 1254)).

Section II. SECRETARIAL AUTHORITY

5-3. Authority. The separation of enlisted personnel for the convenience of the Government is the prerogative of the Secretary of the Army and will be accomplished only by his authority. Except as delegated by this regulation or by special Department of the Army directives, the discharge or release of any enlisted member of the Army for the convenience of the Government will be in the Secretary's discretion with issuance of an honorable or general discharge certificate as determined by him. Such authority may be given either in an individual case or by an order applicable to all cases specified in such order.

Section III. CATEGORIES FOR WHICH DISCHARGE IS AUTHORIZED

5-4. Order to active duty as a commissioned or warrant officer. Commander specified in section VI, chapter 2, are authorized to order the discharge of enlisted personnel for the convenience of the Government for the purpose of being ordered to active duty as a commissioned or warrant officer in any of the Armed Forces of the United States. Prior to such discharge, the discharging authority will be in possession of documentary evidence from the proper authority that the individual has been tendered an appointment as a commissioned or warrant officer and will be ordered to active duty if discharged from his enlisted status. Authority (AR 635-200) and appropriate SPN for separation as indicated below will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designed to accomplish transfer processing for discharge.

a. For the purpose of being ordered to active duty as a Reserve officer of the Army. SPN 214.

b. For the purpose of being ordered to active duty as a Reserve warrant officer. SPN 215.

c. For the purpose of being ordered to active duty in any of the Armed Forces (other than the Army) of the United States. SPN 217.

5-5. Erroneous induction. ★*a.* Enlisted personnel erroneously inducted in the Army will be released from custody and control of the Army except where an individual procured his induction by fraud or where conduct subsequent to induction clearly establishes that the individual is barred from demanding release from the Army. This paragraph is not applicable to individuals who may be processed under paragraphs 5-6*b* and 5-9 of this regulation and AR 635-206.

★*b.* An individual claiming erroneous induction because of denial of a procedural right as provided

by the Military Selective Service Act of 1967 may submit a request for release from custody and control of the Army. All requests for release will be forwarded to commanders specified in section VI, chapter 2, and by them, to the Director, Selective Service System, Washington, D.C. 20435, for his recommendation. An enlisted member's selective service number will be included in the request to the Director of Selective Service. Upon return of a case from the Director of Selective Service, a commander specified in section VI, chapter 2, will—

(1) Disapprove the request for release when the individual was not denied a procedural right, or

(2) Forward the request for release together with the recommendation from the Director of Selective Service when the individual was denied a procedural right to The Adjutant General, Department of the Army, ATTN: AGPO-SS, Washington, D.C. 20315.

c. Upon discovery that an individual was erroneously inducted through an error made at the Armed Forces Examining and Entrance Station (AFEES) and prior to the individual's departure from that station, the AFEES commander will release the individual from the custody and control of the Army by virtue of a void induction by Special Order. No discharge certificate or DD Form 214 will be furnished. Distribution of the Special Order will be as follows:

(1) One copy furnished the individual.

(2) One copy to the State Director of Selective Service for the State in which the individual's local board is located.

(3) One copy to Commanding General, U.S. Army Recruiting Command, ATTN: RCAO, Hampton, Va. 23369.

★*d.* After an individual has departed the Armed Forces Examining and Entrance Station and it is discovered that an individual was erroneously inducted through Army error, the unit commander will report the fact in letter form together with the circumstances of the erroneous induction through channels to The Adjutant General, ATTN: AGPO-SS, Department of the Army, Washington, D.C. 20315. The unit commander will include in his report whether the individual has at any time contested his induction. Upon direction of Headquarters, Department of the Army, an individual will be released from custody and control of the Army by Special Orders. DD Form 214 will be issued and completed in accordance with AR 635-5 except for items 11a, 11c, 13a, 15, and 16. The entry in the foregoing items will be as follows:

(1) Item 11a. Released from military control.

(2) Item 11c. AR 635-200, SPN 219.

(3) Item 13a. Character of service will be honorable or under honorable conditions as indicated in section II, chapter 1.

(4) Item 15. NA.

(5) Item 16. NA.

e. For pay and allowances, see table 1-4-1, Department of Defense Military Pay and Allowances Entitlements Manual (DODPM).

5-6. Discharge of aliens not lawfully admitted in the United States. *a.* Commanders specified in section VI, chapter 2, are authorized to dispose of cases involving aliens not lawfully admitted to or residing illegally in the United States, who did not conceal their true citizenship status at time of enlistment. Such individuals will be reported to the nearest office of the Immigration and Naturalization Service. Upon receipt of information that these individuals are subject to deportation proceedings at this time, or upon discharge from the service, or that their custody is desired by the immigration officials, they will be reported to the commander having discharge authority who will order the discharge for the convenience of the Government. Commanders responsible for accomplishing transfer processing will notify immigration officials of the discharge action so that they may take the individual into custody, if they so desire. The discharge certificate furnished (honorable or general) will be that to which the service rendered by the individual after enlistment entitles him to receive. Authority (para 5-6, AR 635-200) and SPN 311 will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

★*b.* Aliens inducted in the Army who were not lawfully admitted, or who were residing illegally in the United States, and who did not conceal their true citizenship status at the time of induction, will be reported to the nearest office of the

Immigration and Naturalization Service. Upon receipt of information that these individuals are subject to deportation proceedings at this time, that their custody is desired by the immigration officials, or upon release from military control, they will be reported through channels to HQDA (DAPC-PAS-S), 200 Stovall St., Alexandria, VA 22332. Upon direction of Headquarters, Department of the Army, an individual will be released from custody of the Army by virtue of an erroneous induction by Special Orders. DD Form 214 will be issued and completed in accordance with AR 635-5 except for items 11a, 11c, 13a, 15, and 16. The entry in the foregoing items will be as follows:

(1) Item 11a. Released from military control.

(2) Item 11c. AR 635-200, SPN 311.

(3) Item 13a. Character of service will be honorable or under honorable conditions as indicated in section II, chapter 1.

(4) Item 15. NA.

(5) Item 16. NA.

For pay and allowances, see table 1-4-1, Department of Defense Military Pay and Allowances Entitlements Manual (DODPM). Commanders responsible for issuing Special Orders will notify immigration officials of the release or discharge action so that they may take the individual into custody, if they so desire.

5-7. Discharge of members of the Reserve components on active duty. Commanders specified in paragraph 2-17*a* are authorized to order discharge of those members of the Reserve components on active duty who are precluded from attaining eligibility for retirement with pay as provided by title 10, USC 1331. Commanders will examine the facts of the applicants' ability to complete the service required for retirement under cited law. In those cases in which personnel cannot complete the required service before further enlistment in the Reserve component is barred because of age, either under Federal or State law, discharge, if requested by the individual, will be directed. Authority (AR 635-200) and SPN 312 will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

5-8. Discharge of individuals serving in unspecified enlistments. *a.* Enlisted personnel referred to in (1) and (2) below who do not submit an application for retirement will be discharged after serving 6 years in an unspecified enlistment. Commanders specified in paragraph 2-17*a* are authorized to order the discharge of these individuals.

(1) Those who have completed 30 years' active Federal service. Authority (AR 635-200) and SPN 418 will be included in directives or orders directing individual to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

(2) Those who have completed 20 or more years' active Federal service and are 55 years of age. Authority (AR 635-200) and SPN 419 will be included in directives or orders directing individual to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

b. Commanders specified in paragraph 2-17*a* may recommend discharge of enlisted personnel who are under 55 years of age and who have served 6 years in an unspecified enlistment, when—

(1) Such individuals have completed 20 years' active Federal service.

(2) It would be in the best interest of the service that such individuals be discharged.

c. Recommendation for discharge under *b* above will be forwarded to HQDA (DAPC-PAS-S), 200 Stovall St., Alexandria, VA 22332.

d. Authority (AR 635-200) and SPN 41D will be included in directives or orders directing the individual to report to the transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

5-9. Discharge of personnel who did not meet procurement medical fitness standards. *a.* Individuals who were not medically qualified under procurement medical fitness standards when accepted for induction or initial enlistment will be discharged when a medical board, regardless

of the date completed, establishes that a medical condition was identified by appropriate military medical authority within 4 months of the member's initial entrance on active duty or active duty for training under the Reserve Enlistment Program of 1963 which—

(1) Would have permanently disqualified him for entry into the military service had it been detected at that time; and

(2) Does not disqualify him for retention in the military service under the provisions of chapter 3, AR 40-501.

b. As an exception, an individual who is found to meet the requirements of *a* above, but who elects to complete the period of service for which inducted or enlisted, will *not* be discharged under this paragraph. Such member will be required to sign a statement electing to complete his period of service, notwithstanding his eligibility for discharge under this paragraph.

c. Commanders specified in paragraph 2-17*a* are authorized to order discharge under this paragraph. Separation will be accomplished within 72 hours following approval by the discharge authority. Authority for discharge (para 5-9, AR 635-200) and SPN 375 will be included in directives or orders directing the individual to report to the appropriate transfer activity.

d. Members who do not meet the medical fitness standards for retention will be processed under the provisions of AR 635-40.

e. This paragraph is not to be used as a substitute for unsuitability separations in cases of character or behavior disorders, which will continue to be processed under the provisions of chapter 13.

5-9.1. Discharge for failure after enlistment to qualify medically for flight training. Individuals who enlist on or after 1 March 1971 under the provisions of table 5-24, AR 601-210, for the Warrant Officer Flight Training (WOFT) option and who, subsequent to enlistment, fail to qualify medically for flight training may be discharged from the Army under the following conditions:

★*a.* Eligibility for discharge will be governed by a determination made by the Commanding General, US Army Health Services Command, Fort Sam Houston, TX 78234 (see para 3-5*e* and *f*, AR 612-201) that—

(1) The medical condition would permanently disqualify the individual for flight training, and

(2) The condition does not disqualify the individual for retention in the military service under the provisions of chapter 3, AR 40-501.

★*b.* To be eligible for discharge under this paragraph the member must submit a written request for discharge (fig. 5-1) to his unit commander within 30 days of the date he is found by the Commanding General, USA Health Services Command, to be medically disqualified for flying.

c. Commanders specified in paragraph 2-17*a* are authorized to order discharge under this paragraph. Applications for discharge will be processed promptly and separation will be accomplished within 72 hours following approval by the discharge authority. Authority for discharge (para 5-9.1, AR 635-200) and SPN 429 will be included in directives or orders directing the individuals to report to the appropriate transfer activity for separation.

d. WOFT candidates will not be separated under these provisions after commencement of the flight phase of the WOFT course.

e. Members who do not meet retention medical fitness standards will be processed under the provisions of AR 635-40.

f. This paragraph is not to be used as a substitute for unsuitability separations in cases of character or behavior disorders, which will continue to be processed under the provision of chapter 13.

★*g.* An individual found to meet the requirements of *a* above who elects to complete the period of service for which enlisted will be required to submit a written request to be retained on active duty (fig. 5-2) to his unit commander within 30 days of the date he is found by the Commanding General, USA Health Services Command, to be medically disqualified for flying.

★*h.* The determination made by the Commanding General USA Health Services Com-

mand, the member's request for discharge (fig. 5-1) or retention (fig. 5-2) and other pertinent papers will be filed in the member's DA Form 201. (Military Personnel Records Jacket (US Army)) as permanent material.

5-10. Discharge for the purpose of immediate enlistment or reenlistment. Enlisted personnel who are accepted for enlistment/reenlistment as set forth below will be discharged for the convenience of the Government. Individuals so discharged will be enlisted/reenlisted on the day following discharge. The discharge certificate will not be delivered to the individual until after enlistment/reenlistment is accomplished.

a. Unit commanders are authorized to order discharge for reenlistment under the provisions of AR 601-280. The following authority for separation and SPN will be included in directives or orders directing separation—

(1) To enlist/reenlist for the purpose of attending Army Officer Candidate School—paragraph 5-10*a*(1), AR 635-200; SPN 427.

(2) To enlist/reenlist for all other purposes under AR 601-280—paragraph 5-10*a*(2), AR 635-200; SPN 313.

b. Commanders responsible for US Army reception station processing are authorized to discharge inductees for the following reasons. The authority for separation and SPN indicated will be included in directives or orders directing separation—

(1) To enlist under the provisions of paragraph 2-4, AR 601-210, Special Procurement Program at US Army Reception Stations; paragraph 5-10*b*(1), AR 635-200; SPN 426.

(2) To enlist for warrant officer flight training: paragraph 5-10*b*(2), AR 635-200; SPN 425.

5-10.1. Separation for failure to complete Army Officer Candidate School. *a.* Enlisted personnel who were formerly inductees and who enlisted in the Regular Army under the provisions of paragraph 2-15, AR 351-5 and who, for any reason, withdraw, fail to satisfactorily complete Army Officer Candidate training, or are not commissioned, may apply for separation not earlier than 60 days prior to and to be effective upon completion of 3 years' total active Federal service.

b. Commanders specified in paragraph 2-17*a* are authorized to order the separation for the convenience of the Government of such personnel.

c. Authority (para 5-10.1, AR 635-200) and SPN 428 will be included in directives or orders directing separation.

Section IV. NATIONAL HEALTH, SAFETY, OR INTEREST

5-11. National health, safety, or interest. Enlisted personnel may apply for separation from active military service on the basis of importance to national health, safety, or interest. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 are not eligible for separation under this section.

a. General. This policy is applicable to situations where the critical need for the services of an individual in a civilian capacity from the viewpoint of health, safety, or general welfare outweighs the need of the Nation for the individual in an active military status. Normally, favorable action on requests for separation under the provisions of this policy will be made only when it is clearly determined that—

(1) Application is motivated by critical national or community interest and not for the personal benefit of the applicant.

(2) The applicant's importance to the national health, safety, or interest in a civilian capacity has become significantly greater than it was at the time of his entrance on duty by reason of—

(*a*) His unique qualifications in a critical civilian occupation.

(*b*) An unusual change in his employer's requirements for his services caused by such factors as a substantial increase in defense supporting activity.

(*c*) A significantly reduction in effectiveness of his employer's defense supporting activity because of the loss of personnel capable of performing the functions of the applicant and his employer's inability to replace such personnel.

(3) The applicant is not presently assigned to a critical MOS.

(4) The applicant is presently assigned to a critical MOS but a qualified replacement is available.

b. Evidence required. All applications submitted will contain the following information and material:

(1) Name of firm or agency or description of individual enterprise with which he will be connected.

(2) Product manufactured or service rendered.

(3) Title and description of position to be filled.

(4) Applicant's connection with activity prior to military service.

(5) Applicant's qualifications for the position.

(6) Letters, affidavits, or other documentation from responsible officials of the firm, corporation, agency, or State substantiating the facts given above and setting forth the need for the serv ces of the applicant.

c. Processing application.

(1) All applications will be submitted on DA Form 1049 (Personnel Action) and forwarded through military channels to The Adjutant General, Department of the Army, ATTN: AGPO-SS, Washington, D.C. 20315.

(2) The comment by unit commander on DA Form 1049 will include the following information:

(*a*) Whether approval or disapproval is recommended. When disapproval is recommended, the reason(s) therefor will be included.

(*b*) Assignment information.

1. Duty MOS.

2. Primary MOS.

3. Replacement will (or will not) be required.

4. If replacement is required, whether one is available within the command.

5. Whether there is a critical military requirement for the applicant's services; if so, the justification for same will be included.

(*c*) Whether medical board or physical evaluation board proceedings are pending or appropriate.

(*d*) Whether under investigation, under charges, awaiting result of trial, absent without leave, or any flagging action taken in accordance with AR 600-31.

(*e*) Whether the individual has an incompleted service obligation incurred through attendance at service schools or civilian educational institutions.

(3) Subsequent forwarding comments on DA Form 1049 will include information required in (2)(*a*) and (*b*)*3*, *4*, and *5* above, and such other remarks as may be pertinent.

(4) In appropriate cases The Adjutant General, Department of the Army, will accomplish coordination with other governmental agencies concerning criticalness.

(5) Whenever an application is disapproved by Headquarters, Department of the Army, a new application will not be submitted unless there is material new evidence to support the application.

d. Authority (AR 635-200) and SPN 314 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty, as appropriate.

Section V. LACK OF JURISDICTION

★**5-12. Lack of jurisdiction.** The discharge or release of an individual from the Army may be ordered by a U.S. Court or judge thereof. The officer upon whom such an order or writ is served will report immediately to The Judge Advocate General, as directed in MCM 1951, paragraph 217, and AR 27-5, and will notify The Adjutant General, Department of the Army, ATTN: AGPO-SS, Washington, D.C., who will take appropriate action to direct the discharge, release from active military service, or release from military control of the individual concerned. The notification to The Adjutant General will be by electrical message and will consist of a copy of the Advisory Report furnished The Judge Advocate General in accordance with AR 27-40. Authority (AR 635-200) and SPN 316 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty, as appropriate. Similar action will be taken upon the final judicial determination of a convening authority of a general or special court-martial, a law officer, a president of a special court-martial, or military appellate agency that an individual is not currently a member of the Army.

Section VI. SEPARATION OF INDUCTEES

5-13. Early separation of inductees with prior service. Commanders specified in section VI, chapter 2, are authorized to order the separation for the convenience of the Government of inductees who have served on active duty prior to their present tour of duty.

a. Inductees serving on a second period of active duty will be separated provided—

(1) The individual has completed a minimum of 24 months' total combined active duty in any component of the Armed Forces.

(2) The individual presents conclusive evidence of active service completed prior to entry on current period of service.

(3) Early separation is requested by the individual.

b. The Armed Forces of the United States Report of Transfer or Discharge (DD Form 214) covering period of prior service claimed by the applicant, will be used to verify such prior service.

(1) When an applicant claims prior service in any of the Armed Forces but

is unable to present last Armed Forces of the United States Report of Transfer or Discharge (DD Form 214), the applicant will contact the appropriate service direct for verification of prior active service from the following:

(*a*) For personnel with prior service in the Army, Commanding Officer, US Army Personnel Services Support Center, ATTN: AGPE-V, Fort Benjamin Harrison, IN 46249.

(*b*) For personnel with prior service in the Air Force, Military Personnel Records Center, GSA (Air Force), 9700 Page Boulevard, St. Louis, MO 63132.

(*c*) For personnel with prior service in the Navy, Military Personnel Records Center, GSA (Navy), 9700 Page Boulevard, St. Louis, MO 63132.

(*d*) For personnel with prior service in the Marine Corps, Military Personnel Records Center, GSA (Marine Corps), 9700 Page Boulevard, St. Louis, MO 63132.

(*e*) For personnel with prior service in the Coast Guard, Commandant, United States Coast Guard, Washington, DC 20226.

(2) In order that service claimed may be readily identified, request for verification of prior service will contain the exact name under which the individual served, service number, social security number, organization from which last discharged, and type of discharge claimed. If exact dates of service are not known, approximate dates will be given.

c. Combination of the provisions of this paragraph with the provisions of other early separation programs to effect separation prior to completion of a minimum of 24 months' total combined service is not authorized.

★*d.* ADT prior to induction is creditable toward completion of this period of service.

e. Personnel separated under the provisions of this section will be discharged or released from active duty and transfered to the Army Reserve to complete the Reserve obligation imposed by the Military Selective Service Act of 1967, as appropriate. The characterization of a discharge issued under this section will be either honorable or general.

f. Authority (AR 635-200) and SPN 415 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty, as appropriate.

Section VII. SEPARATION OF ENLISTED PERSONNEL TO PRECLUDE NONPRODUCTIVE REASSIGNMENTS FOR SHORT PERIODS OF TIME

5-14. Oversea returnees. Commanders specified in section VI, chapter 2, are authorized to order separation for convenience of the Government of enlisted personnel returned to the United States, a possession of the United States, or area of residence in which enlisted, inducted, or ordered to active duty, after completing, or having cerdit for completing, the normal oversea tour in the appropriate area as set forth below.

a. Unless individuals inducted under the Military Selective Service Act of 1967 elect to remain on active duty and volunteer for immediate entry on active duty as reservists under the provisions of chapter 4, AR 601-280, they will be separated from active duty and transferred to the Army Reserve or discharged, as appropriate, upon arrival in the United States or area of residence, if upon arrival they have the following amount of active duty or less remaining on their current tour:

(1) Returnees from a long tour area—30 days.

(2) Returnees from a short tour area—150 days.

b. Unless members of the Regular Army and of the Reserve components elect to immediately extend their enlistments voluntarily or continue on active duty under the provisions of chapter 4, AR 601-280, they will be discharged or released from active duty and be returned to former Army National Guard or Army Reserve status, or released from active

_____
(Date)

SUBJECT:

TO:

1. I am initiating action to discharge you from the United States Army under the provisions of paragraph 5-37, AR 635-200 (Expeditious Discharge Program). I am recommending that you be furnished an (Honorable) (General) Discharge certificate.

2. The reasons for my proposed action are:

3. The final decision as to whether you will be discharged and, if so, the type of discharge you will be issued rests with the discharge authority. *If you are furnished a General Discharge, you may expect to encounter substantial prejudice in civilian life, and you have the right to consult with an officer of the Judge Advocate General's Corps prior to completing the acknowledgement.

4. You have the right to decline this discharge. If you so decline and your subsequent conduct indicates that such action is warranted, you may be subject to disciplinary or administrative separation procedures under other provisions of laws or regulations.

5. ** If you accept this discharge, action will be taken to recoup any unearned portions of the enlistment or reenlistment bonuses which you have received.

6. You also have the right to submit a statement in your behalf, or you may waive this right.

7. Complete the attached acknowledgement and return it by _____ .

_____
(Signature)

_____
Name (Typed or Printed)

_____
Rank, Commanding Branch

* Applies only in cases where a General Discharge is recommended.

** Applies only to individuals who have received enlistment or reenlistment bonuses.

Figure 5-3. Notification of Pending EDP Discharge

_____
(Date individual signs)

( ) 1st Ind

SUBJECT: Separation Under the Provisions of Para 5-37, AR 635-200

TO: Unit Commander

_____

_____

1. I hereby acknowledge notification of my proposed discharge from the United States Army under the provisions of paragraph 5-37, AR 635-200. I (do) (do not) voluntarily consent to this discharge.

2. Statements in my own behalf (are) (are not) submitted herewith (as Inclosure _____).

3. * I understand that if I am issued a General Discharge under honorable conditions I may expect to encounter substantial prejudice in civilian life, and I hereby acknowledge that I have been provided the opportunity to consult with an officer of the Judge Advocate General's Corps.

4. I understand that I may, prior to the date the discharge authority approves my discharge, withdraw may voluntary consent to this discharge.

5. I further understand that if I decline to accept this discharge voluntarily, I may at a future time, if my conduct so warrants, be subject to separation under other provisions of law or regulation.

6. ** If I accept this discharge, action will be taken to recoup any unearned portions of the enlistment or reenlistment bonuses which I have received.

_____
(Signature)

_____
Name (Typed or Printed)

_____
(Grade, SSN)

* Applies only in cases where a General Discharge is recommended.

** Applies only to individuals who have received enlistment or reenlistment bonuses.

Figure 5 4 Acknowledgement of Pending EDP Discharge

RECOMMENDATION FOR DISCHARGE
FROM THE UNITED STATES ARMY PRIOR TO 180 ACTIVE DUTY DAYS

EXPEDITE HAND CARRY

_____

_____
(Grade, Last Name, First Name, Middle Initial, SSN)

_____
(Unit Date Prepared)

ITEM NO	ACTION	DATE	DAYS REQUIRED	TOTAL ELAPSED DAYS
1.	Notification to service member of initiation of discharge procedures.			
2.	Service member acknowledges receipt of notification.			
3.	Service member indicates election of rights.			
4.	Unit Commander's recommendation for discharge forwarded to:_____ _____			
5.	Discharge case recieved at:_____ _____			
6.	Actions completed (specify):_____ and/or case forwarded to: _____			
7.	Discharge case recieved at:_____			

* Figure 5 7. Discharge Action Control Sheet

ITEM NO	ACTION	DATE	DAYS REQUIRED	TOTAL ELAPSED DAYS
8.	[ ] Service member does not rebut the proposed discharge action and special court martial convening authority takes disposition action as follows:_____ [ ] Service member does rebut the proposed discharge action, and discharge case is forwarded to general court martial convening authority.			
9.	Discharge case recieved at:_____			
10.	Final Disposition (specify):_____			
11.	Service member discharge from the service.			
12.	Total days required to process case.			

REMARKS:

* Figure 5-7. Discharge Action Control Sheet (CONT)

duty and transferred to the Army Reserve, as appropriate, upon arrival in the United States or area of residence, if upon arrival they have the following amount of active duty or less remaining before expiration of terms of enlistments or periods for which ordered to active duty:

(1) Returnees from a long tour area—30 days.

(2) Returnees from a short tour area—150 days.

★*c.* Enlisted personnel in the United States or area of residence on TDY or emergency leave from oversea organizations who, upon completion of TDY or leave, will have less than 60 days remaining in their present oversea service tour and, if from a short tour area are within 150 days of ETS, or, if from a long tour area are within 60 days of ETS, will be discharged or released, as appropriate. Those on TDY will be discharged or released only if the oversea commander does not indicate a desire to have the individuals return upon completion of TDY. Those who desire to extend immediately their period of active duty, or enlistments, or to enlist or reenlist immediately in the Regular Army, in accordance with appropriate regulations will be permitted to do so at the time of processing indicated in (2) below.

(1) Affected individuals will be reassigned to a transfer activity nearest their home for transfer processing. Transfer processing will not be accomplished prior to completion of leave or TDY. Records and allied papers will be forwarded to such transfer activity.

(2) Affected individuals will be instructed that upon completion of leave or TDY they will report to the transfer activity to which assigned for transfer processing.

d. This paragraph is not to be construed as authority for early return. It authorizes separation for the purpose stated only, in order to preclude nonproductive reassignments for short periods of time.

e. Authority (AR 635-200) and SPN 411 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity for discharge or release from active duty, as appropriate.

5-15. Separation of personnel assigned to installations or units scheduled for inactivation or permanent change of station. Except as indicated in *c* below, enlisted personnel of all components assigned to units scheduled for permanent change of station, inactivation or demobilization, or to installations scheduled for inactivation, who cannot be effectively utilized within other units at the same station, will be separated from service as set forth below. In the event of conflict with paragraph 5-14, concerning returnees from a long tour area, the provisions of this paragraph will apply.

a. Those having 90 days or less to serve beyond effective date of inactivation or change of station may be separated from active duty at the discretion of the unit commander provided individual desires separation. Separation will be accomplished during the 30-day period preceding the effective date of inactivation or change of station.

b. Those whose normal expiration of term of service expires during the 90-day period preceding the effective date of inactivation or change of station may be separated at the discretion of the unit commander any time during the 90-day period provided the individual desires separation.

c. Combination of the provisions of this paragraph with other separation programs so as to effect separation more than 90 days prior to normal expiration of term of service is not authorized.

d. Oversea commanders returning personnel to the United States for separation under this authority may add normal traveltime required to return individuals from the theater to the United States to the aforementioned 90 days. However, care will be taken to insure that individuals do not arrive in the United States with more than 90 days remaining in their period of service. This paragraph is not to be construed as authority for early return. It au-

thorizes separation for the purpose stated only, in order to preclude nonproductive reassignments for short periods of time.

★*e.* The authority for separation (AR 635-200) and SPD shown in AR 635-5-1 will be included in directives or orders directing individual to report to the appropriate transfer activity or unit personnel section designated to accomplish separation processing.

★5-16. Enlisted personnel eliminated from service academies. Individuals who are eliminated from cadet or midshipman status at service academies because of academic failure, resignation, or reasons other than physical disqualifications, will be discharged if they have completed their service obligation, or released from active duty and returned to the Army National Guard or Army Reserve, or transferred to the Army Reserve to fulfill their Reserve obligations, provided they have less than 3 months remaining in the period for which listed or ordered to active duty. The authority for separation (AR 635-200) and SPD shown in AR 635-5-1 will be included in directives or orders directing individual to report to the appropriate transfer activity or unit personnel section designated to accomplish separation processing. The authority contained in this paragraph shall not preclude the Secretary of the Army from transferring a cadet to the Army Reserve and ordering him to active duty, as authorized by title 10, United States Code, section 4348(b).

★5-17. Reserve component personnel ordered to ADT under Reserve Enlistment Program. Commanders of training installations are authorized to release Reserve component personnel ordered to ADT under Reserve Enlistment Program of 1963 upon completion of MOS training when training is completed prior to the period of time specified in ADT orders provided a minimum period of 4 months' ADT has been completed. The authority for separation (AR 635-200) and SPD shown in AR 635-5-1 will be included in directives or orders directing individual to report to the appropriate transfer activity or unit personnel section designated to accomplish separation processing.

5-18. Early relief from ADT because of emergency conditions. REP 63 trainees will be considered for early relief from initial tours of ADT based on eligibility for leave for cogent reasons such as death or serious illness of a member of the reservist's immediate family. Commanders of training activities, including Army service schools, may authorize early relief from ADT in lieu of granting leave, if the reservist has completed at least 4 months' ADT and the training benefits which will result from return to the training center upon completion of leave are not substantial enough to justify return to duty in lieu of early relief from ADT.

5-19. Separation of enlisted members of medical holding detachments. Commanders specified in paragraph 2-17*a* are authorized to order separation for the convenience of the Government of those enlisted personnel, as set forth below, who are assigned to medical holding detachments and who sign a statement that they are willing to accept separation under this paragraph. Reserve component personnel ordered to ADT under the Reserve Enlistment Program of 1963 are not eligible for separation under this paragraph.

a. Any enlisted person, other than in *b* and *c* below, may be separated upon completion of hospitalization provided he has less than 3 months to serve to ETS.

b. Any enlisted person who is returned from a short tour area to CONUS or his area of residence for hospitalization may be separated if he has 150 days or less remaining to ETS at the time of release from the medical facility.

c. Any enlisted person who is medically evacuated from a hostile fire area for hospitalization in a long tour area may be returned to CONUS or his area of residence and be separated if he has 150 days or less remaining to ETS at the time of release from the medical facility.

★*d.* The authority for separation (AR 635-200) and SPD shown in AR 635-5-1 will be included in directives or orders directing individual to report to the appropriate transfer activity or unit personnel section designated to accomplish separation processing.

5-19.1. Physical disqualification for duty in MOS. *a.* Individuals who, within their last 6 months of service, are given physical profiles which will preclude them from further duty in their primary, secondary, or tertiary MOS without retraining, and who do not intend to reenlist, will be separated *when all the following criteria apply:*

(1) The individual has 6 months or less service remaining until discharge or release from active duty and signs a statement that he is willing to accept separation under this paragraph.

(2) The individual has been determined by appropriate medical authority to have assignment limitations due to physical impairment that will preclude utilization in his primary, secondary, or tertiary MOS for a period of more than 60 days.

(3) The individual cannot be reclassified into another MOS without retraining. Excluded from this category are individuals who can be retrained within a period of 30 days either by on-the-job training or formal training conducted at the installation to which they are currently assigned.

★*b.* **Rescinded.**

c. This paragraph does not apply to the following:

(1) Personnel who have a medical condition which warrants processing under AR 635-40.

(2) Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963.

d. The provisions of this paragraph will not preclude earlier separation of personnel who are eligible under paragraph 5-19.

★*e.* Commanders specified in paragraph 2-17*a* are authorized to order the separation of eligible personnel under this paragraph. The authority for separation (AR 635-200) and SPD shown in AR 635-5-1 will be included in directives or orders directing individual to report to the appropriate transfer activity or unit personnel section designated to accomplish separation processing.

★**5-19.2. Separation upon completion of correctional training.** *a.* Enlisted personnel of all components who have been transferred to the US Army Retraining Brigade for correctional training will, upon completion of correctional training, be discharged or released from active duty and returned to the Army National Guard or US Army Reserve, as appropriate, provided they have less than 3 months to serve until ETS upon completion of the correctional training.

b. The Commander, US Army Retraining Brigade, Ft. Riley, KS is authorized to order separation under this paragraph. The separatee will be discharged, if the service obligation under 10 USC 651 has been completed; released from active duty and returned to the Army National Guard or US Army Reserve; or, transferred to the US Army Reserve to fulfill the Reserve obligation, as appropriate.

c. Individuals discharged under the provisions of this paragraph will be issued an honorable or general discharge certificate (para 1-9).

d. The authority for separation (AR 635-200) and SPD shown in AR 635-5-1 will be included in directives or orders directing individual to report to the appropriate transfer activity or unit personnel section designated to accomplish separation processing.

Section VIII. EARLY SEPARATION TO ATTEND SCHOOL OR TO ACCEPT TEACHING POSITIONS

★**Rescinded.**

Section IX. EMPLOYMENT

(Rescinded)

Section X. TRAVEL AND FORM OF SEPARATION CERTIFICATES

5-22. Travel allowance. See Joint Travel Regulations.

5-23. Form of separation certificate to be given. *a.* Discharge certificate, based upon the character of service rendered and a Report of Separation from Active Duty (DD Form 214) will be issued to the individual concerned.

★ *b.* Individuals released from active duty and transferred or returned to a Reserve component (USAR or ARNG) "For Convenience of the Government" will be furnished a Report of Separation from Active Duty.

c. An individual to be released from military control pursuant to paragraph 5-12 or an administrative determination that he is not currently a member of the Army cannot be legally discharged from the Army. Such individual will, instead, be released from the custody and control of the Army without being furnished a certificate of discharge of any kind or Report of Separation from Active Duty (DD Form 214).

Section XI. SOLE SURVIVING SONS AND SURVIVING FAMILY MEMBERS

5-24. General. ★ *a.* Commanders specified in paragraph 2-17*a* are authorized to order discharge for the convenience of the Government of personnel who qualify under the provisions of this section as sole surviving sons or surviving family members. The authority for separation (AR 635-200) and SPD shown in AR 635-5-1 will be included in directives or orders directing individual

to report to the appropriate transfer activity or unit personnel section designated to accomplish separation processing.

b. Discharge under this section is *not* authorized—

(1) During a period of war or national emergency hereafter declared by the Congress.

(2) When a service member who qualifies under the provisions of this section waives his status under the provisions of paragraph 11-75, AR 614-200. Although a member who has waived his status as a sole surviving son may request reinstatement of that status, reinstatement shall *not* provide a basis for discharge under this section.

(3) A member who, having been advised of the provisions of this section, enlists, reenlists or otherwise voluntarily extends his period of active duty subsequent to the date of notification of the family casualty on which the sole surviving sonship or status as a surviving family member is based (and subsequent to enactment of Public Law 92-129, 92d Congress (28 September 1971) shall be considered as having automatically waived his rights for discharge under PL 92-129.

(4) Where the individual has court-martial charges pending against him; or has been tried and convicted by court-martial and the case is being reviewed or appealed; or is serving a sentence (or otherwise satisfying punishment) imposed by court-martial, until final action (including completion of any punishment imposed pursuant to such court-martial) has been completed with respect to such charges, review, or appeal, or until the sentence has been served (or until any other punishment imposed has been satisfied, as appropriate).

c. The following definitions apply to these terms as used in this section—

(1) A "sole surviving son" is the only remaining son in a family whose father (or one or more sons or daughters) served in the Armed Forces of the United States and—

(*a*) Was killed in action; or

(*b*) Died as a result of wounds, accident or disease; or

(*c*) Is 100 percent physically disabled (to include 100 percent mental disability) as determined by the Veterans Administration or one of the military services and is hospitalized on a continuing basis and not gainfully employed by virtue of such disability.

(2) "Family members" include a husband and wife, or the father, mother, sons and daughters, and all sisters and brothers as defined in 37 USC 501(a)(2), (3) and (4).

(3) "Armed Forces" or "Armed Forces of the United States" denotes collectively all components of the Army, Navy, Air Force, Marine Corps and Coast Guard.

Note. Neither the acquisition or retention of sole surviving son or surviving family member status is dependent upon the existence of any other living family member (Supreme Court Decision, *McKart* v. *US*, 395 US 185 (1969)). Thus, the continued existence of a family unit is not required as a prerequisite for qualification hereunder as a "sole surviving son" or "surviving family member."

d. In determining eligibility, the death or 100 percent disability under *c*(1) above must have been incurred in line of duty (or resulted from wounds, accident or disease which was incurred in line of duty) as determined under the provisions of AR 600-10 or comparable regulations of other services.

e. Requests for discharge may be submitted only by the military member concerned and must be in writing. All applications submitted will include the following evidence:

(1) Name, grade, MSN or SSN, branch of service (i.e., Army, Navy, Air Force, Marine Corps or Coast Guard), relationship and date of death or disability of the family member upon which request is based.

(2) Veterans Administration Claim Number, if appropriate.

(3) Name, age and sex of other family members.

f. See table 11-4, AR 614-200, for offices to contact to obtain verification of status of other family members, when appropriate.

g. Army National Guard personnel who qualify for separation under this section will *not* be discharged, but will be released from active duty or active duty for training and returned to the control of the appropriate State National Guard authorities for discharge. A copy of the approved application for discharge will be furnished the adjutant general of the State.

5-25. Separation of sole surviving sons. *a.* Except as provided in *b* below, enlisted personnel who become sole surviving sons *subsequent* to enlistment, induction, order to active duty or active duty for training under the Reserve Enlistment Program of 1963 and whose applications meet the criteria in paragraph 5-24 may apply for and be discharged. (Individuals who were sole surviving sons prior to induction *may* qualify for separation under paragraph 5-5.)

b. An individual who qualifies as a sole surviving son on the basis of the 100 percent disability status of a father, brother or sister as defined in paragraph 5-24*c*, which occurred

either prior or subsequent to induction, enlistment, or order to active duty or active duty for training, may apply for and be discharged unless he has reenlisted or voluntarily extended his period of active duty. In order to qualify for a veteran's exemption under the provisions of 50 App USC 456(b)(3), he will be required to complete at least 6 months of active duty prior to discharge.

5-25.1. Separation of surviving family members. Except as provided in paragraph 5-24*b*, a surviving family member may apply for and be discharged if he—

a. Has been inducted into the Armed Forces under the Military Selective Service Act of 1967, as amended, *and*

b. Is serving on *active* duty with the Armed Forces on or after 28 September 1971, *and*

c. Has *not* enlisted or otherwise voluntarily extended his period of active duty in the Armed Forces, *and*

d. If the father, brother or sister, while serving in the Armed Forces after 31 December 1959—

(1) Was killed in action; or

(2) Died in line of duty; or

(3) Died subsequent to such date as a result of injuries received or disease incurred in line of duty during such service; or

(4) Is in a captured or missing status as a result of such service.

Section XII. EMPLOYMENT WITH A LEGALLY ESTABLISHED LAW ENFORCEMENT AGENCY. (APPLICABLE TO CONUS, ALASKA, HAWAII, AND THE US TERRITORIES.)

★Rescinded.

[Next page is 5-15]

a. An individual is assigned to a unit scheduled for oversea deployment and is in an otherwise deployable status, or

b. An individual has signed a statement of intent to reenlist, or

c. AR 600-31 applies.

5-30. Separation action. *a.* Personnel may be separated when they have 3 months or less remaining in their period of service. Personnel accepted for immediate employment will be separated within 72 hours of notice of approval. Other personnel will be separated not earlier than 10 days prior to the effective date of employment.

b. Authority (AR 635-200) and SPN 320 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for separation.

Section XIII. ERRONEOUS ENLISTMENTS

★**5-31. Erroneous enlistment.** *a.* When it is discovered that an individual's enlistment was erroneous because he failed to meet the qualifications for enlistment (AR 601-210) or reenlistment (AR 601-280), the unit commander will initiate action to obtain authority to retain the member or to discharge or release the member from active duty, as appropriate (see *c* below), on the basis of erroneous enlistment. Correspondence containing the following information will be forwarded through channels to the appropriate discharge authority listed in paragraph 2-17*a*.

(1) Facts relating to and circumstances surrounding the erroneous enlistment.

(2) The desire of the enlisted member regarding retention or separation.

(3) Conduct and efficiency ratings (current and preceding enlistment, if any).

(4) A specific recommendation for retention or separation, and the reasons therefor, by each commander in the chain of command.

b. The commander specified in paragraph 2-17*a* will take action as follows:

(1) If doubt exists as to whether an enlistment is, in fact, erroneous, or whether the disqualification was waivable under the applicable procurement regulation (AR 601-210 or AR 601-280), forward the case, containing the above information, to the Commander, United States Army Enlistment Eligibility Activity, 5700 Page Boulevard, St. Louis, MO 63132, requesting such determination(s). Upon receipt of such determination(s) from USAEEA, take the action indicated in (2), (3), or (4) below, as appropriate.

(2) Direct separation in all cases in which the disqualification was nonwaivable. In an exceptionally meritorious case when, in the judgment of the commander having discharge authority, the retention of the member would definitely be in the best interest of the Government, he may forward the case to HQDA (DAAG-PSS-S) WASH DC 20314 recommending retention.

(3) Direct separation in those cases in which the disqualification was waivable but separation is deemed to be in the best interest of the Government.

(4) Direct retention in those cases in which the disqualification was waivable and retention is deemed to be in the best interest of the Government and the individual. In such cases the following statement will be entered in Item 42 of the member's Enlisted Qualification Record (DA Form 20): "Discharge action based on erroneous enlistment is waived and retention authorized on _____ (date) _____." The original copy of the approval document will be forwarded to the Commander, US Army Enlisted Personnel Support Center, ATTN: AGPE, Fort Benjamin Harrison, IN 46249, for inclusion in the member's official personnel record.

c. In all cases in which separation is directed, the authority (para 5-31, AR 635-200) and SPN 319 will be included in orders directing the member to report to the activity designated to accomplish transfer processing. Except as provided in *d* and *e* below, members will be discharged or transferred to the US Army Reserve as follows:

(1) Discharge—

(*a*) Members who have not completed at least 4 months of active duty and/or have not been awarded an MOS.

(*b*) Members who have completed their service obligation under the Military Selective Service Act of 1967, as amended.

(2) Transfer to the US Army Reserve—members who have completed 4 months of active duty and have been awarded an MOS, but have not completed their service obligation under the Military Selective Service Act of 1967, as amended.

d. If, prior to an enlistee's departure from an AFEES, it is discovered that he was erroneously enlisted through administrative error or oversight, or if the enlistee reveals information which, if known, would have resulted in rejection for enlistment, the enlistment will be voided by the AFEES commander. This will be accomplished by the issuance of an order (see AR 310-10, TC 302) releasing the individual from military control and reflecting that the individual's enlistment is void because of erroneous enlistment and that his release from military control is being accomplished by reason of a void enlistment. Neither a discharge certificate nor DD Form 214 will be furnished. Authority for release (para 5-31*d*, AR 635-200) and SPN 319 will be included in the order. Distribution of the order will be as follows:

(1) One copy will be filed as a permanent document in his DA Form 201 (MPRJ).

(2) One copy will be furnished the individual.

(3) One copy will be furnished the State Director of Selective Service for the State in which the individual's local board is located.

(4) One copy will be furnished Cdr, USAREC, ATTN: USARCAO-O, Hampton, VA 23369.

e. If the member is AWOL, in desertion, or absent in the hands of civil authorities upon discovery and establishment that his enlistment was erroneous, the enlistment will be voided by the commander specified in paragraph 2-17*a*. The discharge authority will *not* issue a discharge certificate but will issue an order releasing the member from military control and a DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge). The order will reflect that the member's enlistment is void because of erroneous enlistment and that his release from military control is being accomplished by reason of a void enlistment. A copy of the special orders releasing the member from military control will be filed as a permanent document in his DA Form 201 (Military Personnel Records Jacket, US Army). Pay and allowances entitlements will be as prescribed in table 1-4-1, Department of Defense Military Pay and Allowances Entitlements Manual (DODPM). Distribution of DD Form 214 will be made in accordance with AR 635-5, except that the Number 1 copy will be placed in the MPRJ when the whereabouts of the member is unknown. See AR 190-9, for action to cancel DA Form 3835 (Notice of Unauthorized Absence From the US Army).

f. If an enlistment is both erroneous under the provisions of this paragraph (i.e., failure to meet basic qualifications for enlistment or reenlistment) *and* the provisions of paragraph 5-32 also apply (i.e., the member did not meet the prerequisites for the enlistment option or the enlistment commitment made cannot be fulfilled), action will be taken *first* under the provisions of this paragraph to determine whether the member will be separated or retained in the Army based on his erroneous enlistment. If retention is authorized under this paragraph, action then will be taken under the provisions of paragraph 5-32.

g. This section is not applicable to—

(1) Members who are eligible for separation under the provisions of paragraphs 5-6, 5-9, 5-32 (except as indicated in *f* above), or chapter 7 of this regulation, and paragraph 7-30, AR 600-200.

(2) Members who do not meet the medical fitness standards for retention (chap. 3, AR 40-501) and who are eligible for processing under AR 635-40.

★5-32. Unfulfilled or erroneous enlistment commitments. *a.* Claims of unfulfilled enlistment commitments or erroneous enlistment commitments are processed in accordance with paragraph 5-5, AR 601-210 and paragraph 1-26, AR 601-280, as applicable. When it appears to the member's unit commander that his enlistment commitment was either erroneous or cannot be fulfilled, he will submit all pertinent facts in the case to HQDA (DAPO-EPA-R), TEMPO ABC, WASH DC 20315, for determination as to whether—

(1) The enlistment commitment was erroneous because the individual did not meet the prerequisites for the option which must be determined prior to enlistment, or

(2) The enlistment commitment was appropriate when made but cannot be fulfilled.

b. When it is determined by the Chief of Personnel Operations that the enlistment commitment was erroneous and/or cannot be fulfilled, separation may be requested by the individual as follows:

(1) Non-prior-service Regular Army personnel serving on their first enlistment may request immediate separation or separation to be effective upon completion of 24 months' active military service.

(2) Individuals who were discharged from an AUS status to enlist may request separation to be effective upon completion of a total of 24 months' active service (prior AUS service plus service in the current enlistment).

(3) Regular Army personnel serving on a second or subsequent enlistment, having been discharged from a previous enlistment prior to the expiration of term of service for the purpose of reenlistment, may request separation to be effective when their active service in the current enlistment and last preceding enlistment equals the period stated in the last preceding enlistment contract.

c. Separation pursuant to *b* above constitutes a reduction of the term of enlistment by adjustment of the ETS date. (Items 7 and 57, DD Form 4 (Enlistment Contract) will *not* be changed to reflect the lesser period of enlistment.) Such separation does *not* amount to the grant of an early separation and does *not* preclude the member from being granted early separation options which may be applicable to him.

d. If an enlistment is also erroneous under the provisions of paragraph 5-31 (failure to meet basic qualifications for enlistment or reenlistment, as distinct from failure to meet the prerequisites for the particular enlistment option), action will be taken first under the provisions of paragraph 5-31. If retention is authorized under that paragraph, action then will be taken under this paragraph.

e. This paragraph is not applicable to—

(1) Members who are eligible for separation under the provisions of paragraphs 5-6, 5-9, 5-31 (except as indicated in *d* above), or chapter 7 of this regulation, and paragraph 7-30, AR 600-200.

(2) Members who do not meet the medical fitness standards for retention (chap. 3, AR 40-501) and who are eligible for processing under AR 635-40.

f. Commanders specified in paragraph 2-17*a* are authorized to order the separation of personnel pursuant to the foregoing. Authority for separation (para 5-32, AR 635-200) and SPN 377 will be included in the directives or orders directing the individual to report to the appropriate transfer activity for separation processing.

(1) The following members will be discharged—

(*a*) Members who have not completed at least 4 months of active duty and/or have not been awarded an MOS.

(*b*) Members who have completed their service obligation under the Military Selective Service Act of 1967, as amended.

(2) Members who have completed 4 months of active duty and have been awarded an MOS, but have not completed their service obligation under the Military Selective Service Act of 1967, as amended, will be transferred to the US Army Reserve.

Section XIV. EARLY SEPARATION OF PERSONNEL DENIED REENLISTMENT UNDER QUALITATIVE MANAGEMENT PROGRAM

5-33. Early release. *a.* Individuals who will not be eligible to reenlist upon expiration of term of service because of the provisions of chapter 4, AR 600-200, may, upon their request, be separated up to 6 months prior to their ETS, not withstanding any existing service obligation which will not be fulfilled by such early release date. Oversea tours may be curtailed to the extent necessary to permit early separation under this section. Personnel who will have a continuing Reserve obligation under the Military Selective Service Act of 1967 will be transferred to the United States Army Reserve upon their release from active duty. Other personnel separated under the provisions of this section will be discharged. Personnel released under this section will not be eligible for participation in TRANSITION TRAINING.

b. The member's request for early separation will include the following statement:

"I understand that I am being separated prior to my normal ETS for my own convenience. I understand that recoupment of unearned portions of regular/variable reenlistment bonuses is required and that I will not be eligible for participation in TRANSITION TRAINING. I also understand that once separated I will not be permitted to reenlist at a later date."

-34. Authority. *a.* Commanders specified in paragraph 2-17*a* are authorized to take final action on requests for separation under this section.

b. Authority for separation (para 5-33, AR 635-200) and SPN 430 will be included in directives or orders directing individuals to report to the appropriate transfer activity for transfer processing.

_____
(Date)

SUBJECT: Request for Discharge

TO: (Discharge authority)
(Name)

1. I, _____, enlisted for Warrant Officer Flight Training under the provisions of table 5-24, AR 601-210. Having been found by the Commanding General, US Army Health Services Command, to be medically disqualified for Class 1A flying, I request discharge under the provisions of paragraph 5-9.1, AR 635-200.

2. I have been counseled concerning an alternate training course. I do not desire to serve in the US Army. I understand that, under the provisions of the Military Selective Service Act of 1967, if I am discharged I will be subject to being drafted unless otherwise deferred.

(Signature of individual)

_____
(Typed name, SSN, and grade)

Figure 5-1.

_____
(Date)

SUBJECT: Request to Remain on Active Duty

TO: (Unit commander)
(Name)

1. I, _____, enlisted for Warrant Officer Flight Training under the provisions of table 5-24, AR 601-210. Having been found by the Commanding General, US Army Health Services Command, to be medically disqualified for class 1A flying, I understand that I have the option of being retained on active duty for the remainder of my enlistment.

2. Being medically qualified for military service under the provisions of chapter 3, AR 40-501, I hereby request retention on active duty in an enlisted status. I have been counseled concerning an alternate training course and understand that I may select a training course for which qualified and for which a quota exists.

(Signature of individual)

_____
(Typed name, SSN, and grade)

Figure 5-2.

Section XV. INVOLUNTARY SEPARATION

5-35. General. Enlisted personnel may be discharged or released from AD, as appropriate, prior to the expiration of their terms of service or periods for which ordered to AD (10 USC 1169).

5-36. Reduction in authorized strength. When budgetary or authorization limitations require a reduction in enlisted strength. Such reduction may be accomplished by an official order issued pursuant to instructions of the Commanding General, MILPERCEN, applicable to an individual or to all members of a class of personnel specified in such an order.

a. Personnel to be separated under the provisions of this paragraph will be notified through channels by commanders specified in paragraph 2-17*a*, based on information and instructions furnished by MILPERCEN.

b. Personnel designated for separation under the provisions of this paragraph will be discharged or relieved from AD, as appropriate, not later than 3 months after receipt of notification. A date will be established for separation within this period which will work the least hardship on the individual. If the member to be separated becomes a disciplinary problem following his receipt of notification of separation under the provisions of this paragraph, the commander exercising general court-martial jurisdiction may order his immediate separation.

c. Individuals who are within 2 years of qualifying for retirement under the provisions of chapter 12 on the scheduled separation date will not be processed under the provisions of this paragraph unless such action is directed by the Secretary of the Army.

d. The commanders specified in paragraph 2-17*a* are responsible for effecting the timely separation of enlisted personnel notified of involuntary separation under the provisions of this paragraph.

e. Individuals separated under the provisions of this paragraph will be given an honorable or general discharge, depending on their character of service.

f. Authority for separation "(Paragraph 5-36, AR 635-200)" and "SPD 431" will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel office designated to process separations.

★5-37. Discharge for failure to demonstrate promotion potential. *a. General.* Personnel whose performance of duty, acceptability for the Service, and potential for continued effective service fall below the standards required for enlisted personnel in the US Army may be discharged in accordance with the following criteria. Discharge under the provisions of this paragraph is limited to:

(1) Personnel who fail to be advanced to the grade of E-2 after 4 months of AD.

(2) Personnel who fail to demonstrate potential to justify advancement to the grade of E-3 after attaining the *normal* time-in-service and time-in-grade criterion for promotion to grade E-3, without waiver, established in chapter 7, AR 600-200.

b. Purpose. The philosophy of this policy is that commanders will be able to anticipate and preclude the development of conditions which clearly indicate that soldiers concerned are becoming problems to an extent likely to lead to board or punitive action which could result in their separation under conditions which would stigmatize them in the future. The purpose of this policy is to provide commanders appropriate means for separating such personnel before board or punitive action becomes necessary. *It is contrary to the intent of this policy—*

(1) To make arbitrary or capricious use of this authority.

(2) To unjustly force the separation of individuals who possess a potential to be rehabilitated.

c. Scope. This policy applies to RA enlistees, inductees, Reserve component personnel ordered to AD (including those ordered to AD due to unsatisfactory participation in their

Reserve assignment) and personnel on ADT under REP 63.

d. Unit commander responsibility.

(1) A commander who elects *not* to promote to E-2 or E-3 *must* counsel the individual verbally as to the reasons for his action, to include circumstances which clearly indicate that the soldier's attitude and/or performance do not measure up to Army standards. If the commander suspects that the individual is deliberately attempting to use this policy as a means of avoiding service, the commanders must advise the soldier that he is demonstrating traits that could lead to board action for separation as unfit or unsuitable (chap. 13).

(2) Counseling will be recorded in a written statement signed by the commander and the member. The written statement will also include, over the member's signature, a statement that he understands his status, what is expected of him, and what he can anticipate for nonperformance.

(3) Commanders who elect not to promote to E-2 or E-3 may elect to initiate separation action in accordance with this paragraph within 30 days of such denial of promotion.

(4) If separation action is not initiated within 30 days after initial denial of promotion to E-2 or E-3, the commander may reconsider members in grade E-1 or E-2 for promotion in 30-day increments up to a total of 4 months after initial denial of promotion. At the end of each 30-day period, the commander may promote, retain and counsel, or recommend discharge. Maximum use of this period to assist the soldier to overcome deficiencies is encouraged. At the end of the 4-month period, the commander must promote to E-2 or E-3, or must initiate discharge action.

(5) When the commander elects to initiate separation action in accordance with this paragraph, he will forward a recommendation for discharge through channels to the commander having approval authority (*f* below). The recommendation will be for discharge for failure to demonstrate adequate potential for promotion and will include the following information:

(*a*) The commander's signed statement indicating the action taken and the counseling and advice previously given the soldier concerning the impact of failure to demonstrate the standards of conduct and ability required by the US Army. The following statement, signed by the soldier concerned, will be added below the commander's signature: "I acknowledge having been counseled as stated above. I understand the impact of this action."

(*b*) The initiating commander's recommendation of the character of discharge to be awarded (honorable or general). Normally, an honorable discharge will be awarded unless the soldier's conduct clearly substantiates a general discharge (para 1-9).

e. Intermediate commanders. Commanders in the chain of command will forward recommendations for discharge, with a recommendation for approval, disapproval, or reassignment for rehabilitation if, in their opinion, the circumstances in the case warrant such action. Each intermediate commander will insure that the member has been fully counseled, that the recommendation for discharge is fully documented, and that such action is not in conflict with any of the provisions of this paragraph.

f. Approval authority. Commanders exercising special court-martial jurisdiction are authorized to take final action in all cases involving separation with an *honorable discharge.* Cases in which a *general discharge* is recommended will be forwarded to commanders exercising general court-martial jurisdiction for final action. Approval authorities may issue honorable discharge certificates to individuals receiving unsatisfactory efficiency ratings as their final ratings when other circumstances clearly warrant an honorable discharge. The commanders having approval authority may:

(1) Approve or disapprove the recommendation. If he approves discharge and the soldier is stationed in CONUS or his area of residence, he will direct that discharge be accomplished immediately. Oversea commanders will, if discharge is approved, direct the return of the soldier to CONUS or his area of residence as soon as possible, with instructions for discharge upon arrival.

(2) Approve the recommendation and suspend the discharge for any period of time not to exceed 4 months. Promotion during the period of suspension vacates the approved recommendation for discharge. If the soldier is not promoted by the end of the period of suspension, he will be discharged.

(3) Direct transfer of the individual concerned to another organization in his command for rehabilitation purposes.

g. Exceptions. This policy does *not* apply to:

(1) Soldiers whose conduct clearly warrants courts-martial action or administrative discharge by board action for reasons for which an undesirable discharge is authorized (chap. 13 and 14 of this regulation and AR 635-206).

(2) Individuals who are not promoted to grade E-2 or E-3 due to hospitalization, emergency leave, or similar conditions beyond their control.

(3) Soldiers who have been reduced to grade E-1 or E-2 regardless of time in service.

(4) Individuals who have not attained the normal time-in-service/time-in-grade criterion for promotion without waiver.

h. Separation waivers. Authority for separation "Paragraph 5-37, AR 635-200" and "SPD 21U" will be cited in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel office designated to accomplish separation processing. Separation will be by discharge for active Army and USAR personnel. Army National Guard personnel will be discharged from their Reserve of the Army status, only, and returned to their State National Guard for appropriate disposition.

i. Transition training. Personnel to be discharged under the provisions of this paragraph will be afforded the opportunity to receive preseparation vocational counseling and job placement services under the Army Transition Program in accordance with paragraph 30*a* and *b*, AR 621-5.

j. Reentry precluded. Individuals discharged under this paragraph willl be ineligible to enlist or reenlist without a waiver. Accordingly, DD Form 214 will be coded "RE-3."

★**5-38. Concealment of arrest record.** *a. Policy.* Enlisted personnel who concealed an arrest record which did not result in civil court conviction at the time of enlistment or induction may be discharged. This policy permits the elimination of personnel who represent a potential undesirable element and will be used only when it is clearly apparent that an individual has concealed a serious arrest record. In applying this policy, the following will be considered:

(1) The arrest concealed must be for a felony offense. AR 601-270 contains a partial listing of felony offenses.

(2) A pattern of arrests is suggestive of undesirable character traits. The pattern may include misdemeanors and lesser offenses in addition to a felony.

(3) The age of the individual when arrested and the period of time which has elapsed since the arrests.

(4) The preservice background of the individual (e.g., education, employment record, community activities).

(5) The nature of and the circumstances surrounding the arrests.

b. Discharge authority. The officer exercising general court-martial jurisdiction is authorized to direct discharge or retention of the enlisted member. When retention is authorized, DA Form 20 will be annotated to reflect that concealment of the arrest has been waived. After waiver there will be no further cognizance of the concealment of arrest, nor will any further action be taken.

c. Procedures. When information is received which indicates the individual may have concealed an arrest record, an investigation into the circumstances is required so that a decision to discharge or retain can be made. If evidence is obtained, the unit commander will initiate action to appoint a counsel for consultation (para 1-3*c*) for the soldier. The con-

sulting counsel will advise the individual concerning the basis for his contemplated discharge and its effect. He may also advise the individual regarding the merits of the contemplated discharge action and assist him in preparing any statements or other evidence for consideration by the general court-martial convening authority. After the individual has been properly advised by the consulting counsel, the unit commander will forward the evidence, together with any statements or evidence submitted by the individual, to the general court-martial convening authority for decision. The correspondence will include:

(1) A statement by consulting counsel that he has advised the individual of the basis for his contemplated discharge and its effect.

(2) Conduct and efficiency ratings.

(3) A specific recommendation for retention or discharge, and the reasons. (No recommendation will be made as to type of discharge.) *If an individual refuses to consult with* a consulting counsel, he will be ordered to do so by his commander. If he persists in his refusal, a statement to this effect will be prepared by the commander and included in the file. Separation action may then proceed as if the member had consulted with a consulting counsel.

d. Evidence. To support the existence of an arrest record as required in this paragraph, bona fide evidence must be obtained from the appropriate law enforcement agency. A typical example of bona fide evidence includes:

(1) A completed DD Form 1584 (DOD National Agency Check Request) (ENTNAC), with accompanying "rap sheet" listing incidents of arrest; further contact with agencies or departments which made the arrest may be necessary. An ENTNAC is completed on each individual shortly after entrance into the Army, and should be examined by unit commanders.

(2) A completed DA Form 3286 (Statements for Enlistment) or other evidence which shows clearly that the individual concealed an arrest record.

e. Type of discharge. Individuals discharged under the provisions of this paragraph will be given an honorable or general discharge (para 1-9).

f. Separation orders. Directives or orders instructing individuals to report to the appropriate transfer activity or unit personnel office will cite the reason and authority as "paragraph 5-38, AR 635-200," and will contain the appropriate SPD. (SPDs are contained in AR 635-5-1.)

Q 5-39 See DA MSG 01 1735Z Dec 75 Trainee discharge Program

_____
Date

SUBJECT: Proposed Discharge Action UP Trainee Discharge Program (TDP)

TO: _____
_____
_____

1. Under the provisions of paragraph 5-39, AR 635-200, I am initiating action to discharge you from the United States Army.

2. The specific reasons for my proposed action are:

3. The final decision in your case rests with the discharge authority. If your discharge is approved, you will be furnished an honorable discharge certificate. However, if you do not have sufficient prior military service, you should understand that due to non-completion of requisite active duty time, VA and other benefits normally associated with completion of honorable active duty service will be affected. For example, you would not be eligible for educational benefits under the GI Bill of Rights. Futhermore, you will not be permitted to reenlist in the Armed Forces within two years from the date of your discharge.

4. You have the right to present any rebuttal or statements in your behalf to the discharge authority or you may waive these rights. You also have the right to request a separation physical if you feel your physical status has changed since your last examination. Once the statement that an individual elects not to have a separation medical examination is forwarded by the unit commander, it may be withdrawn only with consent of the discharge approval authority.

5. Complete the attached acknowledgement and return it immediately.

_____
Signature

_____
Name (Typed or Printed)

_____
Rank Commanding Branch

Figure 5-5. Notification of Pending TDP Discharge

_____
Date Individual Signs

SUBJECT: Acknowledgement of Notification of Proposed Discharge UP Trainee Discharge Program

TO: Unit Commander

_____

_____

1. I hereby acknowledge notification of my proposed Honorable Discharge from the United States Army. If I do not have sufficient prior service, I understand that due to non-completion of requisite active duty time, VA and other benefits normally associated with completion of honorable active duty service will be affected. Further, I understand that I will not be permitted to reenlist in the Armed Forces within two years of my discharge.

2. I (do) (do not) desire to make statements or submit a rebuttal in my behalf. (Statement/rebuttal is attached, if applicable as inclure _____).

3. I (do) (do not) desire to have a separation medical examination if this discharge is approved. I understand that once the statement that I elect not to have a separation medical examination is forwarded by my unit commander, it may be withdrawn only with the consent of the discharge approval authority.

_____
Signature

_____
Name (Typed or Printed)

_____
Grade, SSN

Figure 5-6. Acknowledgement of Pending Trainee Discharge

CHAPTER 6

SEPARATION BECAUSE OF DEPENDENCY OR HARDSHIP

Section I. GENERAL

6-1. Scope. This chapter sets forth the criteria and procedures and provides authority for the separation of enlisted personnel from active military service because of dependency or hardship.

6-2. Applicability. The procedures in this chapter apply to personnel who are enlisted, inducted, ordered to AD, or ordered to ADT under REP 63.

6-3. Separation authority. By authority of the Secretary of the Army, the commanders specified in section VI, chapter 2, will order discharge or release from active military service of enlisted personnel because of dependency or hardship. The commander's deputy, or other officer within his headquarters, may be delegated authority to approve, disapprove, or otherwise appropriately dispose of cases.

Section II. DEPENDENCY OR HARDSHIP

6-4. Criteria. Enlistees, inductees, and enlisted members of the Reserve components serving on AD or ADT may be discharged or released, as appropriate, because of dependency or hardship when it is considered that undue and genuine dependency or hardship exists.

a. Dependency. Dependency exists when because of death or disability of a member of the enlisted person's family, other members of his family become principally dependent upon him for care or support.

b. Hardship. Hardship exists when in circumstances not involving death or disability of a member of the enlisted person's family, his separation from the Service will materially affect the care or support of his family by alleviating undue and genuine hardship.

6-5. Application of criteria. *a.* Separation from the service of enlisted personnel because of dependency or hardship will be granted when *all* the following circumstances exist:

(1) Conditions have arisen or have been aggravated to an excessive degree since entry on AD or ADT.

(2) Conditions are not of a temporary nature.

(3) Every reasonable effort has been made by the enlisted person to alleviate the dependency or hardship conditions without success.

(4) Discharge or release from active military service of the enlisted person is the only readily available means of eliminating or materially alleviating the dependency or hardship conditions.

b. Circumstances outlined in (1) and (2) below do not justify separation because of dependency or hardship. However, the existence of these circumstances does not preclude separation because of dependency or hardship, provided the application meets the criteria described in *a* above.

(1) Pregnancy of an enlisted man's wife is not considered a disability for which his separation is justified. However, this does not preclude separation because of a disability occurring as a result of pregnancy.

(2) Undue and genuine hardship does not necessarily exist solely because of altered in-

come or because the enlisted person is separated from his family, or must suffer the inconveniences normally incident to military service.

6-6. Conditions affecting determination regarding separation for dependency or hardship.

a. In determining eligibility for separation under the provisions of this chapter, "members of the family" include only spouse, children, father, mother, brothers, sisters, and any person who stood in loco parentis to the enlisted person prior to his entry into the Service. "In loco parentis" is any person who has stood in the place of a parent to an enlisted person for 5 continuous years when the member was a minor child.

b. When an enlisted person is eligible for separation under the provisions of this chapter, separation will not be disapproved because of the individual's indebtedness to the Government or to an individual.

c. When an individual is eligible for separation, his separation will not be disapproved because his services are needed by his organization.

★*d.* When an individual is under charges; in confinement; has been recommended for elimination under the provisions of AR 635-206, or chapter 13, 14, or 15 of this regulation; is being investigated under the military personnel security program; or is being processed for discharge or retirement for physical disability, he will not be separated because of dependency or hardship until proper disposition is made of the case. However, the application will be accepted and processed to final decision.

e. A sentence to confinement (not including dishonorable or bad conduct discharge) will be fully served unless sooner terminated by proper authority before a separation for dependency or hardship may be given.

6-7. Application for separation. Separation from the Service of enlisted personnel because of dependency or hardship must be requested in writing by the enlisted person. DA Form 2476 (Application for Separation—Hardship or Dependency) may be used to submit the application. However, an application will not be returned merely because it was not submitted on DA Form 2476, as long as the essential evidence has been submitted.

a. To whom application is submitted.

(1) A person serving in the United States or stationed overseas will submit his application to his commanding officer. The application must be supported by the evidence required in paragraph 6-8.

(2) A person assigned to an oversea unit who is temporarily in the United States on leave or TDY will submit his application to the commander of the Army installation (except Armed Forces examining and entrance stations and recruiting main stations) nearest his leave address or the installation to which he is temporarily assigned.

★(3) A person assigned to a unit or installation within the United States but is temporarily in an oversea command on leave or TDY will submit his application to the commander of the oversea command in which he is located. The commander specified in section VI, chapter 2, will specify the unit to which the member will be attached while the application is being considered. However, attachment to the nonpermanent party element of transfer points or stations is not authorized.

(4) Enlisted personnel on orders for oversea shipment, either as individuals or as members of units, who apply for dependency or hardship separation prior to departure from unit of assignment will be held at the losing station pending final disposition of the application.

(5) Enlisted personnel on orders for reassignment from one CONUS installation to another CONUS installation (either as individuals or as members of units) who apply for dependency or hardship separation prior to departure from unit of assignment will comply with movement orders if considered appropriate by the losing commander. The individual will be held at the losing installation if the application reflects sufficient grounds for approval; if not, the individual will be ad-

vised to submit the application upon arrival at the gaining installation.

★(6) Applications for dependency or hardship separation from personnel en route overseas may be accepted at the Army installations) nearest his leave address if an interview enlistment stations and recruiting main stations nearest his leave address if an interview reveals information which may justify separation. The soldier will be attached at that installation until a final decision is made on his application. The losing installation and the Passenger Liaison Office, MTMTS, will be notified of the attachment and any subsequent decision. Individuals en route overseas who arrive at the aerial port of embarkation and have not been previously attached to another installation for the same purpose, may be referred by the Passenger Liaison Office, MTMTS. to the Army installation nearest the port for consideration of his application, if an interview reveals information which may justify separation for dependency or hardship. The member will be attached at the installation nearest the aerial port until final decision is reached on his application.

(7) A person assigned to a CONUS unit who is on leave within CONUS will normally submit his application to his commanding officer in accordance with (1) above. However, when exceptional circumstances require the person's continued presence and if the commanders concerned agree, attachment of CONUS-assigned personnel to a CONUS installation for the purpose of submitting an application for separation is authorized. Attachment to the nonpermanent party element at the transfer points or stations is not authorized.

b. Forwarding to the approval authority. Forwarding indorsements prepared by commanders having custody of the applicant's records will contain the following information if it does not appear elsewhere in the inclosures:

(1) Amount and type of allotments the enlisted person has in effect, together with the name and relationship of each allottee, when applicable.

★(2) A statement whether a determination of dependency for benefits under the Dependents' Assistance Act of 1950 (DOD Military Pay and Allowances Entitlements Manual) has been requested and the decision of the Allotments and Deposits Operations, US Army Finance Support Agency.

(3) Date of current enlistment, entry on AD or ADT, and the expiration of term of service.

★(4) Whether the applicant is under charges; is in confinement; or is under investigation for separation in accordance with the provisions of AR 635-40, AR 635-206, AR 604-10, or chapters 13, 14, or 15 of this regulation.

6-8. Evidence required. The supporting evidence for an application for separation because of dependency or hardship normally will be in affidavit form. The evidence must substantiate the dependency or hardship conditions on which the application for separation is based.

a. The evidence required will depend on the nature of the claimed hardship. The application should include, as a minimum, the following affidavits:

(1) The enlisted person's personal request for separation, explaining the nature of the hardship condition, and what he intends to do to alleviate the hardship condition.

(2) An affidavit or statement by or on behalf of the enlisted person's dependents substantiating the dependency or hardship claim.

(3) Affidavits by at least two agencies or individuals, other than members of the enlisted person's family, substantiating the dependency or hardship claim.

b. Additional evidence may be required as follows:

(1) When the basis for the application is financial difficulty, a detailed statement is required to establish the monthly income and expenses of the family.

(2) When the basis for the application is death of a member of the enlisted person's family, a death certificate or other valid proof of death should be furnished.

(3) When the basis for the application

is disability of a member of the enlisted person's family, a physician's certificate should be furnished showing the diagnosis, prognosis, and date of disability.

(4) When the enlisted person requests separation in order to support members of his family, other than spouse or children, the application should show the names and addresses of other members of the family. Proof that they cannot aid in the care of their family should be furnished.

★**6-9. Procedure.** The approval authority (para 6-3) will consider carefully the facts upon which the request is based. Any additional information required to determine the validity of the reason for separation will be requested from the enlisted person, or the American National Red Cross (para 6-10). The specific reason for denial of an application will be included in the return indorsement.

a. The personnel officer of any Army installation (para 6-1*a*(2) and (3)), except Armed Forces examining and entrance stations and recruiting main stations, will give all assistance required to any enlisted person desiring to apply for separation. This assistance will consist of explaining the requirements of this chapter, assisting in the preparation of documentary evidence, and notifying the enlisted member's parent unit. The commander who issued the leave or TDY orders will be notified, by electrically transmitted message, of the date and reason for the attachment and will be requested to reply by message whether or not AR 600-31 is applicable to the enlisted person. If a tracer message is required, the theater commander will be included as an information addressee. If MINIMIZE is in effect, messages will be dispatched by air mail.

b. If application is approved, the approval authority will direct that the enlisted member be relieved from, and then assigned to, unit of attachment. The commander of the unit of attachment will—

(1) Accomplish the preprocessing procedures set forth in AR 635-10, including the medical examination and, insofar as possible, the records interview processing and completion of DD Form 214WS (Wordsheet for Report of Separation from Active Duty).

(2) Notify the commander who issued the leave or TDY orders of approval and request that complete personnel and financial records be forwarded by air mail. If a tracer message is required, include the theater commander and an information addressee. If MINIMIZE is in effect, the message will be dispatched by air mail.

(3) Authorize the enlisted person to proceed home on ordinary and/or excess leave (AR 630-5), provided the enlisted person so desires. The enlisted person will be advised that his separation documents and final pay will be mailed to him at the address he has furnished. The partially completed records will be suspended pending receipt of the original records.

(4) Upon receipt of the original records, reassign the enlisted person to the transfer activity for separation processing.

c. If the application is disapproved, notify the enlisted person of the specific reason for denial. The enlisted person will then be released from attachment to revert to emergency/ordinary leave for return to the oversea assignment. Notify the oversea commander by electrically transmitted message of the date of departure and forward the disapproved application to the oversea commander for inclusion in the personnel file as a temporary document. If MINIMIZE is in effect, the message will be dispatched by air mail.

d. The transfer activity commander will—

(1) Report the enlisted person as assigned-joined-discharged or released from AD.

(2) Complete and mail the separation documents to the address furnished by the enlisted person.

(3) Submit verified pay and allowance vouchers to the local finance office for check payment.

(4) Dispose of records in accordance with AR 635-10.

e. The oversea commander will respond immediately to any messages received pursuant to *a* and *b* above.

6-10. Service of American National Red Cross. *a.* Requests for supplemental factual information pertaining to applications for discharge or release of individuals because of dependency or hardship may be made to the American National Red Cross. Such requests originating within military agencies will be restricted to specific information when probable separation is warranted.

b. The following procedures will be followed when military agencies request assistance from the American National Red Cross:

(1) The military agency requesting assistance will prepare a brief containing sufficient information to identify the applicant for separation. The brief will also include the name, address, and relationship of the dependent or dependents on whom the information is desired.

(2) If a Red Cross representative is serving the organization or installation concerned, the brief, together with a request for the specific information, will be forwarded to the representative.

(3) If no Red Cross representative is serving the organization or installation, the request will be sent to the appropriate area office. American National Red Cross area offices are listed in appendix B.

(4) The contents of reports furnished by the Red Cross will not be disclosed to the enlist person or his family.

c. Enlisted personnel or their dependents may, on their own initiative, request local chapters of the American National Red Cross to assist in obtaining necessary evidence to substantiate applications for separation. The American National Red Cross does not, however, make formal reports to military agencies unless requested by appropriate military commanders.

6-11. Types of separation. *a.* Enlisted personnel will be discharged from the military service, except as provided in *b*, *c*, and *d* below.

b. ARNGUS personnel on AD will be released for hardship or dependency and returned to the control of the appropriate State National Guard authorities.

c. ARNGUS trainees will be discharged from their status as reservists of the Army and returned to the control of the Adjutant General of the appropriate State, Disrict of Columbia, or Puerto Rico.

d. USAR trainees will be discharged from their status as reservists of the Army.

6-12. Form of separation certificate. *a. Discharge.* A DD Form 256A (Honorable Discharge Certificate) or DD Form 257A (General Discharge Certificate) will be furnished (chap. 1).

b. Report of separation. DD Form 214 (Report of Separation from Active Duty) will be furnished each enlisted person separated from the Service under the provisions of this chapter.

★6-13. Reason and authority for separation. The reason and authority for separation (item 9*c*, DD Form 214) will be entered in accordance with AR 635-5-1.

★CHAPTER 7

MINORITY

7-1. Scope. This chapter provides the authority, criteria, and procedures for the separation of enlisted personnel by reason of minority.

7-2. Applicability. This chapter applies to personnel who are enlisted, inducted, or ordered to active duty for training under the Reserve Enlistment Program of 1963.

7-3. Authority to order discharge. Commanders specified in section VI, chapter 2, are authorized to order discharge or release from military control of an individual on account of minority, as appropriate.

7-4. Statutory authorities. *a.* Section 505, title 10, United States Code.

b. Section 1170, title 10, United States Code.

7-5. Criteria. *a.* Male members *will* be released from military control by reason of a void enlistment or induction as follows:

(1) If the member enlisted or volunteered for induction while under 17 years of age and has not attained that age upon receipt of satisfactory proof of date of birth.

(2) If the member was involuntarily inducted while under the age of 18 years 6 months and has not attained that age upon receipt of satisfactory proof of date of birth. If the member has attained age 18 years 6 months, or older, he will not be discharged for minority.

b. Unless under charges for a serious offense committed after attaining the age of 17 years, male members *will* be discharged for minority under the following circumstances:

(1) Upon application of the parents or guardian of a regular enlisted member made within 90 days after the member's enlistment if:

(*a*) there is satisfactory evidence that the member is under 18 years of age, and

(*b*) the member enlisted without the consent of his parents or guardian.

(2) If the member volunteered for induction while under 18 years of age *without* the consent of the parents or guardian and the member has attained 17 years of age but not the age of 18 years when satisfactory proof of date of birth is received.

c. Unless under charges for a serious offense committed after attaining the age of 17 years, male members *may* be discharged for minority at the option of the Secretary of the Army if the member is at least 17 but less than 18 years of age, enlisted without the consent of his parents or guardian, and no application has been received in accordance with *b*(1) above. His commanding officer may recommend retention of the member to the Secretary of the Army.

d. Female members *will* be released from military control for minority if the member enlisted while under 18 years of age and has not attained that age upon receipt of satisfactory proof of date of birth.

e. Unless under charges for a serious offense, female members *may* be discharged for minority when satisfactory proof of date of birth is received under circumstances which show that the member below age 21 years enlisted without the consent of her parents or guardian and has not attained age 21 years. However, these members may, upon recommendation of the commanding officer be retained at the option of the Secretary of the Army, unless application for discharge is made by her parents or guardian within 90 days after the member's enlistment.

f. Requests for retention in service under this paragraph will be forwarded, with appropriate documentation and recommendations, to HQDA (DAAG-PSS-S), Washington, DC 20314, for final action.

7-6. Evidence required. *a.* In support of an application for discharge, or for release from military control under this chapter, the following evidence of age is required:

(1) A duly authenticated copy of a municipal or other official record of birth of the individual, or

(2) If no official record of birth of the individual can be obtained, an affidavit of the parents or guardian must be furnished stating specifically why an official record cannot be ob-

tained. The affidavit must be accompanied by one of the following:

(*a*) A baptismal certificate; a certified copy or photostat of school records, preferably the first term of school; the affidavit of the physician or midwife in attendance at the birth of the individual; or a notarized transcript from the records of the hospital in which the individual was born, or

(*b*) Affidavits of at least two persons not related to the enlisted person, testifying from their personal knowledge as to the date of birth.

b. In case of an enlistment under an assumed name, the identification of the individual with the person mentioned in the record of birth or the affidavits must be shown by the affidavit of the parents or guardian.

c. Birth or baptismal certificates will be examined carefully for alterations other than those made officially. Care will be taken to note the "date of filing". A delayed birth certificate with date of filing subsequent to the individual's enlistment or one with no filing date is not acceptable unless supported by substantial evidence to establish the date and place of filing.

d. If the parents are divorced or otherwise legally separated, the application for discharge must be accompanied by a copy of the court order or other evidence showing that the parent submitting the application has custody of the enlisted person. If either parent has lost control of the enlisted person by judgment of a court, appointment of a guardian, desertion of family, or waiver, an application from such parent for the discharge of the individual will not be considered.

e. Although a guardian usually is not recognized as such unless legally appointed, a person who has assumed support of a minor and performed the duties of guardian for five years immediately preceding the enlistment will be recognized as a guardian for the purposes of this chapter. An affidavit supporting "guardianship" under these conditions will be submitted with the birth certificate.

7-7. Procedure. *a.* When a commander authorized to order minority discharge or release from military control by reason of minority receives an application from either the parents or guardian, with the supporting evidence required in paragraph 7-6, he will take final action on the application. The signatures on the application for separation and consent statement will be closely examined to determine whether the applicant actually signed the statement.

b. Applications, together with recommendations, may be forwarded to HQDA (DAAG-PSS-SS), Washington, DC 20314, under the following circumstances:

(1) Any doubtful case.

(2) When additional evidence is required and the final decision for individuals stationed overseas would be materially expedited by processing the case in CONUS.

7-8. Minors under charges or in confinement. When a minor who is otherwise eligible for minority discharge is under court-martial charges, serving a court-martial sentence, or in military confinement for a serious offense, he will not be discharged for minority until proper disposition has been made in the case. Although the facts indicate that, in other circumstances, the individual would be discharged for a reason other than minority (i.e., misconduct, unfitness, or unsuitability), ordinarily it is desirable to avoid action by boards of officers, or trial and confinement of an individual who otherwise is eligible for minority discharge. It is quite proper to go to considerable lengths to determine that no board or trial should be held and to remit any sentence imposed. Immediate action will be taken, however, to discharge such personnel.

7-9. Indebtedness or confinement by civil authorities. Indebtedness to the Government or to an individual, or confinement by civil authorities will not prevent discharge or release from military control for minority when an individual is eligible therefor.

7-10. Void service. Upon determination that a period of service is void in accordance with paragraph 7-5*a* or 7-5*d*, the discharge authority will issue an order releasing the member from military control. As a response to the "Auth:" lead line, the order will state that the individual's enlistment or induction is void because of minority. Copies of the order will be issued to the individual and will also be filed in the Military Personnel Records Jacket as permanent material. A DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) will be issued. A discharge certificate will not be issued.

7-11. Minors stationed in area other than area in which enlisted. An individual serving in an area other than the area in which enlisted will not be discharged or released from military control for minority until returned to the appropriate territory or area in accordance with AR 635-10. As a response to the "Auth:" lead line, orders will state clearly that the individual is a minor being returned for discharge or release from military control in order that such separation may be accomplished promptly upon arrival.

7-12. Pay and allowances. *a.* Except as provided in *b* below, an individual discharged or released from military control on account of minority is entitled to—

(1) Whatever pay and allowances he has already received during the period of his minority enlistment or period of service, but no pay or allowances may be paid to him after the date of determination of minority.

(2) Transportation in kind to his home of record.

(3) A donation of not more than $25.00 if he is otherwise without funds to meet his immediate needs. See chapter 4, Part 1, Department of Defense Military Pay and Allowances Entitlements Manual (DODPM).

In addition to (1) through (3), an individual who is confined in an Army or contract prison at the time of discharge or release from military control on account of minority is also entitled to civilian clothing not to exceed $40.00 in cost.

b. A male member who enlisted in the Regular Army after becoming 17 years of age and who is discharged for minority prior to reaching his 18th birthday, or a female member who enlisted after reaching 18 years of age and who is discharged for minority prior to reaching her 21st birthday, upon the application of the parents or guardian, is entitled to pay and allowances to and including the date of discharge (Rule 6, Table 1-4-1, DODPM).

7-13. ARNGUS and USAR trainees. *a.* ARNGUS REP-63 trainees will be discharged from their status as Reservists of the Army and returned to the control of the appropriate State National Guard authorities for discharge from their State contractual commitment.

b. USAR REP-63 trainees will be discharged from their status as Reservists of the Army.

7-14. Reason and authority for discharge or release from military control. *a.* When discharged because of minority, the reason and authority for discharge (item 11c, DD Form 214) will be entered as shown in AR 635-5.

b. When released from military control by reason of a void enlistment or induction, DD Form 214 will be completed in accordance with AR 635-5 except for items 11a, 11c, 13a, 15, and 16. The entry for the foregoing items will be as follows:

(1) *Item 11a.* Released from military control by reason of void enlistment (induction).

(2) *Item 11c.* AR 635-200, SPN 976 voidance of enlistment (induction).

(3) *Item 13a.* Character of service will be Honorable or Under Honorable Conditions as indicated in section III, chapter 1.

(4) *Item 15.* Enter "NA".

(5) *Item 16.* Enter "NA".

7-15. Form of discharge certificate. Notwithstanding the fact that enlistment may have been obtained by misrepresentation as to age or consent of parents or guardian, DD Form 256A (Honorable Discharge Certificate) or DD Form 257A (General Discharge Certificate) will be furnished as indicated in section III, chapter 1, to reflect the character of service performed since entry on active duty. No discharge certificate will be furnished a minor whose enlistment or induction is void.

7-16. Entitlement. The entitlements portion of this chapter pertaining to pay and allowances has been approved by the Secretary of Defense in accordance with 37 U.S.C. 1001.

CHAPTER 8

DISCHARGE OF ENLISTED WOMEN—MARRIAGE, PREGNANCY, OR PARENTHOOD

Section I. GENERAL

8-1. Scope. This chapter establishes policy, sets forth procedures, and provides authority for discharge of enlisted women by reasons of marriage, pregnancy, or parenthood.

8-2. Authority to discharge. Commanders specified in paragraph 2-17*a*, are authorized to approve the discharge of enlisted women under this chapter.

Section II. MARRIAGE

8-3. Authority. An enlisted woman may request discharge by reason of marriage. Commanders will approve such requests providing the applicant meets the following requirements:

a. Served at least 18 months on her current enlistment.

b. Completed all obligated periods of service incurred through schooling or promotion as required by AR 600-200.

c. Served at least 6 months in the oversea command if application is submitted while serving overseas or subsequent to departure from home station en route to overseas.

8-4. Enlisted or reenlisted on or after 1 July 1965 and prior to 20 June 1966. Rescinded.

8-5. Delay discharge. Rescinded.

8-6. Type of certificate to be furnished and authority for discharge. *a.* An honorable or general discharge certificate will be furnished in accordance with section III, chapter 1.

b. Authority (sec II, chap. 8, AR 635-200) and SPN 220 will be included in directive or orders directing the individual to report to the appropriate transfer activity.

8-7. When not eligible for discharge. Women will not be eligible for discharge solely for reason of marriage during war or national emergency declared by Congress.

Section III. PREGNANCY

8-8. General. *a.* When it has been determined that an enlisted woman is pregnant, or has given birth to a living child during the period of her present enlistment, she will be afforded an opportunity to—

(1) Request discharge under the provisions of this chapter, or

(2) Request waiver for retention on active duty if lawfully married, or

(3) Submit an application for retirement, if eligible (chap. 12).

b. If pregnancy is the only medical condition which is disqualifying for retention in the service, discharge will be accomplished without processing by a medical board or physical evaluation board. If there are other medical conditions which disqualify the enlisted woman for retention, processing will be accomplished under the provisions of AR 40-3 and AR 635-40.

c. If the enlisted woman does not request discharge or retirement, and a waiver for retention on active duty is not granted, she will be discharged at the earliest practicable date.

8-9. Waivers. *a.* Requests for waivers for retention on active duty (para 8-8*a*(2)) will be forwarded to The Adjutant General through channels and will include:

(1) A statement to affirm that the child will not hinder the enlisted woman's performance of duty, and that continuation on active duty will not result in neglect of the child.

(2) The WAC unit commander's recommendations, including conduct and efficiency ratings and Average Efficiency Index and PMOS evaluation scores, if available.

(3) The circumstances involved.

(4) Requests for leave of absence (including accrued and excess leave) to cover prenatal and

postnatal period. Unless medically contraindicated, the prenatal period will begin when the commanding officer determines that continued utilization of the individual in a duty status is no longer feasible, but in no case later than the 28th week of pregnancy. The postnatal period will terminate at the end of the 6th week following pregnancy, unless medically contraindicated. Excess leave required will be requested in accordance with AR 630-5. Advance leave will not be granted under any circumstances. Pending receipt from Headquarters, Department of the Army, of discharge instructions, or approval of retention on active duty and excess leave, the commander will grant ordinary leave to cover the prenatal period defined above. If the enlisted woman has insufficient leave accrued, the commander will authorize excess leave in accordance with AR 630-5 effective upon termination of ordinary leave.

(5) Proper medical certification and history.

(6) Date and period of enlistment and total length of active Federal service.

(7) Recommendation of officer who is job supervisor.

b. Nothing contained herein will act as a bar to a commander taking disciplinary or elimination action under other regulations if circumstances warrant.

8-10. Line of duty determination. Line of duty determination is not required for pregnancy, diseases resulting therefrom, or therapeutic abortion. Line of duty determination in cases involving misconduct will be made in accordance with AR 600-10.

8-11. Maternity care. An enlisted woman discharged under honorable conditions or retired who is pregnant at the time of separation is entitled to maternity care as provided in paragraph 22, AR 40-3 and AR 600-3. The medical benefits to which an enlisted woman is entitled are limited to care in military hospitals and do not, regardless of the circumstances, include care obtained in civilian hospitals.

★8-12. Terminated pregnancies. If it has been determined by a medical officer that a pregnancy has been terminated by a therapeutic procedure, miscarriage, or stillbirth, or if a child is delivered and dies prior to the effective date of separation or retirement, the enlisted woman may request withdrawal of retirement or discharge, or, in the case of involuntary discharge, may request retention on active duty. The request will be forwarded to HQDA (DAAG-PSS-S) WASH DC 20314 for final action. The request must include the information in paragraph 8-9*a*(2), (3), (5), (6), and (7). In addition, in the case of illegitimate pregnancies, the commanding officer's recommendation must include a statement as to moral character.

8-13. Responsibility of the WAC unit officer. *a.* The WAC unit commander will direct the enlisted woman whose physical condition indicates the possibility of pregnancy to report at once to a physician on duty at an Armed Forces medical treatment facility for diagnosis.

b. Every assistance will be given by the unit commander or a designated officer of the Women's Army Corps to the enlisted woman. The enlisted woman will be counseled by a WAC officer concerning all the rights, privileges, and benefits to be obtained as a result of her military service. She will also be assisted in contacting administering agencies for aid and advice in applying for such rights, benefits, and privileges. If the enlisted woman desires, the officer will refer her to a representative of the American Red Cross or to other appropriate agencies for assistance. The WAC unit commander will inform enlisted women being discharged under honorable conditions who are pregnant at the time of discharge that medical care for that pregnancy is limited to care in military medical treatment facilities only, and does not, regardless of the circumstances, include care obtained in civilian facilities.

8-14. Medical examination and diagnosis. *a.* Examination for pregnancy will be conducted as a complete medical examination. Standard Forms 88 and 93 will be utilized. When such examination results in a determination of pregnancy or of recent termination of pregnancy, no additional medical examination is required prior to discharge, provided discharge from the service is accomplished within the 6-month period specified in paragraph 10-17*a*(2), AR 40-501, and there is no change in the enlisted woman's medical condition other than her pregnancy.

b. The diagnosis will be certified by a physician on duty at an Armed Forces medical treatment facility as soon as possible. This does not preclude observation of the enlisted woman for a reasonable period of time in which to insure that the diag-

nosis is correct. In establishing the diagnosis, the physician may utilize biological or other tests for pregnancy without cost to the patient.

8-15. Discharge action. *a.* Discharge will not be accomplished within an oversea command unless the enlisted woman's home is located there. Return travel of personnel to the United States will be expedited and normally will be by air rather than by surface means.

b. If, during the processing for discharge under another chapter or regulation, an enlisted woman is found to be pregnant, she will not be discharged under this section except as indicated in *d* below. Discharge will be accomplished under the chapter or regulation under which separation processing was initiated. In such cases, a notation of pregnancy will be made on Standard Form 88.

c. An enlisted woman under investigation, court-martial charges, or sentence of court-martial who is certified by a physician on duty at an Armed Forces medical treatment facility to be pregnant may be discharged under this chapter only with the written consent of the commander exercising general courts-martial jurisdiction over the enlisted woman.

d. Commanders of U.S. Army oversea replacement stations may retain an enlisted woman en route oversea to establish whether she is pregnant in those cases where the enlisted woman either claims she is pregnant or when her physical condition indicates such possibility.

8-16. Type of discharge certificate and authority for discharge. *a.* An enlisted woman discharged because of pregnancy will be issued an honorable or general discharge certificate in accordance with section III, chapter 1. Determination of the type of discharge will be made without regard to the marital status of the enlisted woman.

b. Authority (sec III, chap. 8, AR 635-200) and SPN 221 will be included in directive or orders directing the individual to report to the appropriate transfer activity. Commanders specified in paragraph 2-17*e* are authorized to order the discharge of an enlisted woman for pregnancy.

Section IV. PARENTHOOD

8-17. General. *a.* An enlisted woman who is the parent by birth or adoption, the stepparent, foster parent, or custodian of a child (or children) under 18 years of age who resides within the household of the enlisted woman for a period exceeding 30 consecutive days a year may:

(1) Request discharge under this chapter, or

(2) Request waiver for retention on active duty, or

(3) Submit an application for retirement, if eligible (chap. 12).

b. If the enlisted woman does not request discharge or retirement, and a waiver has not been granted under either this section or section III, she will be discharged.

8-18. Preparation and forwarding. *a.* Requests for retention on active duty of enlisted women with over 18 years active Federal service will be forwarded through channels to The Adjutant General, ATTN: AGPO-SS, Department of the Army, Washington, DC 20314, for final determination. All other requests will be forwarded to the commander exercising general court-martial jurisdiction for final determination. All requests will include:

(1) Substantiating evidence which establishes beyond a reasonable doubt that the child (or children) does not hinder the enlisted woman's performance of duty.

(2) Recommendation of the WAC unit commanding officer.

(3) Recommendation of the officer who is the enlisted woman's job supervisor.

b. Waivers for retention on active duty granted under either this section or section III may be withdrawn by the granting authority upon determination that the child (or children) interferes with the enlisted woman's performance of duty or that her continuation on active duty is resulting in neglect of the child. In such cases action will be taken in accordance with paragraph 8-17*b*.

8-19. Type of discharge certificate and authority for discharge. *a.* An enlisted woman discharged because of parenthood will be issued an honorable or general discharge certificate, as determined in accordance with section III, chapter 1.

b. Authority (sec IV, chap. 8, AR 635-200) and SPN 222 will be included in directive or orders directing the individual to report to the appropriate transfer activity.

CHAPTER 9

RESIGNATION

Section I. GENERAL

9-1. Statutory authority. *a.* Title 10, United States Code, section 3815(a), provides that an enlisted member of the Regular Army who served at least 3 years of an unspecified enlistment under 10 USC 3256(b) may submit his resignation to the Secretary of the Army, and he will be discharged within 3 months.

b. However, 10 USC 3815(b) provides that such a resignation need not be accepted by the Secretary of the Army—

(1) Until the member completes 2 years of service in his current oversea assignment, if the resignation is submitted after the member embarks for such an assignment or while he is stationed overseas.

(2) Until 2 years after the member completes a course of instruction under 10 USC 4301, if he has taken such a course.

(3) Until 6 months after its submission, if the member is under investigation or in default concerning public property or funds.

(4) While the member is absent without leave or is serving a sentence of a court-martial.

(5) During a war or a national emergency declared by Congress or the President.

9-2. General provisions. *a. Applicability.* This chapter applies *only* to individuals who enlisted for an unspecified period of time when such a period was authorized by the Department of the Army. An individual may tender a resignation under the conditions specified herein.

b. How resignation submitted. The resignation will be tendered in letter form, through the individual's immediate commander, and will contain a complete statement of reasons for which submitted. The format for resignations is shown in figure 9-1.

c. Refusal of acceptance of resignation. In the absence of a war or national emergency declared by the President or Congress, commanders authorized to accept resignations may recommend refusal to accept them only under the conditions set forth in paragraph 9-11*e*. Resignations submitted under the provisions of this regulation must be accepted within 3 months after submission unless refused by the Secretary of the Army on the basis of one or more of the conditions set forth in paragraph 9-11*e*.

Section II. DISCHARGE BY RESIGNATION

9-3. Unconditional resignation. *a.* An unconditional resignation willl not be accepted if it is submitted when specified periods of enlistments have been involuntarily extended pursuant to DA policy or regulations until the individual has completed the length of time for which specified periods of enlistment have been extended.

b. Authority is granted to waive requirement of 2 years' oversea service on current oversea tour for individuals who desire to resign to immediately reenlist in the same oversea command. No travel outside the major oversea command is authorized. Personnel reenlisting while serving in an oversea command must complete the normal foreign service tour

within that command before being reassigned to another oversea area. Discharge is authorized only for the specific purpose of immediate reenlistment and, as such, is not a complete separation.

c. The resignation will be forwarded through channels to the officer who has discharge authority over the enlisted person concerned (para 9–11*a*) and who is authorized to accept or, under conditions set forth in paragraph 9–11*e*, to recommend refusal to accept the resignation. However, the commanding officer of any unit, activity, or station having the facilities to accomplish discharge is authorized to accept the resignation of an individual who signifies that he intends to immediately reenlist for a specified period to fill his own vacancy.

d. Indorsing commanders may recommend refusal to accept an unconditional resignation only under conditions set forth in paragraph 9–11*e*.

e. The tender of an unconditional resignation may be withdrawn at any time before notification of acceptance. After notification of acceptance, but before effect has been given to the acceptance by discharge of the individual concerned, no resignation may be withdrawn or materially modified without the consent of the officer who accepted the resignation, or his successor, or the Secretary of the Army.

★*f.* An individual whose unconditional resignation is accepted will be informed that if he requests withdrawal of resignation after travel has been performed incident thereto and such request for withdrawal is approved, he will normally be returned to his former station promptly if he has not completed the prescribed tour of duty in that area. A written statement in triplicate will be obtained from the individual that he understands the foregoing. One copy will be placed in the individual's Military Personnel Records Jacket, one copy will be forwarded with the tender of resignation and, if the resignation is approved by oversea commanders, one copy will be airmailed to HQDA (DAPC–PAS–S), 200 Stovall Street, Alexandria, VA 22332.

★*g.* An unconditional resignation, if accepted, will be under honorable conditions. The individual will be furnished an Honorable Discharge Certificate (DD Form 256A) or a General Discharge Certificate (DD Form 257A), depending upon the character of service (sec. III, chap. 1). The reason and authority for discharge (item 9*c*, DD Form 214) will be entered as shown in AR 635–5–1.

★**9–4. Counsel prior to submission of resignation.** When an individual is considering submitting a resignation in lieu of any disciplinary or administrative board action, he will be required to consult with counsel for consultation (para 1–3*c*) to consider the wisdom of such a resignation. If the resignation is submitted under any of the provisions of this chapter, other than paragraph 9–3, he will certify in his written resignation (fig. 9–1) that he understands that he may receive a discharge under other than honorable conditions and that he understands the adverse nature of such a discharge and all the possible consequences. The individual's counsel for consultation will sign as a witness. If the member has refused consulting counsel, his resignation must explicitly state this.

★**9–5. Resignation in lieu of board action.** An individual who is to appear before a board of

officers under AR 635-212 may tender a resignation in lieu of board action.

a. When the recommendation for board action is based upon unsuitability under AR 635-212, the resignation will be forwarded through channels to the officer who has discharge authority over the individual (para 9-11*a*) and who is authorized to accept or, under conditions set forth in paragraph 9-11*e*, to recommend refusal to accept the resignation. The resignation, if accepted, will be under honorable conditions and the individual discharged with an honorable or general discharge as warranted by the individual's military record. The reason and authority for discharge (item 11c, DD Form 214) will be entered as shown in appendix I, AR 635-5.

b. When the recommendation for board action is based upon unfitness under AR 635-212, the resignation will be forwarded through channels to the officer who has general courts-martial jurisdiction over the individual (para 9-11*a*) and who is authorized to accept or, under conditions set forth in paragraph 9-11*e*, to recommend refusal to accept the resignation. The resignation, if accepted, will normally be under conditions other than honorable and the individual discharged with an undesirable discharge. However, if the particular circumstances in a given case warrant, a general or honorable discharge may be furnished. The reason and authority for discharge (item 11c, DD Form 214) will be entered as shown in appendix I, AR 635-5.

c. When the recommendation is based upon misconduct under AR 635-206, the resignation will be forwarded through channels to the officer who has general courts-martial jurisdiction over the individual (para 9-11*a*) and who is authorized to accept, or under conditions set forth in paragraph 9-11*e*, to recommend refusal to accept the resignation. However, in those instances where AR 635-206 requires that separation action be taken by The Adjutant General, the resignation will be forwarded for acceptance or refusal. The resignation, if accepted, will normally be under conditions other than honorable and the individual discharged with an undesirable discharge. However, if the particular circumstances in a given case warrant, a general or honorable discharge may be given.

d. When a resignation is tendered in lieu of board action, the immediate commanding officer of the individual concerned will append thereto a copy of the report required in AR 635-206 when a board is waived or in paragraph 12*a* or *b*, AR 635-212, as appropriate.

e. A request for withdrawal of a resignation tendered in lieu of board action may be submitted to the officer authorized to accept the resignation in accordance with paragraph 9-11*b*.

9-6. Resignation in lieu of reduction for misconduct or inefficiency. *a.* An individual may tender his resignation in lieu of accepting punishment under the Uniform Code of Military Justice, Article 15, or in lieu of reduction for inefficiency under AR 600-200 (para 9-4 above). In such cases, the individual will not be required to appear before a board convened under AR 600-200 or reclassification board. The commanding officer of the individual concerned will prepare and add as an inclosure to the resignation a complete summary of all facts which relate to the alleged misconduct or inefficiency, and will attach to the summary signed statements of witnesses having knowledge of the alleged misconduct or inefficiency. The resignation will be forwarded through channels to the officer who has discharge authority over the individual concerned (para 9-11*a*) and who is authorized to accept or, under conditions set forth in paragraph 9-11*e*, to recommend refusal to accept the resignation. If accepted, the resignation will be accepted under honorable conditions, and the individual will be furnished a general discharge certificate. In meritorious cases, an honorable discharge certificate may be furnished. The reason and authority for discharge (item 11c, DD Form 214) will be entered as shown in appendix I, AR 635-5.

b. A request for withdrawal of a resignation tendered in lieu of reduction for misconduct or inefficiency may be submitted to the officer authorized to accept the resignation in accordance with paragraph 9-11*b*.

9-7. Resignation for good of the service. ★*a.* An individual whose conduct has rendered him triable by court-martial under circumstances which could lead to a dishonorable or bad conduct discharge may tender his resignation for the good of the service. Prior to submission of a resignation, an individual will be afforded the opportunity to consult with counsel (para 9-4). The individual will also certify in writing that he understands that he will normally receive a discharge under

other than honorable conditions and that he understands the adverse nature of such a discharge and the possible consequences thereof. The resignation will be forwarded through channels to the officer who has general courts-martial jurisdiction over the individual (para 9-11*a*) and who is authorized to accept the resignation, to recommend refusal thereof under conditions set forth in paragraph 9-11*e*, or to direct trial. The foregoing is not to be construed as precluding an appropriate convening authority from referring a case to trial by courts-martial at any time prior to acceptance of a resignation. The resignation, if accepted, normally will be under conditions other than honorable, and the individual normally furnished an undesirable discharge. However, the Discharge Authority may direct an honorable or general discharge, if warranted (section III, chapter 2). The reason and authority for discharge (item 11c, DD Form 214) will be entered as shown in appendix I, AR 635-5.

★(1) The appropriate commanding officer of an individual who tenders his resignation will prepare a complete summary of all facts which relate to the conduct upon which the resignation is predicated. This summary with the following statements attached, will be added as an inclosure to the resignation:

(*a*) Signed statement of the substance of testimony of witnesses who have been examined.

(*b*) Any statements, documents, or evidence of other factors considered by the commanding officer in arriving at his conclusion and in making his recommendation.

(*c*) A statement of any reasonable ground for the belief that the accused is, or was at the time of his misconduct, mentally defective, deranged, or otherwise abnormal.

(*d*) A statement from the individual indicating whether he desires to make a statement in his own behalf. (If answer is affirmative, statement will be appended or deferred for later submission at the option of the individual.)

(2) The final decision with respect to the resignation will be made by the officer having general courts-martial jurisdiction within 3 months of the submission of such resignation, and the mentioned officer will take appropriate action within such period of time.

(3) A resignation for the good of the service tendered under the procedures above, ordinarily will not be accepted when the offense or offenses with which the individual is, or may be, charged would warrant imposition by a general court-martial of punishment more severe than dishonorable discharge from the service.

b. An individual who is under suspended sentence of bad conduct or dishonorable discharge may tender his resignation for the good of the service (para 9-4). The resignation will be forwarded through channels to the officer who has general courts-martial jurisdiction over the individual (para 9-11*a*) and who is authorized to accept or, under conditions set forth in paragraph 9-11*e* to recommend refusal to accept the resignation. The resignation, if accepted, will normally be under conditions other than honorable and the individual normally furnished an undesirable discharge. However, the Discharge Authority may direct an honorable or general discharge if warranted. The reason and authority for discharge (item 11c, DD Form 214) will be entered as shown in appendix I, AR 635-5.

c. A request for withdrawal of a resignation tendered for the good of the service may be submitted to the officer having general courts-martial jurisdiction over the individual concerned in accordance with paragraph 9–11*b*.

9–8. Resignation in lieu of separation under AR 604–10. *a.* Any resignation submitted in lieu of separation under AR 604–10 will be forwarded through channels to The Adjutant General, Department of the Army, ATTN: AGPO–SS, Washington, D.C., 20315 for final disposition by the Secretary of the Army (para 9–4).

b. The reason and authority for discharge (item 11c, DD Form 214) will be entered as shown in appendix I, AR 635–5.

9–9. Resignation in lieu of separation for homosexuality. An individual may tender his resignation for the good of the service in lieu of trial by court-martial for homosexuality. Prior to submission of the resignation, the individual will be afforded the opportunity to consult with counsel (para 9–4). The resignation will be forwarded through channels to the officer who has general courts-martial jurisdiction over the individual (para 9–11*a*) and who is authorized to accept or, under conditions set forth in paragraph 9–11*e*, to recommend refusal to accept the resignation. The foregoing is not to be construed to preclude the appropriate convening authority from referring a case to trial by court-martial at any time prior to the acceptance of a resignation.

a. When a resignation is tendered in lieu of separation for homosexuality, the immediate commanding officer of the individual concerned will append thereto the documents required in paragraph 11, AR 635–89.

b. The resignation submitted by an individual alleged to be a class I homosexual, if accepted, will normally be under other than honorable conditions and the individual normally furnished an undesirable discharge. However, the Discharge Authority may direct an honorable or general discharge, if warranted. See section III, chapter 2. The reason and authority for discharge (item 11c, DD Form 214) will be entered as shown in appendix I, AR 635–5.

c. The resignation submitted by an individual alleged to be a class II homosexual, if accepted, normally will be under conditions other than honorable, and the individual discharged with an undesirable discharge. However, if the particular circumstances in a given case warrant, a general or honorable discharge may be furnished. The reason and authority for discharge (item 11c, DD Form 214) will be entered as shown in appendix I, AR 635–5.

9–10. Effect of disability upon resignation. *a.* An individual whose resignation normally would be accepted under honorable conditions as specified above and who is found to be physically disabled to such an extent that he requires hospitalization or should have his case brought before a physical evaluation board (see AR 635–40A) may, at any time prior to discharge, request that such resignation be withdrawn. Such request will be forwarded to the officer authorized to accept the resignation. The request for withdrawal will be approved, and action will be taken under AR 635–40A.

b. Each of the physically disabled enlisted persons described in *a* above will be counseled concerning the advantage to him of retention on active duty by an officer authorized to administer oaths pursuant to the Uniform Code of Military Justice, Article 136. This officer will furnish the enlisted person with a list of retention advantages as shown in paragraph 2–6, will orally explain the advantages, and will have the enlisted person execute an affidavit similar to the affidavit shown in paragraph 2–6, if retention is not desired. (Authority of Armed Forces personnel to administer oaths, take acknowledgements, and perform other notarial acts is contained in AR 600–11.)

c. The affidavit of an individual who does not desire retention will be placed in the Personnel Records Jacket (DD Form 201).

9–11. General procedures. *a. Authority to accept resignations.*

(1) Officers designated in paragraph 2–17*a* are authorized to accept or recommend

refusal to accept resignations tendered under paragraph 9-3 or 9-6.

(2) Officers exercising special courts-martial jurisdiction (para 2-17*d*) are authorized to accept or recommend refusal to accept resignations tendered under paragraph 9-5*a*.

(3) Officers exercising general courts-martial jurisdiction (para 2-17*b*) are authorized to accept or recommend refusal to accept resignations tendered under paragraphs 9-5*b*, 9-7, and 9-9; when refusal of a resignation tendered pursuant to paragraphs 9-7 or 9-9 is recommended, trial by court-martial may be directed by the officer exercising general courts-martial jurisdiction.

(4) Resignations tendered under paragraph 9-7 will be forwarded to The Adjutant General, Department of the Army, ATTN: AGPO-SS, Washington, D.C., 20315, for final disposition by the Secretary of the Army.

b. Requests for withdrawal.

(1) All requests for withdrawal of resignations will be submitted in writing, to the officer to whom the original tender of resignation was submitted.

(2) The tender of an unconditional resignation may be withdrawn at any time prior to acceptance. After acceptance, and before effect has been given to the acceptance by discharge of the enlisted person concerned, such requests will be forwarded, through the same channels by which the tender of resignation was forwarded, to the officer authorized to accept the resignation. Normally, consent to withdraw the accepted resignation will be given only if extenuating circumstances are presented which clearly indicate that such action is in the best interest of the service. No accepted resignation may be withdrawn or materially modified without the consent of the officer authorized to accept the resignation, or the Secretary of the Army.

(3) Conditional resignations may be withdrawn, whether or not accepted, only with the consent of the officer empowered to accept it.

c. Forwarding. The commander who forwards the resignation will recommend acceptance of the resignation or, under conditions set forth in *e* below, refusal to accept it, and will include, if appropriate, a recommendation regarding the type of discharge certificate to which he believes the enlisted person is entitled. Each succeeding commander who forwards the resignation will review the case carefully and either concur in the recommendations or note any difference in opinion with reasons therefor. The forwarding indorsement will include a statement that the enlisted person has no time lost to be made good, or if time has been lost, the total amount thereof to be made good, together with a statement regarding whether the enlisted person concerned has been alerted, or orders issued, for oversea assignment and if so, the date of the alert, or orders, whichever is earlier. Each commander who forwards the resignation will determine whether any of the items mentioned in *e* below, apply to the individual concerned and will set forth in his indorsement any facts known to him with respect to the application of those items which have not been presented previously.

d. Change in eligibility for resignation. Any serious misconduct on the part of the individual which is committed or discovered subsequent to the forwarding of a resignation will be reported immediately by the most expeditious means to the officer authorized to accept the resignation.

e. Factors affecting acceptance of resignation.

(1) Officers authorized to accept resignations under *a* above, may recommend refusal only if one or more of the following conditions exist:

(*a*) When the member has not yet completed 2 years of service in his current oversea assignment and his resignation has been submitted after he embarked for such an assignment or while he is stationed overseas.

(*b*) When the member has not completed 2 years of service after completion of a course of instruction taken under Title 10, United States Code, section 4301.

(*c*) When the individual has attended a service school wherein a requisite to selection for such attendance was a period of service subsequent to graduation. In making such recommendation, the commander will furnish complete details concerning such course, or courses attended, the amount of service required subsequent to graduation, and whether the enlisted person signed a voluntary statement that he would not make application for resignation prior to the completion of such required service.

(*d*) When the individual is under investigation or is in default concerning public property or funds, for a period not to exceed 6 months following submission of his resignation.

(*e*) When there exists a state of war or national emergency declared by the President or by the Congress.

(*f*) When the individual is absent without leave.

(*g*) When the individual is serving a sentence of court-martial.

(*h*) When the circumstances surrounding the conduct of a member who has submitted a resignation pursuant to paragraph 9–7 or 9–9 are so serious that trial by court-martial is deemed warranted.

(2) The conditions outlined in (1) above, may be waived to authorize approval of tenders of resignation only upon approval of Headquarters, Department of the Army. Letter requests for such waiver will be forwarded to The Adjutant General, Department of the Army, ATTN: AGPO–SS, Washington, D.C., 20315. However, officers authorized to accept resignations tendered under the provisions of paragraphs 9–4 9–5, 9–6, or 9–8, are authorized to waive the requirement of 2 years' oversea service specified in (1)(*a*) above, and accept such resignation, without prior referral to Headquarters, Department of the Army, if such action is deemed to be in the best interest of the service.

(3) If refusal of a resignation is recommended because of the existence of one or more of the conditions set forth in (1) above, the officer authorized to accept resignations under *a* above, will forward the resignation, with a statement of his reasons for recommending refusal, to The Adjutant General, Department of the Army, ATTN: AGPO–SS, Washington, D.C., 20315, for final disposition by the Secretary of the Army. Unless one or more of the above-stated conditions exist, officers authorized under *a* above, to accept resignation must do so within 3 months of the submission thereof.

f. Not to be transferred. Enlisted personnel serving in an unspecified enlistment who, on the date of tender of resignation, have completed the required period of service, and who have not been alerted or placed on orders for oversea movement, will not be applied against any levy for shipment overseas, or otherwise transferred from their current assignments until final action is taken on the resignation.

g. Expeditious handling of resignations required. All commanders forwarding or taking action upon a resignation will do so with the least practicable delay in order that all action, including processing for separation, will be completed not later than 3 months after tender of the resignation, except as specifically provided in *e* above.

9–12. Date resignation becomes effective. Acceptance of a resignation will be effective only upon the discharge, actual or constructive, of the enlisted person concerned. See section V, chapter 2.

9–13. Reduction in grade. Upon determination that an enlisted person is to be discharged

from the service with an undesirable discharge, he will be reduced to the lowest enlisted grade. The officer exercising general courts-martial jurisdiction will, upon his approval for discharge, or upon receipt of approval from higher authority, direct reduction of such individual to private, E-1. by the reducing authority.

SUBJECT: Resignation

TO:

1. Under the provisions of chapter 9, AR 635-200, I hereby voluntarily tender my resignation from the Army. This resignation is tendered (without conditions) (in lieu of board proceedings under the provisions of AR 635_____ for [unsuitability] [unfitness] [homosexuality] [misconduct]) (in lieu of board proceedings under the provisions of AR 604-10) (in lieu of reduction for inefficiency under the provisions of AR 600-200) (in lieu of accepting punishment under the provisions of the Uniform Code of Military Justice, Article 15) (for the good of the Service under circumstances which could lead to a bad conduct or dishonorable discharge). I have not been subjected to coercion with respect to this resignation. I have been advised of the implications that are attached to it.

2. (Applicable to resignations in lieu of board proceedings.) I hereby waive a hearing before a board of officers, at which, with benefit of counsel, I would be afforded an opportunity to submit matters in mitigation or defense in my case.

3. (Applicable to resignations in lieu of board proceedings for unfitness, homosexuality, misconduct under the provisions of AR 635-206, or AR 604-10, which could lead to an undesirable discharge, and applicable to resignations for the good of the Service under circumstances which could lead to a bad conduct or dishonorable discharge.)

4. (Applicable to unconditional resignations, resignations in lieu of board proceedings for unsuitability, and resignations in lieu of reduction for inefficiency or in lieu of accepting Article 15 punishment.) I understand that this resignation, if accepted, may be under general or honorable conditions.

5. Statements in my own behalf (are) (are not) submitted herewith (inclosure_____).

6. I understand that, once this resignation is submitted, it may be withdrawn, whether or not accepted, only with the consent of the officer empowered to accept it. An unconditional resignation, as defined in paragraph 9-3, AR 635-200, may be withdrawn in accordance with subparagraph 9-11*b*(1), AR 635-200.

7. Prior to completing this form, I [have consulted with (_____, counsel for consultation)] *[and (_____, my named military counsel) (_____, my civilian counsel retained at my own expense)] **[decline the opportunity to consult with a consulting counsel].

★*Figure 9-1.*

8. I have retained a copy of this resignation and any inclosures submitted.

_____
(Signature of member)

_____
(Typed name, SSN, grade, present duty station, and unit to which assigned and/or attached)

Having been advised by me (of the basis for his contemplated separation), the effects of his resignation, the rights available to him and the effect of a waiver of these rights (name of individual) personally made the choices indicated in the foregoing resignation.

_____
(Signature of consulting counsel)

_____
(Typed name, SSN, grade, and branch)

*To be used only when applicable. A military counsel requested by name will be appointed if reasonably available.

**When a member in the custody of civil authorities refuses to consult with consulting counsel, he will be ordered to do so, and if he persists in his refusal, a statement to that effect will be attached to the file and the resignation may be disapproved or processed as if consultation had occurred.

Note: Consulting counsel will sign this form as counsel.

★*Figure 9-1*—Continued.

CHAPTER 10

DISCHARGE FOR THE GOOD OF THE SERVICE

10-1. General. *a.* An individual who has committed an offense or offenses, the punishment for which, under the Uniform Code of Military Justice and the Manual for Courts-Martial, United States, 1969 (Revised Edition), includes a bad conduct or dishonorable discharge, may submit a request for discharge for the good of the Service. The request for discharge may be submitted at any time after court-martial charges are preferred against him, regardless of whether the charges are referred to a court-martial and regardless of the type of court-martial to which the charges may be referred. The request for discharge may be submitted at any stage in the processing of the charges until final action on the case by the court-martial convening authority. An individual who is under a suspended sentence of a punitive discharge may likewise submit a request for discharge for the good of the Service.

b. The request for discharge for the good of the Service does not preclude or suspend disciplinary proceedings. Whether proceedings will be held in abeyance pending final action on a request for discharge under the provisions of this chapter is a matter to be determined by the commander exercising general court-martial jurisdiction over the individual concerned.

c. If disciplinary proceedings are not held in abeyance, the general courts-martial convening authority may nevertheless approve the member's request for discharge for the good of the Service after the member has been tried. In this event, the officer who convened the court by which the member was tried, in his action on the case, should not approve any punitive discharge adjudged and should approve only so much of any adjudged sentence to confinement at hard labor or hard labor without confinement as has been served at the time of his action.

★**10-2. Personal decision.** *a.* Commanders will insure that an individual will not be coerced into submitting a request for discharge for the good of the service. The member will be given a reasonable time (not less than 72 hours) to consult with a consulting counsel (para 1-3*c* and 1-10*e*) and to consider the wisdom of submitting such a request for discharge.

b. Consulting counsel will advise the member concerning the elements of the offense or offenses charged, burden of proof, possible defenses, possible punishments, provisions of this chapter, requirement of voluntariness, type of discharge normally given under the provisions of this chapter, rights regarding the withdrawal of his request, the loss of Veterans Administration benefits, and the possibility of prejudice in civilian life because of the characterization of such a discharge. Consulting counsel may advise the individual regarding the merits of this separation action and the offense pending against him (para 1-3*c*).

c. If the member, after receiving counseling (*b* above), elects to submit a request for discharge for the good of the Service, he will personally sign a written request, certifying that he has been counseled, that he understands his rights, that he may receive a discharge under other than honorable conditions, and that he understands the adverse nature of such a discharge and the possible consequences. The consulting counsel will sign as a witness, indicating that he is a commissioned officer of the Judge Advocate General's Corps, unless the request is signed by a civilian counsel representing the member. A member, nev-

ertheless, may not waive consultation with a consulting counsel. If the member refuses to consult with a consulting counsel, he will be ordered to do so by his commander. If he persists in his refusal, a statement to this effect will be prepared by the commander and included in the file. Separation action may then proceed as if the member had consulted with a consulting counsel or the general court-martial convening authority may refuse to accept the tendered request for discharge.

10-3. Preparation and forwarding. ★*a.* A request for discharge for the good of the service will be submitted in the format shown in figure 10-1.

b. The request for discharge will be forwarded through channels to the officer who has general court-martial jurisdiction over the individual concerned. Commanders through whom the request for discharge is forwarded will recommend either approval or disapproval with the reasons for the recommendation; if approval is recommended, the type discharge to be issued also will be recommended.

c. The following data will accompany the request for discharge:

(1) A copy of the court-martial charges.

(2) Report of a medical examination as prescribed in chapter 10, AR 40-501.

(3) A complete copy of all reports of investigation.

★(4) Any statement, documents, or other matter considered by the commanding officer in arriving at his conclusion and making his recommendation, including any information presented for consideration by the member or his consulting counsel.

(5) A statement of any reasonable ground for belief that the individual is, or was at the time of his misconduct, mentally defective, deranged, or abnormal. When appropriate, evaluation by a psychiatrist will be included.

d. When an individual is under a suspended sentence of discharge, a copy of the court-martial orders, or a summary of facts which relate to the conduct upon which the request for discharge is predicted, will be forwarded.

★**10-4. Consideration of request.** Commanders having discharge authority under the provisions of this chapter (para 10-7) must be selective in approval of requests for discharges for the good of the Service. The discharge authority should not be used when the nature, gravity, and circumstances surrounding an offense require a punitive discharge and confinement, nor when the surrounding facts do not establish a serious offense, even though the punishment in the particular case, under the Uniform Code of Military Justice, may include a bad conduct or dishonorable discharge. Consideration should be given to the member's potential for rehabilitation and his entire record should be reviewed prior to taking action pursuant to this chapter. Use of this discharge authority is appropriate and encouraged when the commander determines that the offense charged is sufficiently serious to warrant elimination from the Service and the individual has no rehabilitation potential.

10-5. Withdrawal of request for discharge. Unless trial results in an acquittal or a sentence less than discharge, a request for discharge submitted under the provisions of this chapter may be withdrawn only with the consent of the commander exercising general court-martial jurisdiction.

10-6. Medical examination. An individual who submits a request for discharge for the good of the Service will undergo a medical examination as prescribed in chapter 10, AR 40-501. The report of medical examination will accompany the request for discharge.

10-7. Discharge authority. Commanders exercising general courts-martial jurisdiction are authorized to approve requests for discharge for the good of the Service and to order the discharge of individuals or to disapprove such requests. This authority may be delegated as specified in paragraph 2-17*b*.

★**10-8. Discharge certificate issued.** An undesirable discharge certificate will normally be furnished an individual who is discharged for the good of the Service. If warranted, however, the discharge authority may direct an honorable or general discharge. The reason and

authority for discharge (item 9*c*, DD Form 214) will be "Chapter 10, AR 635-200," and the appropriate SPD will be given. (AR 635-5-1 contains a list of SPDs.)

★**10-9. Forwarding fingerprints to the FBI.** FD Form 249 (Fingerprint Card) will be prepared and submitted in accordance with paragraph 3-17, AR 635-10, when the member is discharged under the provisions of this chapter. This will be accomplished after the member has been tried (para 1-5, AR 190-4).

★**10-10. Disposition of supporting documentation.** The request for discharge for the good of the service with appropriate documentation (para 10-3*c*), including the decision of the discharge authority, will be filed in the MPRJ as permanent material and disposed of in accordance with AR 635-10.

SUBJECT: Request for Discharge for the Good of the Service

TO:

1. I, _____, SSN _____, hereby voluntarily request discharge for the good of the Service under the provisions of chapter 10, AR 635-200. I understand that I may request discharge for the good of the Service because charges have been preferred against me under the Uniform Code of Military Justice which authorizes the imposition of a bad conduct or dishonorable discharge. I am making this request of my own free will and have not been subjected to any coercion whatsoever by any person. I have been advised of the implications that are attached to it. By submitting this request for discharge, I acknowledge that I am guilty of the charge(s) against me or of (a) lesser included offense(s) therein contained which also authorize(s) the imposition of a bad conduct or dishonorable discharge. Moreover, I hereby state that under no circumstances do I desire further rehabilitation, for I have no desire to perform further military service.

2. Prior to completing this form, I have been afforded the opportunity to consult with appointed counsel for consultation [* in addition, I have consulted with (military counsel of my own choice who was reasonably available) (civilian counsel retained at my own expense)] [**Although I have received a lawful order to see consulting counsel, I persist willfully in my refusal to see him.] [*** I have consulted with counsel for consultation who has fully advised me of the nature of my rights under the Uniform Code of Military Justice, (the elements of the offense(s) with which I am charged, any relevant lesser included offense(s) thereto, and the facts which must be established by competent evidence beyond a reasonable doubt to sustain a finding of guilty; the possible defenses which appear to be available at this time; and the maximum permissible punishment if found guilty) (and of the legal effect and significance of my suspended discharge). (Although he has furnished me legal advice, this decision is my own.)]

3. I understand that, if my request for discharge is accepted, I may be discharged under other than honorable conditions and furnished an Undesirable Discharge Certificate. I have been advised and understand the possible effects of an undesirable discharge and that, as a result of the issuance of such a discharge, I will be deprived of many or all Army benefits, that I may be ineligible for many or all benefits administered by the Veterans Administration, and that I may be deprived of my rights and benefits as a veteran under both Federal and State law. I also understand that I may expect to encounter substantial prejudice in civilian life because of an undesirable discharge.

4. I understand that, once my request for discharge is submitted, it may be withdrawn only as provided in paragraph 10-5, AR 635-200.

5. I have been advised that I may submit any statements I desire in my own behalf, which will accompany my request for discharge. Statements in my own behalf (are) (are not) submitted with this request.

★*Figure 10-1.*

6. I hereby acknowledge receipt of a copy of this request for discharge and of all inclosures submitted herewith.

_____
(Signature of respondent)

Having been advised by me of (the basis for his contemplated trial by court-martial and the maximum permissible punishment authorized under the Uniform Code of Military Justice) (the significance of his suspended sentence to a bad conduct or dishonorable discharge); of the possible effects of an undesirable discharge, if this request is approved; and of the procedures and rights available to him, _____ personally made the choices indicated in the foregoing request for discharge for the good of the Service.

_____
(Signature of counsel)

*To be used when appropriate. Such counseling is not to be used in lieu of consultation with consulting counsel.

**To be used only when a member under military control refuses to obey an order to see consulting counsel. (See para 10-2c.)

***To be used in all cases when a member had consulted with consulting counsel.

★*Figure 10-1*—Continued.

CHAPTER 11

DISHONORABLE AND BAD CONDUCT DISCHARGE

11-1. DD Form 260A (Dishonorable Discharge). An enlisted person will be given a dishonorable discharge pursuant only to an approved sentence of a general court-martial, after completion of appellate review and after such affirmed sentence has been ordered duly executed. See paragraphs 14*b*, 98, and 127, MCM, 1969 (Revised Edition).

11-2. DD Form 259A (Bad Conduct Discharge). An enlisted person will be given a bad conduct discharge pursuant only to an approved sentence of a general or special court-martial, after completion of appellate review and after such affirmed sentence has been ordered duly executed. See paragraphs 14*b*, 98, and 127, MCM, 1969 (Revised Edition).

★11-3. Personnel confined in foreign penal institutions. Personnel with an approved sentence to a dishonorable or bad conduct discharge, who are confined in a foreign penal institution, either before, during, or after trial by a foreign tribunal, will not be discharged until returned to the United States (AR 27-50). In a specific individual case, if the commander considers that discharge in an overseas area is desired, he may forward a request for approval of such discharge to HQDA (DAPC-PAS-S), 200 Stovall Street, Alexandria, VA 22332. A report containing essentially the information outlined in paragraph 3-3*b* will be forwarded with the request. The separation in foreign countries of persons so confined will be subject to the conditions set forth in paragraph 3-3*a*.

11-4. Expulsion from the Army. Dishonorable and bad conduct discharges result in expulsion from the Army. For exceptions affecting court-martial jurisdiction, see 10 USC 802 (7) and 803; Articles 2(7) and 3, UCMJ; and paragraph 11, MCM, 1969.

★11-5. Reason and authority for discharge. The reason and authority for discharge will be entered in item 9*c*, DD Form 214, as shown in AR 635-5-1.

★11-6. Discharge in absentia. Except as provided in paragraph 11-3, an individual who was placed on excess leave without pay pending completion of appellate review (para 5-2*d*(3), AR 630-5) may be discharged without returning to a military installation when the sentence is affirmed.

a. When appellate review is completed and the affirmed sentence ordered executed, the appropriate discharge documents will be completed and mailed by registered mail to the address furnished by the individual. The return address willl be shown as Commander, US Army Reserve Components Personnel and Administration Center, 9700 Page Boulevard, St. Louis, MO 63132. If the documents are returned unclaimed or undeliverable, they will be placed in the official military personnel file (OMPF).

b. Prior to departure on excess leave, action will be taken to:

(1) Prepare fingerprint card (FD Form 249) (para 1-5, AR 190-4).

(2) Give member a type "A" medical examination (chap. 10 and app IX, AR 40-501).

(3) Complete as much of the preprocessing (AR 635-10) as is appropriate, including partial completion of DD Form 214.

CHAPTER 12

RETIREMENT FOR LENGTH OF SERVICE

Section I. GENERAL

12-1. Purpose. This chapter establishes policies and procedures for implementing laws governing voluntary retirement of enlisted personnel of the Regular Army by reason of length of service.

12-2. Scope. *a.* The provisions of this chapter govern the retirement of Regular Army enlisted personnel, male or female, who are retiring in their Regular Army enlisted status. Chapter 4, AR 635-100, governs the retirement of eligible Regular Army enlisted personnel in commissioned or warrant officer grades.

b. Prior service enlisted personnel serving on AD as officers, who are not qualified for retirement in their commissioned or warrant officer status, may qualify for retirement under the provisions of this chapter. For procedures, see section VII, chapter 3, AR 685-100.

12-3. Retirement approval authority. Authority to approve or disapprove requests for voluntary retirement under the provisions of this chapter is hereby vested in the following:

a. Commanders specified in paragraph 2-17*a*. This authority will *not* be further delegated.

b. The Commanding General, US Army Military Personnel Center (HQDA (DAPC-PAS-RS), 200 Stovall St., Alexandria, VA 22332), for all units, activities, or organizations which do not come under the jurisdiction of a commander specified in paragraph 2-17*a*.

c. Hereinafter the above commanders are referred to as "retirement approval authority" or "commander having retirement approval authority."

Section II. STATUTORY AUTHORITY

12-4. General provisions of laws governing retirement. *a.* In general, laws governing retirement of enlisted members of the Regular Army provide that—

(1) The individual must be an enlisted member of the Regular Army on AD at the time of retirement (10 USC 3914 and 3917).

★(2) Retirement will be in the AD grade in which serving at the time of retirement (10 USC 3961). (*See para 12-15* for instructions pertaining to former Command Sergeants Major, E-9, who are serving as Sergeants Major, E-9, at the time of retirement.)

(3) Years of service for retirement are computed by adding all active service in the Armed Forces and service computed under 10 USC 3683 (10 USC 3925).

(4) The date of retirement is uniformly the first day of the month following the month in which the individual is released from AD (5 USC 8301).

b. See chapter 3, AR 37-104-1 concerning retired pay.

12-5. Twenty-year retirement law (10 USC 3914). *a.* An enlisted member of the Regular Army who has completed 20, but less than 30, years of active Federal service in the Armed

Forces of the United States and who has completed all required service obligations at the time of retirement may, upon his request and at the discretion of the Secretary of the Army, be retired. He then becomes a member of the US Army Reserve (Retired) and remains in that status until his active service prior to retirement and the period served in the USAR (Retired) after retirement equals 30 years. He will perform such AD as may be prescribed by law.

b. An enlisted member who holds a current commission in the USAR will be transferred to the Retired Reserve in the status he elects. Dual status in the USAR as a commissioned officer and as an enlisted member is not authorized and, once retirement is accomplished pursuant to an election of the member, election may not be changed. Transfer to the Retired Reserve to complete obligated service in an enlisted status vacates commissioned status in the USAR.

c. An individual who has been awarded the Medal of Honor, Distinguished Service Cross, or Navy Cross for extraordinary heroism will, upon retirement under 10 USC 3914, have his retired pay increased 10 percent, provided his total retired pay (including the increase) does not exceed 75 percent of the basic pay upon which computed. In addition, an enlisted member who has been awarded the Distinguished Flying Cross, the Soldier's Medal, or equivalent Navy decoration may be credited by the Secretary of the Army with extraordinary heroism if it is determined that the heroism was equivalent to that required for award of the Distinguished Service Cross. Each case appearing to warrant Secretarial determination of extraordinary heroism will be submitted to HQDA (DAPC-PAP-B), 200 Stovall St., Alexandria, VA 22332, for determination of such entitlement. A copy of the citation accompanying the award will be included with the information submitted to MILPERCEN, if available. *(See para 3-5b, AR 37-104-1; para 19e, AR 672-5-1; and 10 USC 3991.)*

12-6. Thirty-year retirement law (10 USC 3917). An enlisted member of the Regular Army who has completed at least 30 years of active Federal service in the Armed Forces of the United States will, upon his request, be places on the retired list.

12-7. Advancement on the retired list (10 USC 3964). *a.* "Active duty," as used in this paragraph is full-time duty in the active military service of the United States, other than ADT.

b. Members retired with less than 30 years of active Federal service are considered for advancement on the retired list to the grade equal to the highest grade (permanent or temporary) in which they served satisfactorily on AD as determined by the Secretary of the Army, for the period of time specified in (1) *or* (2) below, as applicable, when active service prior to retirement plus service on the retired list totals 30 years. Upon completion of 30 years' service, the military personnel records of each member who held a higher grade than that in which retired are reviewed to determine whether his service in the higher grade was satisfactory. Members advanced to a higher grade will be notified of such advancement by the Commander, US Army Reserve Components Personnel and Administration Center, St. Louis, MO 63132.

(1) For advancement to a *commissioned officer* grade, member must have served on AD in such grade for at least 185 days.

(2) For advancement to a *warrant officer* grade, member must have served on AD in this grade for at least 31 days.

c. Members retired after completion of 30 years' active Federal service are advanced on the retired list, concurrent with retirement, to the highest grade in which they served satisfactorily on AD for the period of time specified in *b*(1) *or* (2) above as applicable, as determined by the Secretary of the Army.

d. Service in the highest grade will be deemed to have been satisfactory for this purpose except when (1) *through* (3) below apply. All service may be considered to be continuous, or each period of service may be considered sepa-

rately, whichever is to the member's benefit. The criteria set forth in (1) through (3) do not preclude an individual from being considered to have served satisfactorily in any lower grade or rank previously held. When the member served in a grade two or more grades higher than the grade held at time of retirement and a determination is made that he did not serve satisfactorily in the highest grade, it will be determined that he served satisfactorily in the next lower grade unless his service in that lower grade comes within the purview of one or more of the following subparagraphs.

(1) When service in the highest grade was performed under any circumstances other than during the course of active duty as defined in *a* above.

(2) When reversion to a lower grade was—

(*a*) Expressly for prejudice or cause,

(*b*) Due to misconduct, or

(*c*) Punishment pursuant to Article 15, UCMJ, or court-martial action.

(3) When there is information in the member's military personnel record pertaining to his service in the highest grade which indicates clearly that he did not serve satisfactorily in that grade. This includes the grade in which member is currently serving.

e. Cases of enlisted members who appear to be eligible for advancement on the retired list concurrent with retirement will be forwarded for determination, with all information pertinent to the higher grade, to HQDA (DAPC-PAS-RS), 200 Stovall St., Alexandria, VA 22332, not later than 75 days prior to the requested retirement date. This will include:

(1) Cases covered in *c* above.

(2) Cases of members who are to retire in an enlisted status who have served on active duty in any Armed Force in an enlisted grade higher than that in which they are currently serving.

f. Members advanced to a higher commissioned grade may apply to the Secretary of the Army within 3 months of advancement for restoration on the retired list to their former enlisted status (10 USC 3965).

g. Members may, for personal reasons, desire to defer advancement to a higher grade. Accordingly, prior to such advancement a member may apply for a specified period of deferment and for placement or retention on the retired list in his current status. The application for deferment of advancement will include the following statement, over the personal signature of the member:

> I understand that subsequent advancement will not be retroactive and that increased pay or other entitlements accruing therefrom will be based on the actual date of advancement.

(1) Members who are retiring after completion of 30 years' active Federal service who are eligible for concurrent advancement on the retired list to a higher grade and who desire to defer such advancement may submit a request for deferment through channels to the retirement approval authority. The request must be received by that commander not later than 30 days prior to the requested retirement date.

(2) Retired members may apply to the Commander, US Army Reserve Components Personnel and Administration Center, ATTN: AGUZ-RCPD-RAD, 9700 Page Blvd, St. Louis, MO 63132. The application must be received by that Center not later than 30 days prior to the date the member completes 30 years' service (active Federal service plus service on the retired list).

h. See paragraph 12-15 concerning the eligibility of former Command Sergeants Major, E-9 for placement on the retired list in that grade title. The difference between SGM, E-9 and CSM, E-9, is one of grade *title* only, and not a difference in grade. The provisions of this paragraph do not apply to such cases.

Section III. REQUIREMENTS AND PROCEDURES

12-8. Eligibility. Members who have completed 19 years and 6 months or more of active Federal service may apply for retirement not earlier than 6 months prior to their desired retirement date. The member must complete at least 20 years of active Federal service and all applicable service obligations (*para 12-9*) by the requested retirement date. (*See paragraph 12-11 concerning applying for retirement.*)

★12-9. Service obligations. *a.* This paragraph

applies to members retiring under 10 USC 3914, only (i.e., those who have completed 20, but less than 30, years of active Federal service).

b. A member will be required to serve as indicated in (1) and (2) below:

(1) Until the member completes one year in current assignment or at current duty station, whichever occurs first.

(2) One year from the date of arrival of dependents at the members duty station, when dependents traveled at Government expense.

(3) As exceptions to the above these requirements are waived for—

(*a*) Members whose reenlistment is precluded under chapter 4, AR 600-200 (Qualitative Management).

(*b*) Members who have returned from oversea assignment for assignment in CONUS or area of residence (including personnel medically evacuated to a hospital who upon completion of hospitalization are assigned in CONUS or area of residence).

c. Subject to the conditions in (1) and (2) below, an individual receiving an alert or orders for reassignment providing for a permanent change of station may submit an application for retirement within 30 days of his receipt of the alert or reassignment orders, whichever is earlier, in lieu of complying with such alert/orders (*See chap. 7, AR 614-200* concerning deletion from assignment alert/orders.) *Applications submitted under this subparagraph may not be withdrawn—member will be required to retire on the retirement date specified in the application.*

(1) The requested retirement date may *not* be more than *6* months subsequent to the date of the application.

(2) The member must meet eligibility requirements and service obligation requirements by the requested retirement date.

d. **Rescinded.**

e. An individual assigned to a unit deploying from an oversea area to CONUS who has submitted or who has an approved application for retirement will move with the unit providing his retirement will not be delayed. Notwithstanding the provisions of *b* above, such individuals will be retired on the date originally requested.

f. An individual who has attended a military or civilian course of instruction must complete any service obligation voluntarily incurred as a result of such instruction.

g. Except as provided in (1) and (2) below, an individual who is promoted to pay grade E-7, E-8, or E-9 incurs a 2-year service obligation (AR 600-200). To be eligible to retire in such grade the member must complete the obligated service. If a member is promoted to such pay grade after submitting an application for retirement, he will be required either to submit a written request for withdrawal of his retirement application (*see para 12-14*) or to decline the promotion in writing. Such request for withdrawal of retirement application or declination of promotion will be submitted no later than 15 days after promotion (date of promotion, not date of rank) or prior to the requested retirement date, whichever is earlier. When an individual accepts promotion to such pay grade and an application for retirement has been forwarded to the retirement approval authority that commander and HQDA (DAPC-EPC-Career Manager) 2461 Eisenhower Ave., Alexandria, VA 22331, will be notified by message or other appropriate expeditious means.

(1) An individual who will have completed 30 or more years' active Federal service on the requested retirement date.

(2) An individual who is already eligible through prior service, for a higher grade at time of retirement.

h. Individuals whose current expiration of term of service is prior to completion of service obligation will be counseled in accordance with paragraph 2-2.1.

12-10. Waivers. *a.* Exceptions to service obligations may be granted when the best interests of the service are involved and/or when substantial hardship exists or would otherwise result if the member is not retired. ETS in itself is not justification for an exception. Requests for exception to service obligations may be submitted by the service member, only, and must be fully defined and documented.

b. For the purpose of this chapter, substantial hardship is defined as a situation or circumstance which imposes undue privation or suffering on the member or his immediate family. Potential loss of extremely favorable employment because of an employer's reporting deadline, or attendance at an institution of higher learning (as defined in para 5-20*a*), may constitute a hardship.

c. Requests for waivers or exceptions to service obligations will be forwarded through channels to HQDA (DAPC-PAS-RS), 200 Stovall St., Alexandria, VA 22332. DA Form 2339, with both sections I and II completed and signed, will be attached to the request. Commanders must comment on the justification submitted and include a statement concerning the essentiality of the member to the mission of the command.

12-11. Applying for retirement. Requests for retirement will be submitted on DA Form 2339 (Application for Voluntary Retirement). *See paragraph 12-12 for preparation instructions.*

a. Prior to applying for retirement, the member should weigh all considerations carefully and be firm in his decision to retire on a certain date (*see para 12-14*).

★*b. Except as provided in this paragraph, retirement applications must be submitted and forwarded so as to reach the retirement approval authority at least 2 months prior to the retirement date.* In an emergency, or to preclude an extreme hardship to the member or his immediate family, an application may be sumitted to reach the retirement approval authority less than 2 months prior to the requested retirement date. In such case, the applicant must state the specific reason for the delay in submitting the application, must set forth clearly the nature of the emergency or hardship involved, and must include a statement that he is aware that insufficient time for processing may preclude retirement on the date requested.

c. To preclude or minimize personnel turbulence, members who wish to retire who are nearing completion of oversea tours will be encouraged to request a retirement date which coincides with their DEROS. This applies especially to members serving on short tours. Exceptions may be made to preclude extreme hardship on the member or his immediate family.

d. Personnel officers will—

(1) Require each member who desires to apply for retirement to first read this chapter.

★(2) Assure that each applicant understands section V, including the provision that he will not be held on active duty beyond his requested retirement date to complete a medical examination.

(3) Rescinded.

(4) Furnish a copy of DA Pam 600-5 (Handbook on Retirement Services) to each applicant who has not already received one.

12-12. Preparation of DA Form 2339. *a.* Each member requesting retirement will, with the assistance of the personnel officer, complete Section I, DA Form 2339, including date and signature. Each item will be completed in full. The words "not applicable (N/A)" or "none" will be entered where appropriate. When an exception to a service obligation is requested, complete justification will be included as an inclosure to DA Form 2339.

b. The officer having custody of the applicant's personnel records will—

(1) Assist the member in preparing his application. Special attention will be given to items 4, 6, and 21.

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

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

(*c*) *Item 16.*

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

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

(*d*) *Item 21.* If member elects to be processed for retirement at a location of choice transfer activity (*see para 2-18, AR 635-10*), enter the complete designation and location of such transfer activity. *For example:* US Army Transfer Point, Fort Sheridan, IL 60037. Member must check the appropriate election and sign his name.

(2) Complete Section II, DA Form 2339. Each item will be completed in full.

(*a*) *Item 23.* Enter in this item the complete designation and location of the authorized transfer activity where the member is required to be processed for retirement (*chap. 2 and app A, AR 635-10*).

★(*b*) *Item 32.* Enter the statements from *1* and *2* below and require applicant to sign all copies immediately below these statements. Enter the information required by *3*, *4*, and *5*, as applicable:

1. "I have read section V, chapter 12, AR 635-200. I understand that if I wish to undergo a medical examination prior to my retirement I am responsible for arranging for it to be started on the earliest possible date, *but not later than 4 months prior to my requested retirement date.* I am aware that the purpose of this examination is to insure that my medical records reflect, as accurately as possible, my state of health on retirement and to protect my interests and those of the Government. I also understand that my retirement will take effect on the requested date and that I will not be held on active duty to complete this examination."

2. "I have been briefed concerning the Survivor Benefit Plan. I understand that I will automatically be in the plan and will pay the full cost for coverage for my wife, and children if applicable, unless I submit an election form to the contrary prior to my retirement."

3. If application is being submitted under the provisions of paragraph 12-9*c*, enter the following statement: "Appl sbm in lieu of PCS mov."

4. Enter the number of days approved DDALV *prior to retirement for* applicants stationed overseas.

5. If member currently is serving in the grade of SGM, E-9, but formerly served as a CSM, E-9, enter whichever of the following statements is applicable (*see para 12-15*):

"SGM, E-9 _____ (name) served satisfactorily as a CSM, E-9 from _____ (date) to _____ (date). He was released from CSM program solely because of an assignment limiting physical condition incurred in LD."

"SGM, E-9 _____ (name) served as a CSM, E-9 from_____ (date) to _____ (date). He (was released from CSM program due to inadequate performance of duty) or (voluntarily withdrew from the CSM program for reasons other than an assignment limiting physical condition incurred in LD)."

★(3) Forward a signed additional copy of the application, as soon as sections I and II are completed, to HQDA (DAPC-EPC-Career Manager), 2461 Eisenhower Ave., Alexandria, VA 22331, *via airmail.* The submission of this copy of the application will not be delayed pending completion of medical examination or verification of service.

(4) Obtain verification of service (*para 12-25*).

★(5) Insure that the member's enlistment does not expire prior to the requested retirement date. If his enlistment will expire prior to the requested date of, or eligibility for voluntary retirement, it may be extended to the date of retirement, but not more than 6 months, under the provisions of paragraph 4-3, AR 601-280. (*See also* para 4-6, AR 600-200.) These requests will be approved and oaths of extension accomplished before retirement applications are submitted. When the individual is not eligible for extension under AR 601-280, applications for exception will be forwarded to the Commander, Enlistment Eligibility Activity, 9700 Page Boulevard, St. Louis, MO 63132, for final action.

★(6) Forward the completed application to the retirement approval authority, direct or through channels prescribed by that commander, as soon as section II is completed and signed. Verification(s) of service will be attached, if obtained.

★(7) If, after retirement orders are issued, there is any change in the member's status or physical condition which precludes retirement, notify the retirement approval authority and HQDA (DAPC-EPC-Career Branch), 2461 Eisenhower Ave., Alexandria, VA 22331, immediately and obtain the decision of the retirement approval authority either to revoke the orders or to let them stand. Notify the service member of the decision prior to the effective date of retirement.

12-13. Responsibility of retirement approval authority. Commanders specified in paragraph 2-17*a* will take action to assure that—

a. No member is retired who has not completed at least 20 years of active Federal service which is creditable for retirement (*see IV*).

b. Members are not permitted to use the submission of an application for retirement as a means of avoiding reassignment, except as explicitly provided in paragraph 12-9*c*, and that members who submit applications under that paragraph are not permitted to withdraw their

applications or change the requested retirement date to a later date.

c. Retirement orders are issued as far in advance of the retirement date as possible so as to give the member ample time to arrange for movement of dependents and transportation of household goods, etc.

d. Paragraph 12–12*b*(3) is complied with.

12–14. Request for withdrawal of application or change in retirement date.★ *a.* Except as provided in paragraph 12–9*g* and (1) and (2) below, an application from an eligible member may *not* be withdrawn. Further, an application for retirement may *not* be withdrawn after travel has been performed in connection with retirement. Applications may be withdrawn when—

(1) It can be definitely established that the retention of the member on active duty will be for the convenience of and in the best interests of the Government, or will preclude an extreme hardship to the member or his immediate family (latter applicable only to those cases where the hardship was unforeseen at the time of application).

(2) Individuals who submitted retirement applications by reason of denial of reenlistment under chapter 4, AR 600–200 (Qualitative Management Program) and retirement date was established in conjunction with ETS who are selected for promotion to E–7, E–8, or E–9, *if they intend to accept the promotion.* Those who withdraw their applications will be required to complete the promotion service obligation (*para 12–9g*). The statement of counseling under paragraph 2–2.1 will be attached to the request for withdrawal.

b. Except as provided in *a*(2) above, individuals who applied for retirement in lieu of PCS reassignment will *not* be permitted to withdraw their applications for retirement based solely on selection for promotion. (*See para 12–9g* for action in cases of members actually promoted prior to established retirement date.)

c. A request for change in the retirement date will *not* be approved unless extenuating circumstances arise after submission of the application which clearly justify an exception to policy, to preclude an extreme hardship to the member or his immediate family which was unforeseen at the time of application. The effective date of retirement may *not* be changed to a date which is more than 6 months after the date of the retirement medical examination.

d. Requests for withdrawal of applications or change in retirement date must be fully documented and will be forwarded, with one copy of the DA Form 2339 attached, through channels to reach the retirement approval authority not later than 30 days prior to the previously requested retirement date. The retirement approval authority may disapprove those requests which *clearly do not meet* established criteria or which *are not fully documented.* Those requests on which the retirement approval authority recommends approval will be forwarded to reach HQDA (DAPC–PAS–RS), 200 Stovall St., Alexandria, VA 22332, not later than 20 days prior to the previously requested retirement date. The retirement approval authority will inform the unit commander of this referral. When approval or disapproval action has not been received by the unit commander by the third day prior to whichever of the following dates applies, he will query the retirement approval authority or MILPERCEN, HQDA, as applicable, by telephone (even when Condition MINIMIZE is in effect) to ascertain the action to be taken:

(1) Date member is to depart oversea command for return to CONUS or area of residence.

(2) Date member is to depart his duty station for authorized or location of choice transfer activity, as applicable.

(3) Previously requested retirement date when the retirement approval authority has approved a request for retirement in the oversea command.

12–15. Grade title on retired list of former Command Sergeants Major. *a.* Noncommissioned officers holding the grade of Sergeant Major, E–9 at time of retirement who were released from the Command Sergeants Major program on or after 13 July 1967 solely because of an assignment limiting physical condition which was incurred in line of duty and who served satisfactorily as Command Sergeants Major, including those who voluntarily requested release from the program for such reason, will be placed on the retired list in the grade title "Command Sergeant Major."

★*b.* Members whose release from the Command Sergeants Major program was due to one of the following reasons *are not eligible* to have

their names placed on the retired list in the grade title of Command Sergeant Major. When there is insufficient information in field records on which to determine the member's eligibility for such grade title, inquiry will be made to HQDA (DAPC-EPC-Career Branch), 2461 Eisenhower Ave., Alexandria, VA 22331.

(1) Members released due to inadequate performance of duty.

(2) Members who voluntarily withdrew for reasons other than indicated in *a* above.

(3) Members holding grade of E-8 or below on date of retirement.

c. Retirement orders on eligible members will reflect relief from active duty as SGM, E-9 and placement on the retired list as CSM, E-9.

d. See paragraph 12-12*b*(2)(*b*) for entries to be made on DA Form 2339 (Application for Voluntary Retirement).

12-16. Retirement orders. *a.* These orders may be issued by either the retirement approval authority or the agency which normally issues orders on personnel of the member's unit of assignment, as specified by the retirement approval authority. In those cases in which MILPERCEN, HQDA, is the retirement approval authority, retirement orders will be issued by the normal orders issuing agency for the mem-

ber's unit of assignment. The following standard orders formats contained in appendix A, AR 310-10, will be used to retire enlisted members for length of service.

(1) *TC 365:* to announce the retirement under 10 USC 3917 of enlisted personnel with 30 or more years' active Federal service. The orders will include the SPN shown in appendix A, AR 635-5, for retirement under 10 USC 3917.

(2) *TC 366:* to announce the retirement under 10 USC 3914 of enlisted personnel with 20 or more, but less than 30 years' active Federal service. The orders will include the SPN shown in appendix A, AR 635-5, for retirement under 10 USC 3914.

b. Retirement orders direct relief from active duty on the last day of the month and placement on the retired list on the first day of the following month. In cases of members retired under 10 USC 3914, retirement orders also announce the transfer of the member, concurrent with his retirement, to the USAR (Retired). Relief from active duty and retirement are automatically accomplished on the dates specified in the orders unless the orders are amended or revoked by proper authority prior to 2400 hours (local time) on the date of relief from active duty specified therein. Except as indicated in *c* below, amendments to or revocations of retirement orders may be issued only by the authority which issued them. (*See chap 4, AR 640-2* concerning the submission of DA Form 2876 (Report of Change to DA Form 20 or 66).)

c. Once an order has been issued, it will *not* be amended or revoked except for extreme compassionate reasons or for the definitely established convenience of the Government (*para 12-14a*), or when a change in the member's status precludes retirement on the specified date. *Orders may not be modified, amended, or revoked on or after the effective date of retirement in the absence of fraud, manifest error, mathematical miscalulation or substantial new evidence affecting the member's basic eligibility for retirement.* The following cases will be forwarded by the most expeditious means to HQDA (DAPC-PAS-RS), 200 Stovall St., Alexandria, VA 22332, with full substantiating information:

(1) When circumstances arise which require that retirement orders be amended or revoked prior to the effective date of retirement and the member has been reassigned outside the jurisdiction of the retirement approval authority under whose jurisdiction the retirement orders were issued.

(2) When it appears that retirement orders require modification, amendment or revocation on or after the effective date of retirement.

★*d.* The member must have his retirement orders, or copy of verification message containing the retirement order number, in his possession, and his MPRJ must contain copies of the retirement orders, prior to his departure from the oversea command or CONUS station of assignment for TRANSITION training and/or retirement processing.

★**12-17. Date of retirement.** Members retiring for service may be placed on the retired list only on the first day of a month, with release from active duty on the last day of the preceding month. A member will be retired on the date requested, or on the first day of the month thereafter, provided he is medically and otherwise qualified for retirement.

12-18. Place of retirement. *a.* Except as provided in *b* and *c* below and paragraph 3-2*a*, enlisted personnel, regardless of where stationed, are required to be processed for retirement at the authorized and directed transfer activity specified in paragraph 2-17, AR 635-10.

★*b.* A member may elect, under the provisions of paragraphs 2-18 and 2-19, AR 635-10, to be processed for retirement at a location of choice transfer activity. If a member who has elected to do so subsequently wishes to be retired at the authorized and directed place of retirement, he will, prior to his departure from the unit of assignment, submit adequate justification for this change to his commanding officer. If retirement orders have already been issued and if the member's commanding officer approves his request, that commander will immediately advise the transfer activity commanders at both the location of choice and the authorized and directed transfer activity of this

change. In this situation, the retirement orders need not be amended and TC 207 and 208 *will not* be utilized. The only change the member who had elected to be processed for retirement at a location of choice may later make is from the location of choice transfer activity to the authorized and directed transfer activity. A change from one location of personal choice to another location of choice is *not* authorized.

c. For absence from home station in a leave status on date of retirement, see AR 630-5.

★*d.* An individual serving on foreign service who desires retirement in his oversea area of assignment (subject to approval of oversea commander) must indicate this in his application for retirement. If required, a passport should be secured by the retiree from the nearest United States Consulate.

12-19. Certificates. The following certificates will be prepared and issued to each member upon retirement by the transfer activity at which the member's retirement processing is accomplished. These certificates are sensitive items and will be transmitted, stored, and destroyed in a manner that will prevent their unauthorized use. The certificates are available through normal publications supply channels from the USAAGPC, Baltimore, Md. Requisitions will be honored only from transfer activities listed in AR 635-10 and from approval authorities shown in paragraph 12-8.

a. DD Form 363A (Certificate of Retirement).

b. DA Form 3563 (Certificate of Appreciation). The retirement approval authority may direct that this certificate *not* be presented if he determines that the character of service of the individual is such that presentation is not warranted.

★**12-20. Data for retired pay (DA Form 3713).** DA Form 3713 (Data for Retired Pay) will be prepared by the officer having custody of the member's personnel records on each member for whom retirement orders are issued, including those members for whom MILPERCEN, HQDA is the retirement approval authority.

★*a.* This form contains information essential to the Retired Pay Division, US Army Finance Support Agency, in establishing the member's retired pay account and essential data recorded on the Retired Personnel Master Tape Record maintained in Headquarters, Department of the Army, on each retired member of the Army. *Each item on the form must be completed fully and accurately,* with the exception of the following items which are not applicable to enlist personnel retiring for length of service: items 5, 9, 23, 24, 25, 26, 27, 28, the right-hand portion of item 29 (if member not eligible for concurrent advancement to commissioned retired pay grade 0-1, 2 or 3), 30, and 33.

(1) *Item 3.* Enter member's active duty grade (*para 12-4a(2)*) or the grade to which advanced on the retired list concurrent with retirement (*para 12-7b*), as applicable.

(2) *Item 8.* Enter the highest grade (permanent or temporary) in which the member has served on active duty in any branch of the Armed Forces.

(3) *Item 10.* Enter the grade entered in Item 3.

(4) *Item 11.* Enter the full designation and address of the headquarters issuing the retirement orders.

(5) *Item 16.* For *all* retirements under this chapter—

(*a*) The *type of retirement* is "Non-Disability."

(*b*) The *Finance Allotment Code* is "2."

(6) *Item 17.* Enter the date member enters into a retired status (*para 12-16b*).

(7) *Item 18.* Enter "RA."

(8) *Item 20.* Enter "10 USC 3914" or "10" USC 3917", as applicable.

(9) *Item 21.* Enter "10 USC 3961." In cases of retirement under 10 USC 3917 with concurrent advancement to a higher grade on the retired list, enter "10 USC 3961 and 3964."

(10) *Item 22.* Enter the total service creditable for retirement as provided in 10 USC 3925 (*para 12-23*).

★(11) *Item 29.* Enter total service creditable for basic pay.

b. DA Form 3713 will be distributed as follows at the time retirement orders are issued. In no event will this form be distributed later than the second workday following the issuance of such orders. Distribution will be made via air mail in all cases in which retirement orders are issued during the member's last duty month.

(1) *Copy 1 (original): to Commander,* US Army Finance Support Agency, ATTN: Chief, Retired Pay Division, Fort Benjamin Harrison, IN 46249, with one copy of the retirement or amendment orders.

(2) Copy 2: to Commander, MILPERCEN (DAPC-PSS-D) 200 Stovall St., Alexandria, VA 22332.

(3) Copy 3: place in the Military Personnel Records Jacket with the retirement orders and papers specified in paragraph 12-21.

(4) Copy 4: to Commander, MILPERCEN (DAPC-PAS-RS) 200 Stovall St., Alexandria, VA 22332.

c. Each group of DA Forms 3713 will be transmitted by a cover letter which contains the full organization designation and address of the organizational element responsible for forwarding them. The letter will list, separately:

(1) The number of DA Forms 3713 inclosed.

(2) The number of revocation orders inclosed.

d. When items of information on DA Form 3713 must be corrected after the form has been distributed, a new DA Form 3713 will be prepared and distributed as indicated in *b* above. The item numbers being changed will be shown on the line for that purpose (upper left corner of the form) and items 1, 2, 3, 4, 11, 12, 13 (or 14), 15 and 17, plus the items being changed, will be completed in each case. All other items will be left blank.

e. When retirement orders are revoked following the distribution of DA Form 3713, a copy of the revocation order will be distributed as indicated in *b* above. These orders will be forwarded to the addressees with the normal distribution of DA Forms 3713.

12-21. Disposition of retirement papers. One copy of the retirement orders (including any amendments or revocations) will be placed in the Military Personnel Records Jacket, together with the following essential papers:

a. The original DA Form 2339 (Application for Voluntary Retirement).

★*b.* The complete medical examination report (*para 12-30*).

c. Verification(s) of service, if any obtained (*para 12-25*).

d. Determinations of extraordinary heroism (*para 12-5c*).

e. Grade determinations for concurrent advancement on the retired list (*para 12-7c*).

f. Approved or disapproved requests for waiver or of exception to service obligations (*para 12-10*).

g. Approval or disapproval action on requests for withdrawal of application or change in retirement date (*para 12-14*).

h. Determinations concerning grade title of former Command Sergeants Major (*para 12-15*).

i. Copy 3, DA Form 3713 (Data for Retired Pay).

Note. As this copy is used to determine eligibility for advancement to a higher grade, *it must be in the MPRJ* when MPRJ is forwarded to RCPAC.

j. Other essential papers reflecting actions and reasons for actions taken.

12-22. References. Additional information concerning retirement is contained in the following publications:

Decorations and awards	AR 672-5-1
Identification and dependents' privilege cards	AR 606-5
Preparation of DD Form 214	AR 635-5
Preretirement leave	AR 630-5
Records disposition	AR 635-10
Retirement ceremony	AR 600-25
Retirement processing	AR 635-10
Selection of home	Paragraph M4158, JTR
Shipment of household goods	Paragraph M8260, JTR
Transportation of dependents	Paragraph M7010, JTR

Section IV. COMPUTATION OF SERVICE

12-23. Service creditable for retirement. In general, years of service creditable for retirement are computed by adding all active service in the Armed Forces of the United States and service computed under 10 USC 3683 (10 USC 3925). All service shown below is creditable for retirement under this chapter and is creditable for basic pay purposes. For other service creditable for basic pay, see Chapter 1, Part 1, Department of Defense Military Pay and Allowances Entitlements Manual. Whenever "active Federal service" is specified, it includes active duty for training and other full-time training duty (37 USC 101(18)). Service below is creditable for retirement if performed as a commissioned officer, commissioned warrant officer, warrant officer, Army field clerk, flight officer, or enlisted member unless otherwise specified.

a. Army.

(1) US Army (Regular).

(2) Women's Army Corps.

(3) Active Federal service in the—

(*a*) Regular Army Reserve.

(*b*) Army of the United States.

(*c*) US Army Reserve.

(*d*) Organized Reserve Corps.

(*e*) Officers Reserve Corps.

(*f*) Enlisted Reserve Corps.

(*g*) Army National Guard.

(*h*) Army National Guard of the United States.

(*i*) Army Nurse Corps as it existed at any time before 16 April 1947.

(4) All active service performed under an appointment under the act of 22 December 1942 (ch. 805, 56 Stat. 1072) or the act of 22 June 1944 (ch. 272, 58 Stat. 324).

(5) All active full-time service, except as a student or apprentice, with the Medical Department of the Army as a civilian employee—

(*a*) In the dietetic or physical therapy categories, if the service was performed after 6 April 1917 and before 1 April 1943, or

(*b*) In the occupational therapy category, if the service was performed before appointment in the Army Nurse Corps or the Women's Medical Specialist Corps and before 1 January 1949.

(6) Cadet, US Military Academy.

(7) Women's Army Auxiliary Corps (active service performed after 13 May 1942 and before 30 September 1943).

(8) Philippine Scouts.

(9) Officer Training Camp as an enlisted member.

(10) Fraudulent enlistment, if enlistment was not voided.

(11) Civilian Conservation Corps (active duty as commissioned officer).

b. Navy.

(1) US Navy (Regular).

(2) Active Federal service in the—

(*a*) US Naval Reserve.

(*b*) Naval Militia.

(*c*) Naval Reserve Force.

(*d*) Navy Nurse Corps as it existed at any time before 6 April 1947.

(3) V-12 Program of World War II (service in dual status as enlisted member on active duty as midshipman in the program).

(4) Midshipman, US Naval Academy.

c. Air Force.

(1) US Air Force (Regular).

(2) Active Federal service in the—

(*a*) Air Force of the United States.

(*b*) US Air Force Reserve.

(*c*) Air National Guard.

(*d*) Air National Guard of the United States.

(3) Aviation Cadet.

(4) Cadet, US Air Force Academy.

d. Marine Corps.

(1) US Marine Corps (Regular).

(2) Active Federal service in the—

(*a*) US Marine Corps Reserve.

(*b*) Marine Corps Reserve Force.

e. Coast Guard.

(1) US Coast Guard (Regular).

(2) Active Federal service in the US Coast Guard Reserve.

(3) Midshipman, US Coast Guard Academy.

f. Public Health Service. Active Federal service as a commissioned officer in the Reserve Corps of the Public Health Service.

g. Minority Service. All service performed under an enlistment or induction entered into before attaining the age prescribed by law for that enlistment or induction when such service is otherwise creditable.

12-24. Periods not creditable for retirement. None of the following periods are creditable for retirement under this chapter:

a. All time required to be made good (10 USC 972). *See paragraph 2-3.*

b. Periods of service voided by the Government other than those voided by reason of minority.

c. Time in a nonpay (noncasualty) status under 37 USC 552 (C).

d. Service in a Reserve component not on—

(1) Active duty.

(2) Active duty for training.

(3) Other full-time training duty.

12-25. Verification of service. *a.* Each enlisted member of the Regular Army will be interviewed by the officer having custody of his personnel records when the member completes 18 years' service for basic pay to determine if he has had service (active Federal service or inactive service in any branch of the Armed Forces) in addition to that shown in his Military Personnel Records Jacket (DA Form 201) or Personal Financial Records, US Army (DA Form 3716). Further verification is not required in the cases of members whose only claimed service is Army service which is clearly substantiated in their MPRJ or PFR.

b. Army service claimed by the member which is not clearly substantiated in his MPRJ or PFR.

(1) Claimed National Guard service will be verified with the Adjutant General of the State or territory (see appendix for list of addresses).

(2) When the applicant has had breaks in Army service or periods of prior Army service which have been previously verified, one copy of DA Form 2339 (Application for Voluntary Retirement) will be submitted to the Commander, US Army Enlisted Records Center, ATTN: PARC, Fort Benjamin Harrison, IN 46249, requesting verification. It is important that inclusive dates for all service claimed, both active Federal service and inactive service, be furnished.

c. Verification of other than Army service claimed by the applicant will consist of certified statements of service and other official statements furnished from the applicable addressee(s) below. Statements will contain all dates of active duty, active duty for training or other full-time training duty, and all time lost. The original or certified copies will be attached as inclosure(s) to an application for retirement.

(1) *Navy.* Military Personnel Records Center, GSA (Navy), 9700 Page Boulevard, St. Louis, MO 63132.

(2) *Air Force.* Military Personnel Records Center, GSA (Air Force), 9700 Page Boulevard, St. Louis, MO 63132.

(3) *Marine Corps.* Military Personnel Records Center, GSA (Marine Corps), 9700 Page Boulevard, St. Louis, MO 63132.

(4) *Coast Guard.* Military Personnel Records Center, GSA (Coast Guard) 9700 Page Boulevard, St. Louis, MO 63132.

(5) *National Guard.* Adjutant General of the State concerned.

d. The signature of the unit commander or personnel officer at the close of Section II, DA Form 2339 certifies that the service claimed by the member in items 16 through 20, DA Form 2339, is correct, except as otherwise indicated in items 27 and/or 32.

★Section V. MEDICAL EXAMINATION

12-26. General. *a.* There is no statutory requirement for Army members to undergo a medical examination to qualify for length of service retirement.

b. Each enlisted member who applies for retirement under this chapter will be informed by his unit commander or personnel officer that—

(1) In view of his last recorded report of medical examination, he is presumed to be medically qualified for continuance on active duty and not subject to physical disability processing.

(2) If he so desires, he may request a medical examination from the medical treatment facility that provides him primary medical care. Such request must be made in time for the examination to be started not later than 4 months prior to the member's requested retirement date.

(3) A voluntary medical examination in no way limits the member's right to seek medical care or further medical evaluation, excluding a routine type "A" medical examination of the scope prescribed by appendix IX, AR 40-501, during the member's remaining period of active service. Further, that physical disability processing, if indicated, will be initiated regardless of the length of the remaining period of active service.

c. The member will neither be ordered to undergo a medical examination nor discouraged from doing so.

12-27. Purpose and scope. *a.* The purpose of a complete medical examination prior to retirement is to identify conditions which may require attention, to record as accurately as possible the state of health of the individual, and to protect the interests of the individual and the Government.

b. The scope of the examination will be that prescribed in appendix IX, AR 40-501.

12-28. Responsibilities. *a.* Members who wish to undergo a medical examination prior to retirement are responsible for contacting their medical treatment facility to arrange for the examination to begin as early as possible *but not later than* 4 months prior to the requested retirement date. Such members will be informed that failure to request the examination at least 4 months prior to their retirement date will result in no assurance of completion prior to retirement.

b. The member's immediate commander is responsible for insuring that the member is available to the examining facility until medical processing is completed. When a member has been found medically unfit with a percentage of disability approved by the Army Physical Review Council prior to the effective date of retirement, his immediate commander will notify the retirement approval authority.

c. Commanders of Army medical treatment facilities will provide timely medical examination and consultation service to those members who request it.

12-29. Hospitalization. If a member who has requested retirement becomes hospitalized, the commander of the medical treatment facility, or a senior medical officer who has detailed knowledge of medical fitness and unfitness standards, disposition of patients, and disability separation processing to whom he delegates such authority, will determine immediately whether the condition(s) for which hospitalized will result in referral to a physical evaluation board.

a. If it is determined that referral to a physical evaluation board *will not* result, the member will be retired on his requested retirement date, *even though continued hospitalization may be required after that date.*

b. If referral to a physical evaluation board *will* result, the medical treatment facility commander or designated representative will forward the following information to HQDA (DAPC-PAS-RS), 200 Stovall St., Alexandria, VA 22332, *by airmail:*

(1) Copy of Clinical Record—Narrative Summary (SF 502) which outlines in detail the diagnosis and treatment for which the individual is hospitalized.

(2) Report of any consultation(s) accomplished.

(3) Recommendation, with reasons, that the member (be) (not be) retained on active duty beyond his requested retirement date under paragraph 2-6 for completion of hospitalization and physical evaluation board action.

c. A copy of the determinations/recommendation will be forwarded *by airmail* to the Commander, US Army Health Services Command, ATTN: HSC-PA-H, Fort Sam Houston, TX 78234, at the time the original is forwarded to HQDA.

12-30. Reports of medical examination. *a.* A medical examination report for retirement, when requested by the individual, will consist of the originals of the following:

(1) Report of Medical Examination (SF 88).

(2) Report of Medical History (SF 93).

(3) Electrocardiogram properly mounted and identified on clinical Record—Electrocardiographic Record (SF 520).

(4) Report of any consultation(s) accomplished.

(5) Complete report of medical board proceedings, if accomplished (AR 40-3)—Medical Board Proceedings (DA Form 3947), Clinical Record—Narrative Summary (SF 502) and report of Medical Examination (SF 88).

b. One copy of the complete report of medical examination or medical board proceedings will be filed in the Health Record (DD Form 722). Additional copies will be placed in the Health Record for distribution by the transfer activity in accordance with AR 635-10.

CHAPTER 13

SEPARATION FOR UNFITNESS OR UNSUITABILITY

Section I. GENERAL

13-1. Purpose. This chapter establishes policy and provides procedures and guidance for eliminating enlisted personnel found to be unfit or unsuitable for further military service.

13-2. Policy. *a.* Action will be taken to separate an individual for unfitness when it is clearly established that—

(1) Despite attempts to rehabilitate or develop him as a satisfactory soldier, further effort is unlikely to succeed; or

(2) Rehabilitation is impracticable or he is not amenable to rehabilitation measures (as indicated by the medical and/or personal history record); or

(3) An unfit medical condition (AR 40-501) is not the direct or substantial contributing cause of his unfitness (para 13-11*b*).

b. Action will be taken to separate an individual for unsuitability when it is clearly established that—

(1) It is unlikely that he will develop sufficiently to participate in further military training and/or become a satisfactory soldier, *and*

(2) He meets retention medical standards (AR 40-501) (para 13-11*a*).

c. Action will be taken only when an individual is under military control, except that an individual confined by civil authorities may be processed for discharge when his military record indicates that he should be processed for separation by reason of unfitness or unsuitability.

d. Commanders will not take action prescribed in this chapter in lieu of disciplinary action solely to spare an individual who may have committed serious misconduct the harsher penalties which may be imposed under the Uniform Code of Military Justice.

13-3. Assignment action for personnel en route to an oversea area. *a.* When action prescribed in paragraph 13-5*a*(2) or (3) has been initiated against an individual assigned to an oversea replacement station, he will be transferred to the Army garrison at that or another installation to await final action on his case.

b. If the convening authority disapproves the recommendation for separation, the individual will again be assigned to the oversea replacement station for compliance with his original orders.

13-4. Authority. *a.* HQDA approval is required before individuals who have completed 18 or more years of active Federal service may be discharged.

★*b.* Commanders exercising general court-martial jurisdiction are authorized to convene boards of officers for unfitness and unsuitability and to order separations, except that they may not order discharge of personnel referred to in *a* above. This authority, including the authority to direct an undesirable discharge for reasons of unfitness, may be delegated to a general officer in command who has a judge advocate on his staff for cases arising in that command. Every action taken pursuant to such a delegation will state the authority therefor. All references to commanders exercising general court-martial jurisdiction, general court-martial convening authority,

and general court-martial authority designated in this chapter include this delegation authority.

c. Commanders exercising special court-martial jurisdiction are authorized to convene boards of officers for unsuitability and to order separation, except that they may not order discharge of personnel referred to in *a* above.

13-5. Applicability. An individual is subject to separation under the provisions of this chapter when one or more of the following conditions exist:

a. Unfitness.

(1) Frequent incidents of a discreditable nature with civil or military authorities.

(2) Sexual perversion, including but not limited to—

(*a*) Lewd and lascivious acts.

(*b*) Indecent exposure.

(*c*) Indecent acts with or assault upon a child.

(*d*) Other indecent acts or offenses.

(3) Drug abuse—

(*a*) Drug dependence, or the unauthorized use, sale, possession, or transfer of any controlled substance as defined in AR 600-50, or the introduction of such a controlled substance onto any Army installation or other Government property under Army jurisdiction.

(*b*) Use or possession for one's own use of controlled substances, or dependence thereon, elicited as a result of an individual's volunteering for treatment or being identified by programed biochemical testing, if the sole basis for separation. In such cases, separation will be under honorable conditions as specified in paragraph 13-31*a*.

(4) An established pattern for shirking.

(5) An established pattern showing dishonorable failure to pay just debts.

(6) An established pattern showing dishonorable failure to contribute adequate support to dependents or failure to comply with orders, decrees, or judgments of a civil court concerning support of dependents.

(7) Homosexual acts. Homosexual acts are bodily contact between persons of the same sex, actively undertaken or passively permitted by either or both, with the intent of obtaining or giving sexual gratification, or any proposal, solicitation, or attempt to perform such an act. Individuals who have been involved in homosexual acts in an apparently isolated episode, stemming solely from immaturity, curiosity, or intoxication normally will not be processed for discharge because of homosexual acts. If other conduct is involved, individuals may be considered for discharge for other reasons set forth in this chapter. This applies to cases in which personnel have engaged in one or more homosexual acts during military services and—

(*a*) Trial by court-martial is not considered as the course of action to be taken; or

(*b*) The individual has been referred to trial, but has not been tried by court-martial within the meaning of article 44(*c*), UCMJ, or

(*c*) The individual has been tried by court-martial within the meaning of article 44(*c*), UCMJ, subject to the limitations on administrative action set forth in paragraph 1-13.

b. Unsuitability.

(1) *Inaptitude.* Applicable to persons who are best described as inept, due to lack of general adaptability, want of readiness of skill, unhandiness, or inability to learn.

(2) *Character and behavior disorders.* As determined by medical authority, character and behavior disorders and disorders of intelligence as suggested by various symptoms as enuresis or somnambulism, listed in TB MED 15, except for combat exhaustion (3263) and other acute situational maladjustments (3264), when such disorders are chronic and recalcitrant to attempts at rehabilitation and interfere with the serviceman's ability to adequately perform his duties.

(3) *Apathy (lack of appropriate interest), defective attitudes, and inability to expend effort constructively.* While lack of appropriate interest or other defective attitudes may be manifested in conjunction with physical defects or mental or organic diseases, including psychoneurosis, these traits are not necessarily produced by the physical or disease process. On the other hand, individuals considered for elim-

ination may attempt to excuse immature, inadequate, and undisciplined behavior on the basis of minor or nondisabling illnesses. The presence of a physical or mental disease or defect-producing impairment of function insufficient to warrant separation under the provisions of AR 635-40 and related regulations is no bar to discharge for unsuitability.

(4) *Alcoholism.* Unsuitability by reason of chronic alcoholism may develop in persons who have previously rendered many years of adequate service. It is a fully treatable condition. Rehabilitation of an individual with this condition often requires patient and repetitive effort. Its success is enhanced by early recognition. When it becomes apparent that an individual has become chronically ineffective and has not responded to rehabilitative measures within a reasonable time, or is not motivated to take advantage of available therapeutic measures, elimination may be indicated. Personnel will be separated for unsuitability only if the major reason for separation is noneffective duty performance due to failure to cooperate with or succeed in an alcohol rehabilitation program. These conditions should not be confused with occasional drunken episodes during which an individual commits antisocial acts. In determining whether separation will be for unfitness or unsuitability, the neuropsychiatric report, record of prior service, and other reasons for separation (*a* above) should be considered and, if determined to be overriding, may be used as a basis for separation for unfitness.

(5) *Homosexuality (homosexual tendencies, desires, or interest but without overt homosexual acts).* Applicable to personnel who have not engaged in a homosexual act during military service, but who have a verified record of preservice homosexual acts. It is also applicable to other cases which do not fall within the purview of *a*(7) above.

Section II. COUNSELING AND REHABILITATING REQUIREMENTS

13-6. General. Commanders will insure that before taking separation action against an individual under the provisions of this chapter, adequate counseling and rehabilitation measures have been taken. Reassignments accomplished in connection with rehabilitation attempts will normally be made without expending permanent change of station or military personnel Army (PCS-MPA) funds. See paragraph 13-8*c* for exceptions to this policy.

13-7. Counseling. *a.* When an individual's behavior has been such that continued behavior of a similar nature may warrant action against him, the individual will be counseled by a responsible person or persons. Each counseling session will be recorded (to include date and by whom counseled).

b. Counseling will include but will not be limited to the following:

(1) Reasons for counseling.

(2) The fact that continued behavior of a similar nature may result in initiating elimination actions.

(3) The type of discharge that may be issued and the effect of each type, if such action is taken and separation accomplished. The counseling regarding types and effects of various discharges will be conducted in accordance with procedures of paragraph 3, AR 350-21, and will be equally comprehensive, to include the showing of the film, "Take the Smart Way Out—It's Honorable," if practicable.

13-8. Rehabilitation. As a minimum, one of the following measures will be taken:

a. Replacement stream personnel. Individuals will be recycled (reassigned between training companies) at least once.

b. Other than replacement stream personnel. Individuals will be reassigned at least once, with a minimum of 2 months of duty in each unit. Reassignment should be between special court-martial jurisdictions when this is possible, without a permanent change of station. If this is not possible and if reassignment between article 15 jurisdictions is not considered desirable because of the circumstances involved in

a case, the procedure prescribed in *c* below will apply.

★*c. Permanent change of station transfer.* When a permanent change of station is considered essential to provide a change in commanders, associates, and living or working conditions as a means of rehabilitating an individual, the commander exercising general court-martial jurisdiction over the individual may authorize such reassignment within the same command [or may request HQDA (DAPC-EPC-appropriate branch), 2461 Eisenhower Avenue, Alexandria, VA 22331, to accomplish assignment to another command] provided—

(1) The individual involved is in grade E-4, or below, with less than 4 years of service. Individuals in grade E-4 with over 2 years of active service and total obligated active service of 6 years and all other personnel who are eligible by virtue of grade and service for transportation of dependents and shipment of household goods are not eligible for reassignment under provisions of this paragraph.

(2) A transfer to another station would not be detrimental to the individual or to the Army (e.g., cases involving indebtedness, personnel undergoing special counseling or other rehabilitative type mental hygiene treatment programs, or maladjusted or apathetic personnel who could not be expected to respond to disciplinary controls or to benefit from change of associates, regardless of assignment locale).

13-9. Waivers. Counseling and rehabilitation may be waived as follows:

a. Counseling required in paragraph 13-7 and rehabilitation required in paragraph 13-8 may be waived by the convening authority when separation is being considered under the provisions of paragraph 13-5*a*(2) or (7), or *b*(5).

b. The general courts-martial convening authority may waive the requirements of paragraphs 13-7 and 13-8 when he determines that further duty of the individual will, in his best judgment, create serious disciplinary problems or a hazard to the military mission or to the individual.

c. The general court-martial convening authority may waive the requirements of paragraphs 13-7 and 13-8 when he determines that the individual is obviously resisting all attempts to be rehabilitated or that rehabilitation will not produce the quality soldier acceptable in the baseline force.

★*d.* The special courts-martial convening authority in grade 06 and above may waive the counseling and rehabilitation requirements of paragraphs 13-7 and 13-8 in unsuitability cases under the same conditions as outlined in *b* and *c* above.

Section III. MEDICAL PROCESSING

13-10. Medical evaluation. When an individual is to be processed for separation, the unit commander must insure that an appropriate medical evaluation and mental status evaluation are obtained. Sufficiently detailed information about the reasons for considering the individual unfit or unsuitable will be furnished to allow the medical examiners a thorough understanding of the contemplated action.

a. When the individual is under military control.

(1) The medical treatment facility providing dispensary care will accomplish the final type physical examination and mental status evaluation. The individual will not be referred to a psychiatrist for a psychiatric evaluation except when—

(*a*) Specifically requested by the individual subject to separation action.

(*b*) Specifically requested by the commanding officer recommending separation action.

(*c*) Deemed necessary and appropriate by the medical examiner performing the requested evaluation.

(*d*) Requested by the board considering separation action.

(*e*) Individual is being considered for discharge under the provisions of paragraph 13-5*a* (7) or *b*(5).

(f) See MSG 18/2002 JAN 77

(2) In all other cases, the physician performing the physical examination will accomplish the mental status evaluation. In the exceptional cases detailed in (1)(*a*) through (*d*) above, reasons for specifically requesting a psychiatric evaluation will be provided to the psychiatrist.

(3) When an individual is being considered for discharge under the provisions of paragraph 13–5*a*(7) or *b*(5), the psychiatrist doing the psychiatric portion of the medical evaluation will be furnished a copy of the documents which detail the behavior upon which the suspicion of homosexuality rests. In addition to SF 88 (Report of Medical Examination) and SF 93 (Report of Medical History), the medical treatment facility will prepare a report of mental status evaluation (fig. 14–2). The medical evaluation and the psychiatric study of the individual will include the personal history, an opinion regarding the existence of homosexuality, and an opinion as to whether the individual should be eliminated from the Service under the provisions of paragraph 13–5*a*(7) or *b*(5), or retained in the Service. If retention is recommended and if considered appropriate, a statement of procedures likely to be of value in the individual's rehabilitation may be included.

b. When individual is in civil confinement. When a member is confined by civil authorities, the unit commander may recommend elimination action to the commander exercising general or special court-martial authority, as appropriate. If the commander approves initiation of elimination action, a type A medical examination will be scheduled. The examination will be accomplished at the nearest Armed Forces medical treatment facility, if feasible, or by fee-basis physicians employed for this purpose. If the medical examination is accomplished by a civilian physician, the reports (SF 88, SF 93, consultation reports, and mental status evaluation) will be reviewed by a military physician prior to separation action. Physical examination and mental status evaluation will be accomplished and reported as provided in *a* above.

13–11. Disposition through medical channels. *a.* When the medical treatment facility commander determines that an individual being considered for elimination for unsuitability does not meet retention medical standards (AR 40–501), he will process the individual in accordance with procedures in AR 40–3. The individual's unit commander will be notified of this action, and the elimination action will be closed.

b. If it appears to the examining medical officer that an individual being considered for elimination for unfitness does not meet the retention medical standards, he will refer the individual to a medical board or, if there is no medical board at the examining facility, to the nearest medical treatment facility that does have a medical board. The medical treatment facility commander will furnish a copy of the approved board proceedings to the commander exercising general court-martial jurisdiction over the individual concerned and a copy will be furnished to the unit commander. The commander exercising general court-martial jurisdiction will direct the individual to be processed through disability channels in accordance with AR 635–40 when it is determined that—

(1) The disability is the cause or substantial contributing cause of the unfitness; or

(2) Circumstances warrant disability processing in lieu of administrative processing.

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

Section IV. PROCEDURES

13-12. Action by commanding officer when member is under military control. The unit commander of the individual will recommend whether action prescribed in this chapter, or disciplinary action should be initiated. The unit commander may—

★*a.* Afford the individual the opportunity to waive his right of a hearing before a board of officers. In such cases—

(1) The commander will advise the individual in writing of the basis for the proposed discharge action and advise him that he has the following rights:

(*a*) To consult with a consulting counsel (para 1-3*c* and 13-19).

(*b*) To present his case before a board of officers.

(*c*) To submit statements in his own behalf.

(*d*) To be represented at any hearing by appointed counsel for representation (para 1-3*d* and 13-19).

(*e*) To waive in writing the rights in (*b*), (*c*), and (*d*) above.

(*f*) To withdraw his waiver of his rights in (*b*), (*c*), and (*d*) above at any time *prior to the date* the discharge authority directs or approves his discharge and request that his case be presented before a board of officers.

(2) An enlisted member will be given a reasonable time (not less than 72 hours) to consider waiver of board proceedings and will consult with counsel prior to waiving his rights. An enlisted person serving on an unspecified enlistment may tender his resignation in lieu of board action pursuant to chapter 9.

(3) The individual will submit a signed statement (fig. 13-1), indicating that he has been advised of the basis for the contemplated separation and its effect and of the rights listed in (1) above. The statement will include a request or a waiver by the individual of each right listed in (1) (*b*), (*c*), and (*d*) above. The counsel will sign the statement and the statement will be included in the unit commander's report forwarded in compliance with paragraph 13-15. If the individual refuses to sign the statement, it will be considered that the individual has not waived the rights listed in (1) above.

(4) Waivers of board hearings will not be accepted in the cases of members who have completed 18 years or more of active Federal service. Members appearing before a board of officers convened under the provisions of this chapter must be represented by counsel. They may not waive this requirement.

(5) An individual who holds a Reserve status as a commissioned or warrant officer will include in his statement whether a waiver of board hearing applies to his Reserve status.

b. Forward the case with a recommendation that elimination proceedings pursuant to this chapter be initiated (para 13-15). No recommendation will be made as to the type of discharge to be awarded an individual.

c. Forward the case with a recommendation that the individual be processed through medical channels. Such a disposition is required if the individual has an incapacitating physical or mental illness which was the direct or substantial contributing cause of the conduct for which action prescribed in this chapter is being considered and action under the Uniform Code of Military Justice is not initiated.

d. Initiate action under the Uniform Code of Military Justice.

e. Take the following action for personnel being considered for discharge specified in paragraph 13-5*a* (7) or *b* (5).

(1) Inquire thoroughly and comprehensively into the matter and ascertain all the facts in the case, bearing in mind the peculiar susceptibility of such cases to possible malicious charges. Any investigation required normally should be referred to the local provost marshal for investigation and recording on DA Form 2800 (CID Report of Investigation (Military Police)). The facts and circumstances of each case will govern the commander's decision as to the appropriate agency

of investigation. Suspension of favorable action will be initiated in accordance with AR 600-31, unless the appropriate commander determines the allegation is baseless.

(2) If the information available is of sufficient stature to warrant investigation, take necessary action to protect the security of his command, including suspension of security clearance (if any) and denial of access to classified defense information pending completion of actions on the case. When the report of investigation substantiates such allegations, the commanding officer will refer the individual for medical evaluation; revoke his security clearance (if any); and prepare a memorandum for the record outlining action taken and forward it, together with the subject's revoked DA Form 873 (Certificate of Clearance and/or Security Determination) under EO 10450, to the Commander, US Army Investigative Records Repository, Fort Holabird, MD 21219. Revocation of security clearance will be in accordance with AR 604-5.

(3) In all cases, the report will include a statement of the individual's date and place of birth; the amount of his active service; the date and period of his current period of service; statements of witnesses; and a detailed signed statement from the individual concerned relative to his tendencies (para 13-5*b*(5)) and any past homosexual actions (UCMJ, art. 31), or his statement to the effect that he does not desire to make a statement.

13-13. Action by commanding officer when individual is confined. ★*a.* An individual unable to appear in person before a board of officers by reason of confinement by civil authorities will be advised by registered mail of the proposed discharge action, the type of discharge certificate that may be issued, and the fact that action has been suspended to give him the opportunity to exercise the following:

(1) To consult by correspondence with a consulting counsel (para 1-3*c*). (Consulting counsel's name and address will be included.)

(2) To request appointment of a counsel for representation, a named military counsel, if available, or employ civilian counsel at his own expense to represent him and, in his absence, present his case before an administrative discharge board.

(3) To submit statements in his own behalf.

(4) To waive the foregoing rights, either in writing or by declining to reply to the letter of notification within 30 days from the date of receipt.

b. The individual will be requested to expedite his reply and will be advised that if a reply is not received within 30 days of the date of receipt of the letter of notification, the recommendation for his discharge, if approved by the discharge authority, may be accomplished with the type of discharge certificate determined to be appropriate. If the individual does not reply within the prescribed time, discharge may be finalized, as indicated. When warranted by the distance involved or other circumstances, a period in excess of 30 days may be allowed for the enlisted person to to reply.

★13-14. Suspension of favorable personnel action. When suspension of favorable personnel prescribed in action AR 600-31 has been initiated solely because an individual is being considered for elimination in accordance with the provisions of this chapter and he is to be processed for separation under medical jurisdiction (para 13-10), his unit commander will remove the suspension of favorable action so that disposition through medical channels will not be delayed.

13-15. Commanding officer's report. *a. Elimination by reason of unfitness.* When the immediate commander determines that the best interest of the Service will be met by elimination action because of unfitness, he will report the fact, in letter form, to the general court-martial convening authority, through the appropriate intermediate commander, if applicable, furnishing the following:

(1) Name, grade, SSN, age, date of enlistment or induction, length of term for which enlisted (if applicable), and prior service. (Reduction in grade is not a prerequisite to board action.)

(2) Statement indicating whether the individual has a Reserve commission or a warrant. (If so, show grade and date of appointment.)

(3) Reason for action recommended. General, nondescriptive terms will not be used.

(4) Armed Forces Qualification Test (AFQT) score, Aptitude Area scores, and duty military occupational specialty (MOS).

(5) Results of MOS evaluation testing, to include MOS in which evaluated and evaluation score.

(6) Record of counseling.

(7) Description of rehabilitation attempts. (List assignments and duties under different officers and noncommissioned officers in each organization or unit. Include duration of each assignment (sec II, this chap.).

(8) Statement indicating why he does not consider it feasible or appropriate to recommend elimination for unsuitability or to accomplish other disposition.

(9) Conduct and efficiency ratings (chap. 5, AR 600-200).

(10) Record of trials by court-martial.

(11) Record of other disciplinary action. (Include record of nonjudicial punishment.)

(12) Report of mental status evaluation (fig. 14-2) or psychiatric report, if applicable. Include probable effectiveness of further rehabilitative efforts.)

(13) A statement by the individual indicating that he has been advised of his rights (para 13-12).

(14) Any other information pertinent to the case.

b. Elimination by reason of unsuitability. When the immediate commander determines that the best interest of the Service will be met by elimination action for unsuitability, he will forward his recommendation in letter form to the officer exercising special court-martial jurisdiction. He will furnish information outlined in *a* above, except that *a*(8) will state why he does not consider it feasible or appropriate to effect other disposition.

13-16. Action by intermediate commander. Intermediate commander may take one of the following actions:

a. Unfitness cases.

(1) Disapprove the recommendation and direct reassignment of the individual to another organization or direct disposition by other means. In case of reassignment, the commanding officer's report will be forwarded to the new organization commander for information.

(2) Approve the commanding officer's recommendation and forward the report to the commander exercising general court-martial jurisdiction. Disposition through medical channels is required if the individual has an incapacitating physical or mental illness which was the direct or substantial contributing cause of the conduct for which action prescribed in this regulation is being considered, and action under the Uniform Code of Military Justice is not initiated.

(3) Recommend separation for unsuitability. Commanders exercising special court-martial jurisdiction may disapprove the recommendation relating to unfitness and take further action prescribed in paragraph 13-18.

b. Unsuitability cases.

(1) Disapprove the recommendation and direct reassignment of the individual to another organization, or direct disposition by another means. In case of reassignment, the commanding officer's report will be forwarded to the new organization commander for information.

(2) Approve the commanding officer's recommendations and forward the report to the commander exercising special court-martial jurisdiction, unless he exercises such jurisdiction. Disposition through medical channels is required if the individual has an incapacitating physical or mental illness which was the direct or substantial contributing cause of the conduct for which action prescribed in this chapter is being considered, and action under the Uniform Code of Military Justice is not initiated.

13-17. Action by commander exercising general court-martial jurisdiction. On receiving a recommendation for separation for unfitness, the commander exercising general court-martial jurisdiction may take one of the following actions:

a. Disapprove the recommendation and direct reassignment of the individual to another organization, in which case the commanding officer's report will be forwarded to the new organization commander for information.

b. Disapprove the recommendation and return the case to the orginator for disposition by other means.

c. Disapprove the recommendation relating to unfitness and convene a board of officers, or refer the case to the commander exercising special court-martial jurisdiction to convene a board of officers to determine whether the individual should be separated for unsuitability.

d. Convene a board of officers to determine whether the individual should be separated for unfitness. When such action is taken, or if the case is referred to a board for separation by reason of unsuitability, the termination or transfer status of each witness will be ascertained promptly to insure the availability of essential military witnesses at the board proceedings. No witness will be transferred or separated from the Service prior to the beginning of a board hearing except when an enlistment or period of service fixed by law expires. In such cases, an attempt will be made to obtain the individual's consent to retention. If the individual does not consent, a deposition or affidavit will be obtained, as appropriate.

e. When the board hearing has been properly and effectively waived, direct separation of the individual for unfitness or unsuitability (para 13-31).

f. When the board hearing has been waived, approve separation of the individual for unfitness or unsuitability and suspend execution of the separation (para 13-27).

g. Direct that the case be processed through medical channels, if appropriate. Such disposition is required if the individual has an incapacitating physical or mental illness which was the direct or substantial contributing cause of the conduct for which action prescribed in this chapter is being considered, and action under the Uniform Code of Military Justice is not initiated. A copy of the signed decision of the general court-martial authority will be included with the records. Authority to determine that a case will be referred for disability processing in lieu of other administrative processing will not be delegated.

h. Disapprove recommendation relating to unfitness and direct action prescribed in section VI, AR 635-206.

13-18. Action by commander exercising special court-martial jurisdiction. On receiving a recommendation for separation for unsuitability, the commander exercising special court-martial jurisdiction may take one of the following actions:

a. Disapprove the recommendation and direct reassignment of the individual to another organization, in which case the commanding officer's report will be forwarded to the new organization commander for information.

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

c. Convene a board of officers to determine whether the individual should be separated for unsuitability. When such action is taken, the termination or transfer status of each witness will be ascertained promptly to insure the availability of essential military witnesses at the board proceedings. No witness will be transferred or separated from the Service prior to the beginning of a board hearing except when an enlistment or period of service fixed by law expires. In such cases, an attempt will be made to obtain the individual's consent to retention. If the individual does not consent, deposition or affidavit will be obtained as appropriate.

d. When the board hearing has been properly and effectively waived, direct separation of the individual for unsuitability (para 13-31).

e. When the board hearing has been properly and effectively waived, approve separation for unsuitability and suspend execution of the separation (para 13-27).

f. Disapprove recommendation relating to unsuitability and direct action prescribed in section VI, AR 635-206.

★**13-19. Appointment of counsel.** *a.* Appointed counsel for consultation in cases of unfitness or unsuitability will be a lawyer as described in paragraph 1-3*c*.

b. Appointed counsel for representation for personnel being considered for discharge because of unfitness is described in paragraph 1-3*d*(1). The original of the certification on nonavailability of qualified counsel must be appended as an exhibit to the report of proceedings (fig. 1-1).

c. Appointed counsel for representation for personnel being considered for discharge because of unsuitability is described in paragraph 1-3*d*(2).

d. When the commander exercising general court-martial jurisdiction takes action prescribed in paragraph 13-17*d*, he will appoint a representing counsel; appoint a military counsel of the individual's choice, provided the requested counsel is reasonably available; or permit the individual to be represented by civilian counsel at his own expense, as indicated by the individual's signed statement (fig. 13-1).

e. When the commander exercising special court-martial jurisdiction takes action prescribed in paragraph 13-18*c*, he will appoint a representing counsel; appoint a military counsel of the individual's choice, provided the requested counsel is reasonably available; or permit the individual to be represented by civilian counsel at his own expense, as indicated by the individual's signed statement (fig. 13-1).

Section V. BOARD OF OFFICERS

13-20. Organization. *a.* Boards of officers convened to determine whether an individual should be discharged under the provisions of this chapter will consist of not less than three commissioned officers, at least one of whom is in the grade of major or higher, and a nonvoting recorder.

b. Care will be exercised to insure that—

(1) The board is composed of experienced officers of mature judgment.

(2) The board is composed of unbiased officers fully cognizant of applicable regulations and policies pertaining to cases of the nature for which the board is convened.

(3) If an enlisted member of the Women's Army Corps, the board will include an officer of the Women's Army Corps.

(4) If an individual who has a Reserve enlisted status, the membership of the board will include a majority of Reserve officers, if reasonably available. When a Reserve majority is not available, the board will include at least one Reserve component officer.

(5) If an enlisted member of the Army who holds a Reserve commission or warrant, the board will be composed of an uneven number of commissioned officers. The officers will be senior in permanent grade to the Reserve grade held by the enlisted member. One member of the board will be a Regular Army officer and the remainder Reserve officers of the Army who are serving on AD. If the enlisted member also is an ARNGUS officer, at least one member of the board will be an ARNGUS officer, if reasonably available.

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

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

13-21. Effective processing procedures. The following procedures have proved useful in effective processing by boards:

a. Appointing a permanent board of officers to serve as large a unit as practicable. Changes should be held to a minimum and regulated to provide continuity. This insures uniform treatment for lower or parallel units and

will provide a volume of cases sufficient to allow the board members to attain professional competence in this duty. On a permanent board, the members will gain experience from which evolves judgment more mature and more sensitive to the interest of both the individual and the Service.

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

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

d. As an exception to paragraph 13*b*, AR 15-6, expert medical and psychiatric testimony may be presented in the form of an affidavit. However, if the respondent desires to present such evidence, he is entitled to have the witness appear in person, if reasonably available.

13-22. *Board procedures.* ★*a.* A minimum of 15 days' written notice before date of hearing will be given an individual who is to appear before a board of officers so that he or any counsel representing him before the board of officers may prepare his case. The individual will be notified of the names and addresses of witnesses expected to be called at the board hearing and that the recorder of the board will, upon request of the individual, endeavor to arrange for the presence of any available witness he desires to call. A copy of all affidavits and depositions of witnesses unable to appear at the board hearing will be furnished to the individual. When, for overriding reasons, the minimum of 15 days cannot be granted, the president of the board will insure that the reason for acting before that time is fully explained and recorded in the proceedings of the board. Requests for additional delays (normally not to exceed a total of 30 days after notice) will be granted if, in the judgment of the convening authority or the president of the board, delay is warranted to insure that the respondent receives a full and fair hearing.

b. An enlisted person who has not waived a hearing before a board of officers, who is not in civil confinement, and whose case is presented to such a board has the following rights, which will be explained to the individual by the president of the board.

★(1) He may appear in person, with or without counsel, at all open proceedings of the board. He may have an appointed counsel of representation. He may have military counsel of his own choice, provided proper authority determines the counsel requested is reasonably available. He may employ civilian counsel at his own expense. When an enlisted person appears before a board of officers without counsel, the record will show that the president of the board counseled the respondent as to type of discharge he may receive as a result of the board action and the effects of such a discharge in later life and that he may request counsel. The record will reflect the respondent's response.

(2) He may challenge any voting member of the board for cause only.

(3) He may request the appearance before the board of any witness whose testimony he believes to be pertinent to his case. He will specify in his request the type of information the witness can provide. The board will secure the attendance of a witness if it considers that he is reasonably available and that his testimony can add materially to the case. The attendance of military witnesses under the control of the convening authority will be ordered if reasonably available. The attendance of other military witnesses will be requested through command channels. However, witnesses not on AD must ppear voluntarily and at no expense to the Government.

(4) He may at any time before the board convenes or during the proceedings submit any answer, deposition, sworn or unsworn statement, affidavit, certificate, or stipulation. This includes but is not limited to depositions of witnesses not deemed to be reasonably available or witnesses unwilling to appear voluntarily.

(5) He may or may not submit to exa-

mination by the board. The provisions of Article 31, Uniform Code of Military Justice will apply.

(6) He and his counsel may question any witness who appears before the board.

(7) Failure of the individual to invoke any of the above rights, after he has been apprised of them, cannot be considered as a bar to the board proceedings, findings, and recommendations.

c. In the case of an enlisted member holding a Reserve commission or warrant, the board will notify the individual that the action involves his Reserve status and may result in the termination of such status.

d. For rules of procedure and evidence and swearing of witnesses, see AR 15-6.

e. The president of the board will insure that sufficient testimony is presented to enable the board to fairly evaluate the usefulness of the individual. The testimony will be specific as to circumstances, events, times, dates, and other facts.

f. The proceedings of the board will be as complete as possible and will contain a verbatim record of the findings and recommendations.

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

13-23. Recommendations. *a.* The board convened to determine whether an individual should be separated for unfitness will recommend that he be—

(1) Separated because of unfitness (indicating type of discharge certificate—honorable, general, undesirable—to be furnished), or

(2) Separated because of unsuitability (indicating type of discharge certificate—honorable or general—to be furnished), or

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

b. The board convened to determine whether an individual should be separated for unsuitability will recommend that he be—

(1) Separated because of unsuitability (indicating type of discharge certificate—honorable or general—to be furnished), or

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

c. If the enlisted member holds a Reserve commission or warrant, the board will make separate recommendations concerning his Reserve status, including type of discharge certificate to be issued. The recommendations should be compatible with enlisted status recommendations. Normally, facts warranting separation from an active enlisted status prescribed in this chapter will also warrant termination of a Reserve commission or warrant. Under certain circumstances, it may be reasonable to recommend retention in an active enlisted status but termination of a Reserve commission or warrant.

13-24. Forwarding report of proceedings. The completed report of proceedings will be forwarded to the commander exercising general or special court-martial jurisdiction, as appropriate, for final determination and disposition (See app C for sample report of proceedings.) When board action is completed on an individual referred to in paragraph 13-4*a*, the findings and recommendations of the board, with complete documentation and the recommendation of the convening authority, will be forwarded to HQDA (DAAG-PSS-S), WASH DC 20314, for final determination when the convening authority recommends discharge.

13-25. Limitations on administrative discharges and board hearings. See paragraph 1-13 for limitations on administrative discharges and board hearings and rehearings.

Section VI. ACTIONS AFTER BOARD HEARINGS

13-26. Convening authority action. *a.* When a case has been referred to and action completed by the board, the board proceedings will be reviewed by a qualified officer fully cognizant of applicable regulations and policies to determine whether it meets the requirements of the administrative discharge proceedings. When the board recommends that an undesirable discharge be issued, the proceedings will be reviewed by a member of the Judge Advocate General's Corps. Upon completion of the review, the commander—

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

(*a*) Direct separation of the individual for unfitness (except for individuals referred to in para 13-4*a*). (See also para 13-24.)

(*b*) Direct separation of the individual for unsuitability (except for individuals referred to in para 13-4*a*). (See also para 13-24.)

(*c*) Disapprove the recommendation and direct retention of the individual.

(*d*) Approve separation for unfitness and suspend execution of the separation (para 13-27).

(2) When the board has recommended separation for unsuitability, may take one of the following actions:

(*a*) Direct separation of the individual for unsuitability (except for individual referred to in para 13-4*a*). (See also para 13-24.)

(*b*) Disapprove the recommendation and direct retention of the individual.

(*c*) Approve separation for unsuitability and suspend execution of the separation (para 13-27).

b. The convening authority's deputy or other officer within his headquarters may be delegated the authority (including the authority contained in para 13-17 *e* and *f*) to approve, disapprove, or otherwise appropriately dispose of cases, except to direct an undesirable discharge. The convening authority is required to personally sign any action directing an undesirable discharge of an enlisted member under his command. He may direct other appropriate disposition of the case. When the officer exercising special court-martial jurisdiction is the convening authority, authority to approve, disapprove or otherwise appropriately dispose of a case will not be delegated.

c. The convening authority will not direct a discharge for unfitness when the board of officers has recommended discharge because of unsuitability, nor will he direct discharge when the board of officers has recommended retention.

d. When a board recommends that an individual be retained and the convening authority believes that separation is warranted and in the Army's best interests, the convening authority may forward the case to HQDA (DAAG-PSS-S), WASH DC 20314, with supporting reasons, requesting that separation be authorized (para 1-13*c.1*).

e. The convening authority will not direct the issuance of a discharge of a lesser character than that recommended by the board (e.g., honorable to general or general to undesirable). He may direct issuance of a discharge of a higher character than that recommended by the board (e.g., general to honorable or undesirable to general or honorable).

f. An individual who has completed 19 1/2 or more years of active service creditable toward retirement for whom elimination is recommended to HQDA will be afforded the opportunity of applying for retirement to be effective immediately or upon completion of 20 years of active Federal service. He will, however, be advised that authority to submit the application does not carry assurance that the application will be approved. DA Form 2339 (Application for Voluntary Retirement) will be appended when the case is forwarded to HQDA. SF 88, as prescribed in chapter 12, will be appended to the application for retirement.

g. When a member of the Reserve components is to be eliminated under the provisions of this chapter, the convening authority will determine specifically from board findings whether the member concerned is being elimi-

nated because of moral or professional dereliction.

13-27. Suspension of execution of approved discharge. In order to afford a highly deserving member a probationary period to demonstrate successful rehabilitation prior to expiration of his enlistment or period of obligated service, the convening authority may suspend execution of an approved discharge for a period not to exceed 6 months. (See paragraph 1-15 for procedures.)

13-28. Reduction in grade. When an individual is to be discharged as unfit and is issued an undesirable discharge, the convening authority will direct his immediate reduction to the lowest enlisted grade under the provisions of section VII, chapter 7, AR 600-200.

Section VII. RECORDS AND DISCHARGE

13-29. Disposition of proceedings. *a.* When separation is ordered, the approved proceedings will be forwarded to the commander having custody of the individual's records for transfer processing in accordance with AR 635-10. The original copy of the proceedings will be filed as permanent material in the "Field 201 file section" of the individual's DA Form 201.

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

c. An individual who is to be separated will be furnished a copy of the board proceedings, minus any written medical testimony and reports that would prove injurious to his physical or mental health.

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

(2) If the individual or his counsel does not desire a copy of the board proceedings or, if for any other reason a copy is not furnished, a notation will be made on the individual's copy to accompany the original. Release of this copy thereafter may be made only by The Adjutant General.

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

13-30. Reason and authority for separation. *a.* When an individual is discharged, released from ADT, or discharged from his status as a Reserve of the Army pursuant to this chapter, the specific reason and authority for discharge (item 9*c*, DD Form 214) will be entered as shown in AR 635-5-1.

13-31. Types of separations. *a.* An individual separated by reason of unfitness will be furnished an undesirable discharge certificate, except that an honorable or general discharge certificate may be issued if the individual has been awarded a personal decoration or if warranted by the particular circumstances in his case. When the sole reason for separation is drug abuse, (para 13-5a(3)(b)), the individual will be furnished an honorable or general discharge certificate as warranted by the particular circumstances in his case. The type of discharge will be directed by the convening authority.

b. An individual separated because of unsuitability will be furnished an honorable or general discharge certificate as warranted by his military record. The type of discharge will be directed by the convening authority.

13-32. Separation of ARNGUS and USAR trainees. *a.* ARNGUS trainees will be released from ADT and returned to the control of the appropriate State National Guard authorities for discharge. A copy of the approved proceedings will be forwarded to the adjutant general of the State.

b. USAR trainees will be discharged from their status as a Reserve of the Army.

★**13-33. Errors and discrepancies noted before accomplishing discharge.** The type of discharge directed by the convening authority may be changed only by HQDA. If material errors or discrepancies in approved board proceedings are found by other headquarters processing the case (transfer activities), the case will be referred for review before discharge to HQDA (DAPC-PAS-S), 200 Stovall St., Alexandria, VA 22332.

★**13-34. Reentry into Army.** a. To preclude reentry into the Army unless authorized by appropriate authority, the DD Form 214 of individuals, with the exception of all enlisted women and enlisted men referred to in paragraph 13-4*a* who are discharged under the provisions of this chapter, will be coded "RE-3"; and "tables 2-4 and 2-5, AR 601-210 apply," or "tables 2-2 and 2-3, AR 601-280, apply" will be entered in item 27.

b. All enlisted women and enlisted men referred to in paragraph 13-4*a* who are discharged under the provisions of this chapter are not eligible for reenlistment. DD Form 214 will be coded "RE-4," and "tables 2-6 and 2-7, AR 601-210, or table 2-4, AR 601-280, apply" will be entered in item 27.

_____
(Date individual and counsel sign statement)

SUBJECT: Separation under the Provisions of Chapter 13, AR 635-200

TO: (Unit Commander)

1. I have been advised by my consulting counsel of the basis for the contemplated action to accomplish my separation for (unfitness) (unsuitability) under the provisions of chapter 13, AR 635-200 and its effects; of the rights available to me; and the effect of any action taken by me in waiving my rights.

2. I (request) (waive) consideration of my case by a board of officers. *(This waiver (does) (does not) apply to my Reserve officer status.)

3. I (request) (waive) personal appearance before a board of officers.

4. Statements in my own behalf (are) (are not) submitted herewith (incl _____).

5. I (request) (waive) [**(consulting counsel)] representation by (counsel of representation) (_____) as my military counsel) (civilian counsel at my own expense).

6. I understand that I may expect to encounter substantial prejudice in civilian life if a general discharge under honorable conditions is issued to me. ***(I further understand that, as the result of issuance of an undesirable discharge under conditions other than honorable, I may be ineligible for many or all benefits as a veteran under both Federal and State laws and that I may expect to encounter substantial prejudice in civilian life.)

7. I understand that I may, up until the date the discharge authority directs or approves my discharge, withdraw this waiver and request that a board of officers hear my case.

8. I have retained a copy of this statement.

_____
(Signature of individual)

_____
(Typed name, SSN, grade)

Having been advised by me of the basis for his contemplated separation and its effects, the rights available to him and the effect of a waiver of his rights, _____ (name of individual), who appeared of sound mind, personally and knowingly made the choices indicated in the foregoing statement.

_____
(Signature of counsel)

_____
(Typed name, SSN, grade, branch)

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

**To be used only when the individual is in civil confinement.

***To be used if the individual has been recommended for discharge for unfitness.

★*Figure 13-1. Individual's statement.*

★CHAPTER 14
FRAUDULENT ENTRY

Section I. GENERAL

14-1. Purpose. This chapter establishes policy and prescribes procedures for the processing of fraudulent entry cases and provides for the administrative disposition of enlisted personnel for misconduct by reason of fraudulent entry into the service.

14-2. Scope. The provisions of this chapter apply equally to persons enlisted, inducted, or ordered to active duty, and to Reserve component personnel participating in active duty for training (ADT) under the Reserve Enlistment Program of 1963 (REP).

14-3. Authority. Commanders exercising general court-martial jurisdiction are authorized to—

a. Convene a board of officers and to approve discharge of an enlisted person for fraudulent entry.

b. Void a fraudulent entry (other than by a minor enlisted member covered by paragraph 7-5) by issuing special orders releasing the individual from Army control by reason of fraudulent entry when such individual is AWOL or in desertion.

14-4. Trial by courts-martial. It is not the intent of this chapter to preclude trial by court-martial for violations of Article 83, UCMJ, when such action is in the best interest of the service. If trial by court-martial is not considered appropriate, elimination action will be taken. Inductees will not be tried by court-martial for fraudulent entry.

14-5. Incident of fraudulent entry. Fraudulent entry is the procurement of an enlistment, induction, or period of active service through any deliberate material misrepresentation, omission, or concealement which, if known, might have resulted in rejection. Any incident which meets the foregoing definition may be cause for discharge for fradulent entry. Some examples of incidents of fraudulent entry are—

a. Concealment of prior service. The establishment of the identity of Army personnel and verification of prior service in any of the US Armed Forces normally requires only comparison of fingerprints and examination of records. Accordingly, commanders will not request field investigations in order to establish evidence of prior military service. When additional evidence, such as a statement of service or certificate of service from The Adjutant General is required to establish prior service, an inquiry will be forwarded to the Commanding Officer, US Army Enlisted Personnel Support Center, ATTN: AGPE, Fort Benjamin Harrison, IN 46249, to include the name(s), SSN, and all available information concerning the alleged period of service.

(1) To support an administrative action, a statement of service, as distinguished from a certificate of service, furnished by The Adjutant General is sufficient evidence.

(2) If trial by court-martial is contemplated (para 162, MCM 1969) a certificate of service furnished by The Adjutant General is required.

b. Concealment of true citizenship status.

(1) When information is received from the Immigration and Naturalization Service that a warrant for the individual's arrest has been issued by immigration officials, or that deportation proceedings are currently pending upon completion of military service, the individual will not be considered for retention.

(2) The nearest office of the Immigration and Naturalization Service will be informed when an individual will be discharged so that arrangements may be made if desired, to take him into custody upon discharge.

(3) A report of the facts, together with a report of action taken, will be submitted to HQDA (DAMI), WASH, DC 20310, through intelligence channels.

c. Concealment of conviction by civil court. An individual who concealed his conviction by civil court of a felonious offense normally will not be considered for retention. If information concerning the existence of a civil criminal record is required from the Federal Bureau of Investigation, the contact with the FBI must be made by Headquarters, Department of the Army. Accordingly, the inquiry will be addressed to HQDA (DAAG-PSS-S), WASH, DC 20314. However, specific details of circumstances in a case may be obtained by direct communication with the appropriate civil

(1) To support an administrative action, a statement of service is sufficient evidence.

(2) If trial by court-martial is contemplated (para 162, MCM 1969) a certificate of service is required.

b. Concealment of true citizenship status.

(1) When information is received from the Immigration and Naturalization Service that a warrant for the individual's arrest has been issued by immigration officials, or that deportation proceedings are currently pending upon completion of military service, the individual will not be considered for retention.

(2) The nearest office of the Immigration and Naturalization Service will be informed when an individual will be discharged so that arrangements may be made; if desired, to take him into custody upon discharge.

(3) A report of the facts, togethe with a report of action taken, will be submitted to HQDA (DAMI), WASH, DC 20310, through intelligence channels.

★*c. Concealment of conviction by civil court.* An individual who concealed his conviction by civil court of a felonious offense normally will not be considered for retention. If information concerning the existence of a civil criminal record is required from the Federal Bureau of Investigation, the contact with the FBI must be made by HQDA. Accordingly, the inquiry will be addressed to HQDA (DAPC-PAS-S), 200 Stovall Street, Alexandria, VA 22332. Specific details of circumstances in a case may be obtained however by direct communication with the appropriate civil law enforcement agency, other than the FBI, by the commander concerned. When information is required from both sources, the inquiries will be dispatched concurrently.

d. Concealment of record as a juvenile offender.

(1) An individual who concealed his adjudication as a juvenile offender for a felonious offense will normally not be considered for retention.

(2) The evidence must clearly show that the individual gave a negative answer to a specific question as to whether he had a record of being a juvenile offender, or denied that civil custody, as a result of such record, existed at time of entry into the Service.

e. Concealment of medical defects. Concealment of a medical defect or disability is not considered fraudulent entry within the purview of this chapter, unless it is established that such concealment was for the purpose of obtaining veteran's benefits, hospitalization, disability retirement, or monetary benefits to which the individual was not entitled.

f. Concealment of absence without leave or desertion from prior service.

★(1) *From one of the other Services.* When a member of the Army is discovered to be a deserter from another Service, the commanding officer will report the circumstances to HQDA (DAPC-PAS-S) 200 Stovall Street, Alexandria, VA 22332, and request disposition instructions. After determining if the appropriate Service desires custody of the individual, the CG, MILPERCEN will direct that the member be—

(*a*) Released from control of the Army without a discharge certificate or DD Form 214, or

(*b*) Considered for discharge in accordance with procedures outlined in section II.

(2) *From the US Army.*

(*a*) If trial is not barred by the statute of limitations (Art. 43, UCMJ), the individual will be dropped from the current period of service and held to his first unterminated period of service. When this action is taken, an entry will be made on DA Form 20, showing the reason for the drop and the period of service to which held. No discharge certificate will be furnished. Appropriate disposition will be made of the desertion charges for the unterminated period of service.

★(*b*) If trial is barred by the statute of limitations, the individual will be discharged from the prior period of service in accordance with section II, chapter 15 and considered for discharge from the current period of service in accordance with procedures outlined in section II. In accomplishing the discharge from a prior period of service, the individual will not be sent to the transfer activity.

(3) *Procedure when DA Form 3835 has been circulated.* When the member was the subject of DA Form 3835 (Notice of Unauthorized Absence from US Army) a report of action taken will be furnished the US Army Deserter Information Point (USADIP) Fort Benjamin Harrison, IN 46249.

(*a*) Custody reverts to another branch of the Service.

(*b*) Released from control of the US Army.

(*c*) Discharged from the US Army from prior or current service.

g. Concealment of other disqualifications. Concealment of any other disqualifications, including assuming the identity of another individual through the use of a birth certificate, discharge certificate, or any other record belonging to another will be considered cause for consideration for discharge under the provisions of this chapter. Exceptions to this policy are the concealment of minority (chap. 7) and concealment of true name. However, if true name is concealed for the purpose of concealing a disqualification as outlined in this paragraph, it will be considered fraudulent entry.

Section II. ADMINISTRATIVE PROCEDURES

14-6. Responsibilities. ★*a.* The unit commander will—

(1) Initiate action to obtain the appointment of appointed counsel for consultation (para 1-3*c*).

(2) Initiate action to obtain substantiating evidence as required.

(3) Request a medical evaluation.

b. The officer exercising general court-martial jurisdiction will—

(1) Determine if the incident of fraudulent entry is substantiated.

(2) Insure that the rights of the suspected fraudulent enlistee are protected.

(3) Direct disposition in accordance with paragraph 14-12.

14-7. Medical evaluation. *a.* When a unit commander determines that an individual under military control will be recommended for discharge under the provisions of this chapter, he will refer the individual to Army medical treatment facility for a medical and mental status evaluation. The reason for considering the individual for separation will be furnished the medical treatment facility providing dispensary care. The individual will not be referred to a psychiatrist for an evaluation except when—

(1) Specifically requested by the individual subject to separation action.

(2) Specifically requested by the commanding officer recommending separation action.

(3) Deemed necessary and appropriate by the medical examiner performing the requested evaluation.

(4) Requested by the board considering separation action.

b. In all other cases, the physician performing the medical examination will accomplish the mental status evaluation. In exceptional cases in (*a* above), reasons for specifically requesting a psychiatric evaluation will be provided to the psychiatrist. Under no circumstances will medical personnel be used as an investigative agency to determine facts relative to the individual's behavior.

c. In addition to SF 88 and SF 93, the medical treatment facility will prepare DA Form 3822-R (Report of Mental Status Evaluation) in duplicate. (See fig. 14-2.)

d. The medical treatment facility commander will forward the original of the evaluation report to the unit commander. A copy will be filed in the individual's health record.

e. DA Form 3822-R will be reproduced locally cally on 8- x 10 1/2-inch paper.

14-8. Disposition through medical channels. If it appears that the individual being considered for elimination does not meet retention medical standards, he will be referred to a

medical board or, if there is no board at the examining facility, to the nearest facility having a medical board. The facility commander will furnish a copy of the approved medical board proceedings to the individual's unit commander.

a. When the medical board proceedings indicate that an incapacitating medical condition is the direct or substantially contributing cause of the individual's misconduct, he will be retained under medical jurisdiction for appropriate treatment and disposition in accordance with AR 40-3.

★*b.* When the medical board proceedings indicate that the individual does not meet retention standards and the incapacitating medical condition is not the direct or substantially contributing cause of the individual's misconduct, the unit commander will forward the proceedings to the general court-martial authority, who will determine whether physical disability or administrative processing will be followed. If the general court-martial authority determines that the member will be processed for discharge under the provisions of this chapter and the member is also eligible for retirement under the provisions of chapter 12, the case will be referred to HQDA (DAPC-PAS-S), 200 Stovall Street, Alexandria, VA 22332 for decision.

★**14-9. Rights of individuals.** The appointed counsel for consultation will advise the member of the basis for the proposed discharge action, the types of discharges which may be awarded, the effects of the discharges, and if member is being considered for an undesirable discharge, of his rights as set forth in paragraph 1-10. He also may advise the individual regarding the merits of the contemplated action and assist him in preparing any statements or other evidence for consideration by the general court-martial convening authority (para 1-5*c*).

14-10. Suspension of favorable personnel action. When suspension of favorable personnel action under the provisions of AR 600-31 has been initiated solely because an individual is being considered for elimination under the provisions of this chapter and he is to be processed for separation under medical jurisdiction, the individual's unit commander will expedite action to complete the case and remove the suspension action to preclude delay in disposition of the case through medical channels.

14-11. Action by unit commander. ★*a.* When the evidence to support a deliberate misrepresentation, omission, or concealment of facts which might have resulted in rejection, has been obtained, the unit commander will forward a military letter to the commander exercising general court-martial jurisdiction. The unit commander will inclose a statement by the individual concerning his rights (para 1-10 and fig. 14-1), any other statements or evidence submitted by the individual, and include the following:

(1) Name, grade, SSN, age, date and term of enlistment, and prior service.

(2) Statement whether the individual holds Reserve status as a commissioned or warrant officer. If affirmative, show grade and date of appointment.

(3) Conduct and efficiency ratings. Include primary MOS evaluation score, if available.

(4) Record of trials by court-martial.

(5) Record of other disciplinary action, including nonjudicial punishment.

(6) Recommendation for discharge or retention if it is determined that fraudulent entry did occur. The unit commander will not recommend the type of discharge certificate to be awarded.

(7) Report of medical evaluation when discharge is recommended.

b. When the character of service rendered by the individual supports the issuance of an honorable or general discharge certificate (para 1-9), the unit commander will forward the letter described in *a* above, except for the individual's statement (fig. 14-1), to the commander exercising general court-martial jurisdiction, with the least practicable delay. In these cases the individual need not be afforded the opportunity of a hearing by a board of

officers in accordance with paragraph 1-10, unless the general court-martial authority considers that an undesirable discharge is appropriate.

14-12. Action by general court-martial authority prior to board proceedings. Upon receipt of the recommended action, the commander exercising general court-martial jurisdiction will determine whether the fact of fraudulent entry has been completely verified and proven. If further substantiating facts and evidence are required, they will be obtained, or confirmed as unobtainable, and final determination made. If the fraudulent entry is verified, action will be taken to suspend the individual's pay and allowances in accordance with Part One, chapter 4, DOD Military Pay and Allowances Entitlements Manual. If the fraudulent entry is verified, the general court-martial authority will also take one of the following actions as appropriate:

a. Direct discharge and issuance of an honorable or general discharge certificate.

b. Direct discharge and issuance of an undesirable discharge certificate provided the individual has waived his rights to present his case before a board of officers (para 1-10).

c. Return the case to the unit commander for compliance with paragraph 1-10.

d. Direct that a board of officers be convened to determine whether the individual should be discharged.

e. Direct retention, provided the individual entered the Service with a waivable disqualification as specified in table 2-5, AR 601-210; paragraph 3-9, AR 601-270; or table 2-2, AR 601-280, and the incident of fraudulent entry was for some reason other than concealment of a felony conviction by civil court (para 14-5*c*) or adjudication as a juvenile offender for a felonious offense (para 14-5*d*).

★*f.* Forward the proceedings, with recommendations, to HQDA (DAPC-PAS-S), 200 Stovall Street, Alexandria, VA 22332, when he believes that exceptional circumstances in a case warrants retention even though the individual entered the Service with a nonwaivable disqualification, or the incident of fraudulent entry was concealment of a felony conviction by civil court or adjudication as a juvenile offender for a felonious offense.

★*g.* Direct that the fraudulent entry be voided when the individual is in a status of unauthorized absence or desertion, or absent in the hands of civil authorities. The orders issuing authority will issue special orders releasing the individual from custody and control of the Army (TC 302, AR 310-10).

(1) A copy of the special orders will be forwarded to the individual's last known address.

(2) When the member was the subject of DA Form 3835 a report of action taken will be furnished the US Army Deserter Information Point (USADIP) Fort Benjamin Harrison, IN 46249.

Section III. BOARD OF OFFICERS

14-13. Composition of board. Boards of officers convened to determine whether an individual should be discharged by reason of fraudulent entry will be comprised of at least three commissioned officers, at least one in the grade of major or higher, and a nonvoting recorder. Care will be exercised to insure that—

a. The board is composed of experienced, unbiased officers of mature judgment who are fully cognizant of applicable regulations and policies pertaining to cases of this nature.

b. If the individual is an enlisted member of the Women's Army Corps, the board membership will include an officer of the Women's Army Corps.

c. If the individual has a Reserve enlisted status, the membership of the board will include a majority of Reserve officers, if reasonably available. When a Reserve majority is not available, the board membership will include at least one Reserve component officer.

d. If the individual is an enlisted member who holds Reserve status as a commissioned or warrant officer, the board will be composed of

an uneven number of commissioned officers, but not less than three. The officers will be senior in permanent grade to the Reserve grade held by the respondent. One member of the board will be Regular Army. The remainder will be Reserve officers of the Army who are serving on AD. If the convening authority determines that a Regular Army officer is not available, a Reserve officer serving on AD may be substituted for the Regular Army officer. If the individual is an enlisted member who is also an ARNGUS officer, at least one member of the board will be an ARNGUS officer, if reasonably available.

e. The board is provided a competent reporter or stenographer.

14-14. Witnesses. The expiration of term of service date or transfer status of each expected witness will be ascertained to insure that essential military witnesses will be available at the board proceedings. No witness will be transferred or separated prior to the beginning of a board hearing except when an enlistment or period of service fixed by law expires; in such cases, an attempt will be made to obtain the individual's consent to retention. If he does not consent, a deposition or affidavit will be obtained, as appropriate.

14-15. Board procedures. ★*a.* An individual under military control will be notified in writing of the date of the board hearing. He will be notified at least 15 days before the date of hearing so that he and his appointed counsel for representation (para 1-3*d*) may prepare his case. He will also be notified of the names and addresses of witnesses expected to be called at the board hearing and that the recorder of the board will, upon request of the individual, endeavor to arrange for the presence of any available witness he desires to call. A copy of all affidavits and depositions of witnesses unable to appear in person at the board hearing will be furnished to the individual. When, for overriding reasons, the minimum of 15 days cannot be granted, the president of the board will insure that the reason for acting prior to that time is fully explained and recorded in the proceedings of the board. Requests for an additional delay, normally not to exceed a total of 30 days after initial notice, will be granted if in the judgment of the convening authority or the president of the board such delay is warranted to insure that the respondent receives a full and fair hearing.

★*b.* The individual may appear in person, with or without representing counsel, or, in his absence, he may be represented by counsel at all open proceedings of the board. When the individual appears before a board without representing counsel, the record will show that the president of the board counseled the individual as to type of discharge he may receive as a result of the board action and the effects of such a discharge in later life, and that he may request representing counsel. The record will reflect the individual's response.

c. The individual may request the appearance before the board of any witness whose testimony he believes to be pertinent to his case. He will specify in his request the type of information the witness can provide. The board will secure the attendance of a witness if it considers that he is reasonably available and that his testimony can add materially to the case. Military witnesses under the control of the convening authority will be ordered to attend if reasonably available. The attendance of other military witnesses will be requested through command channels. Witnesses not on active duty must appear voluntarily and at no expense to the Government.

d. The individual may, at any time before the board convenes or during the proceedings, submit any answer, deposition sworn or unsworn statement, affidavit, certificate, or stipulation. This includes, but is not limited to, depositions of witnesses not deemed to be reasonably available or witnesses who are unwilling to appear voluntarily.

e. He may or may not submit to examination by the board. The provisions of Article 31, Uniform Code of Military Justice will apply.

f. The individual and his counsel may question any witness who appears before the board.

g. If the individual holds Reserve status as a commissioned or warrant officer, the board will notify him that the action also involves

his Reserve status and could terminate such status.

h. The individual may challenge any voting member of the board for cause only.

i. Failure of the individual to invoke any of the above rights after he has been apprised of same will not have an effect upon the validity of the elimination proceedings.

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

k. Except as modified herein, the board will conform to the provisions of AR 15-6. As an exception to paragraph 13*b*, AR 15-6, expert medical and psychiatric testimony may be presented in the form of affidavits. However, if the individual desires to present such evidence, he is entitled to have the witnesses appear in person, if they are reasonably available.

l. The proceedings of the board will include a verbatim record of the findings and recommendations (fig. 14-3).

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

14-16. Recommendations of the board. The board will recommend that the individual be—

a. Retained in the Service; or

b. Discharged. If discharge is recommended, the type of discharge certificate to be issued will be specified. If the individual holds Reserve status as a commissioned or warrant officer, the board will include a recommendation whether such status should be terminated and the type of discharge to be issued.

14-17. Action by convening authority (commander exercising general court-martial jurisdiction) on board proceedings. *a.* The convening authority will not discharge an individual if a board recommends retention, nor will he authorize the issuance of a discharge of a less favorable character than that recommended by the board. When a case has been referred to, and action completed by a board of officers, the convening authority will take one of the following actions:

★(1) When a board recommends that an individual be retained and the convening authority believes that separation is warranted and in the Army's best interest, or the individual entered the service with a nonwaivable disqualification, or the incident of fraudulent entry was concealment of a felony conviction by a civil court or adjudication as a juvenile offender for a felonious offense, the convening authority will forward the case to HQDA (DAPC-PAS-S), 200 Stovall Street, Alexandria, VA 22332, with supporting reasons, for final decision.

(2) Approve a recommendation for discharge and direct issuance of the type of discharge certificate recommended by the board. The convening authority may direct issuance of a superior type certificate, but will not direct issuance of a lesser type certificate.

(3) Approve recommendation for retention if the member entered the Service with a waivable disqualification and the incident of fraudulent entry was not concealment of a felony conviction by a civil court or adjudication as a juvenile offender for a felonious offense.

(4) Disapprove a recommendation for discharge and direct retention, if the member entered the Service with a waivable disqualification and the incident of fraudulent entry was not concealment of a felony conviction by a civil court or adjudication as a juvenile offender for a felonious offense.

b. If, in his review of a case in which separation has been recommended by the board, the convening authority notes a defect in the proceedings, which he deems to be harmless, he will take appropriate final action subject to

a above. With respect to substantial defects, he may take one of the following actions:

(1) Direct retention.

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

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

c. Boards may be reconvened or a new board convened only in accordance with the provisions of chapter 1.

d. The convening authority may delegate to his deputy or other officer within his headquarters the authority to approve, disapprove, or make other appropriate disposition of cases, except to direct an undesirable discharge. The convening authority is required to personally sign any action directing undesirable discharge of an enlisted member under his command. He may direct other appropriate disposition of the case.

14-18. Disposition of proceedings. *a.* When discharge of an enlisted person has been accomplished by appropriate authority under the provisions of this chapter, the complete file of the case will be filed in accordance with AR 640-10.

★*b.* When retention is directed, the retention constitutes a waiver of the fraudulent entry. The following statement will be entered in item 42, DA Form 20: "Discharge action based on fraudulent entry is waived and retention authorized on _____." The original copy of the approved document will be forwarded to the Commander, US Army Enlisted Records Center, Fort Benjamin Harrison, IN 46249, for inclusion in the member's official personnel record.

c. When the convening authority approves a recommendation that an enlisted member be discharged from Reserve status as a commissioned or warrant officer, he will forward a copy of the approved proceedings to the Commander, RCPAC, for appropriate action under the provisions of AR 135-175.

d. When an ARNGUS trainee is released from ADT under the provisions of this chapter, a copy of the approved proceedings will be forwarded to the adjutant general of the State concerned.

14-19. Type of discharge. An individual discharged under the provisions of this chapter will be furnished DD Form 256A (Honorable Discharge Certificate), DD Form 257A (General Discharge Certificate), or DD Form 258A (Undesirable Discharge Certificate). In addition to section III, chapter 1, the following factors will be considered in determining the type of discharge certificate to be issued:

a. The character of service will be based on in-service records and activities.

b. False pre-enlistment or pre-induction records will not be used as a basis for characterizing a period of service.

c. The offense of fraudulent enlistment (10 USC 883; Art. 83, UCMJ) occurs when the member accepts pay or allowances following enlistment procured by willful and deliberate false representation or concealment of his qualifications. Thus, upon receipt of pay and allowances, it becomes an in-service activity by the member and may be considered in characterizing his period of service, even though he is not tried for the offense.

d. A fraudulent induction is not an offense under the Uniform Code of Military Justice. (See Art. 83, UCMJ; 10 USC 883; US *vs* Jenkins, 7 USCMA 251, 22 CMR 51 (1956).) Since a fraudulent induction is accomplished by pre-induction activities on the part of the inductee, it cannot be used as a basis for characterizing a period of service.

★**14-20. Entries on DD Form 214.** *a.* When an individual is discharged for fraudulent entry, the entry on DD Form 214 will be "Chapter 14, AR 635-200." The SPD will be entered in accordance with AR 635-5-1.

b. When an individual is discharged for de-

sertion, trial barred, the entry on DD Form 214 will be "Section II, chapter 15." The SPD will be entered in accordance with AR 635-5-1.

_____
(Date individual and counsel sign statement)

SUBJECT: Discharge For Fraudulent Entry

TO: (Discharge Authority)

1. *I have been advised by my consulting counsel of the basis for the contemplated action to accomplish my discharge for fraudulent entry under chapter 14, AR 635-200.

2. I (request) (waive) consideration of my case by a board of officers.

3. I (request) (waive) personal appearance before a board of officers.

4. Statements in my own behalf (are) (are not) submitted herewith as inclosure _____.

5. I (request) (waive) representation by (appointed counsel for representation) (_____ as my military counsel) (civilian counsel at my own expense).

6. I understand that, as a result of issuance of a discharge under conditions other than honorable, I may be ineligible for many or all benefits as a veteran under both Federal and State laws and that I may expect to encounter substantial prejudice in civilian life.

7. I have retained a copy of this statement.

_____
(Signature of individual)

_____
(Typed name, SSN, and grade)

Having been advised by me of the basis for this contemplated discharge and its effect and the rights available to him, (name of individual) personally made the choices indicated in the foregoing statement.

_____
(Signature of consulting counsel)

_____
(Typed name, SSN, and grade)

*If the individual declines to consult with consulting counsel prior to waiving his rights, he will be ordered to do so by his commander. If he persists in his refusal, a statement to this effect will be prepared by the commander and placed in his file. Separation action will then proceed as if the member had consulted with consulting counsel. In all cases, except the above, consulting counsel will witness this statement and indicate that he is a commissioned officer of the Judge Advocate General's Corps.

Note. An individual who holds a Reserve status as a commissioned or warrant officer will include in his statement whether a waiver of board hearing does or does not apply to his Reserve status.

★*Figure 14-1.*

FINDINGS: In the board proceedings concerning Private (E-2) John A. Doe, 000-00-0000, the board carefully considered the evidence before it and finds:

Private Doe is undesirable for further retention in the military service because of fraudulent entry.

RECOMMENDATION:

In view of the findings, the board recommends that Private Doe be discharged from the service because of fraudulent entry with issuance of a _____ Discharge Certificate (DD Form _____).

_____
President

_____
Member

_____
Member

_____
Recorder

Figure 14-3. Verbatim findings and recommendations.

REPORT OF MENTAL STATUS EVALUATION

For use of this form, see AR 635-200; the proponent agency is MILPERCEN.

NAME	GRADE	SOCIAL SECURITY NUMBER

REASON FOR EVALUATION

1. REQUEST A MENTAL STATUS EVALUATION FOR THE ABOVE NAMED SERVICE MEMBER WHO IS BEING CONSIDERED FOR DISCHARGE BECAUSE OF ☐ UNSUITABILITY ☐ MISCONDUCT ☐ REQUEST FOR DISCHARGE FOR GOOD OF SERVICE ☐ OTHER *(See Remarks)* NOTE: IF NECESSARY, INCLUDE SPECIFIC REASONS IN REMARKS

EVALUATION *(Check all that apply)*

2. BEHAVIOR
☐ HYPERACTIVE ☐ NORMAL ☐ PASSIVE ☐ AGGRESSIVE ☐ HOSTILE ☐ SUSPICIOUS ☐ BIZARRE

3. LEVEL OF ALERTNESS
☐ FULLY ALERT ☐ DULL ☐ SOMNOLENT

4. LEVEL OF ORIENTATION
☐ FULLY ORIENTED ☐ PARTIAL ☐ DISORIENTED

5. MOOD OR AFFECT
☐ ANXIOUS ☐ FLAT ☐ UNREMARKABLE ☐ DEPRESSED ☐ LABILE ☐ MANIC OR HYPOMANIC

6. THINKING PROCESS
☐ CLEAR ☐ CONFUSED ☐ BIZARRE ☐ LOOSELY CONNECTED

7. THOUGHT CONTENT
☐ NORMAL ☐ ABNORMAL ☐ HALLUCINATIONS ☐ PARANOID IDEATION ☐ DELUSIONS

8. MEMORY
☐ GOOD ☐ FAIR ☐ POOR

IMPRESSIONS *(Check all that apply)*

9. IN MY OPINION, THIS SERVICE MEMBER

☐ HAS THE MENTAL CAPACITY TO UNDERSTAND AND PARTICIPATE IN THE PROCEEDINGS.

☐ WAS MENTALLY RESPONSIBLE.

☐ MEETS THE RETENTION REQUIREMENTS OF CHAPTER 3, AR 40-501.

☐ NEEDS FURTHER EXAMINATION *(See Remarks)*

☐ OTHER *(See Remarks)*

REMARKS

DATE	SIGNATURE

DA FORM 3822-R, 1 Mar 80 EDITION OF 1 OCT 77 IS OBSOLETE.

Figure 1-3.

REPORT OF MENTAL STATUS EVALUATION

For use of this form, see AR 635-200; the proponent agency is The Adjutant General's Office.

REQUEST A MENTAL STATUS EVALUATION FOR THE BELOW NAMED INDIVIDUAL WHO IS BEING CONSIDERED.

FOR DISCHARGE BECAUSE OF ☐ CONVICTION BY CIVIL COURT ☐ FRAUDULENT ENTRY ☐ DESERTION ☐ UNSUITABILITY ☐ UNFITNESS

NAME	GRADE	SSN

EVALUATION

1. BEHAVIOR
☐ NORMAL ☐ PASSIVE ☐ AGGRESSIVE ☐ HOSTILE ☐ SUSPICIOUS ☐ BIZARRE

2. LEVEL OF ALERTNESS
☐ FULLY ALERT ☐ DULL ☐ SOMNOLENT

3. LEVEL OF ORIENTATION
☐ FULLY ORIENTED ☐ PARTIAL ☐ DISORIENTED

4. MOOD
☐ DEPRESSED ☐ LEVEL ☐ HYPERACTIVE

5. THINKING PROCESS
☐ CLEAR ☐ CONFUSED ☐ BIZARRE

6. THOUGHT CONTENT
☐ NORMAL ☐ ABNORMAL ☐ HALLUCINATIONS ☐ PARANOID IDEATION ☐ DELUSIONS

7. MEMORY
☐ GOOD ☐ FAIR ☐ POOR

IMPRESSIONS	YES	NO
8. SIGNIFICANT MENTAL ILLNESS.		
9. MENTALLY RESPONSIBLE.		
10. ABLE TO DISTINGUISH RIGHT FROM WRONG.		
11. ABLE TO ADHERE TO THE RIGHT.		
12. HAS THE MENTAL CAPACITY TO UNDERSTAND AND PARTICIPATE IN BOARD PROCEEDINGS.		
13. MEETS THE RETENTION STANDARDS PRESCRIBED IN CHAPTER 3, AR 40-501.		

REMARKS

DATE	SIGNATURE

DA FORM 3822-R, 1 Aug 72 EDITION OF 1 NOV 71 IS OBSOLETE.

Figure 14-2

★CHAPTER 15

MISCONDUCT—DESERTION AND ABSENCE WITHOUT LEAVE

Section I. GENERAL PROVISIONS

15-1. Purpose. This chapter establishes policy and prescribes procedures for the elimination of enlisted personnel for misconduct by reason of absence without leave or desertion. Elimination action under the provisions of this chapter will not be taken in lieu of disciplinary action solely to spare an individual the penalties which may be imposed under the UCMJ.

15-2. Scope. This chapter applies to persons enlisted, inducted, or ordered to AD. This chapter also applies to members of the ARNG and USAR serving on initial active duty for training or active duty for training.

15-3. Authority. *a.* When absentees are returned to military control from a status of AWOL or desertion (sec II), the *commander exercising general court-martial jurisdiction* is authorized to—

(1) Direct discharge.

(2) Direct retention.

(3) Convene an Administrative Discharge Board.

(4) Approve discharge, but suspend execution.

b. The *Commanding Officer, US Army Enlisted Records Center, Fort Benjamin Harrison, IN 46249,* is authorized to discharge alien deserter personnel without their return to military control (sec III).

Section II. DISCHARGE FOR AWOL AND DESERTION

15-4. General. This section furnishes guidance to commanders exercising general court-martial jurisdiction and outlines the conditions and procedures for the discharge, without trial, of absentees or deserters who have returned to military control.

15-5. Criteria. An individual may be considered for discharge under this section when—

a. It is determined by an administrative review of all facts that there is substantial evidence to support a determination of desertion or absence without leave. ("Substantial evidence" means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. The term should not be confused with the rule of evidence which requires that the guilt of the accused be established beyond a reasonable doubt to justify a criminal conviction of desertion or absence without leave.)

b. The unauthorized absence was continuous for 1 year or longer.

c. Retention in the Service is precluded by regulations or is not considered desirable or in the best interests of the United States.

d. Trial by court-martial on a charge of desertion or AWOL is waived or deemed inadvisable by the general court-martial convening authority; or such trial has resulted in—

(1) Disapproval of the findings or sentence by the convening authority, or upon further review by higher authority, based on a technical error which does not go to the innocence or guilt of the member [para 1-13*a* (1)]; or

(2) The accused successfully pleading the statute of limitations, 10 USC 843 (Art. 43, UCMJ).

15-6. Initiation of discharge proceedings. The unit commander of the individual will recommend whether action prescribed in this chapter, or disciplinary action should be initiated. The unit commander may—

a. Afford the individual the opportunity to waive his right to a hearing before a board of officers. In these cases—

(1) The commander will advise the individual in writing of the basis for the proposed discharge action and advise him that he has the following rights:

(*a*) To consult with a consulting counsel (para 1-3*c*).

(*b*) To present his case before a board of officers.

(*c*) To submit statements in his own behalf.

(*d*) To be represented at a hearing by appointed counsel for representation (para 1-3*d*); military counsel of his own choice, provided such counsel is reasonably available; or civilian counsel at his own expense.

(*e*) To waive the rights in (*b*), (*c*), and (*d*) above.

(*f*) To withdraw his waiver of his rights in (*b*), (*c*), and (*d*) above at any time *prior to the date* the discharge authority directs or approves his discharge and to request that his case be presented before a board of officers.

(2) The commander will take action to obtain appointed counsel for consultation for the individual to discuss the implications of the proposed discharge and to advise him of his rights.

(3) The commander will arrange for a medical examination with the appropriate medical treatment facility (para 15-8).

(4) An enlisted member will be given a reasonable time (not less than 72 hours) to consider waiver of board proceedings and to consult with consulting counsel prior to waiving his rights. An enlisted person serving on an unspecified enlistment may tender his resignation in lieu of board action pursuant to chapter 9.

(5) The individual will submit a signed statement (fig. 15-1), indicating that he has been advised of the basis for the contemplated separation and its effect and of the rights listed in (1) above. The statement will include a request or a waiver by the individual of each right listed in 1(*b*), (*c*), and (*d*) above. Consulting counsel will sign the statement and the statement will be included in the unit commander's report when elimination action is initiated. If the individual refuses to consult with a consulting counsel, the procedures contained in paragraph 1-10*a*(6) will be followed. If the individual refuses to sign the statement, it will be considered that the individual has not waived the rights listed in 1(*b*), (*c*), and (*d*) above.

(6) Waivers of board hearings will not be accepted from members who have completed 18 or more years of active Federal service. Such members appearing before a board of officers convened under the provisions of this regulation must be represented by a counsel for representation.

(7) An individual who holds a Reserve status as a commissioned or warrant officer will include in his statement whether a waiver of board hearing applies to his Reserve status.

(8) The case will be forwarded to the general court-martial authority, with a recommendation that discharge proceedings prescribed in this section be approved. The unit commander will not recommend the type of discharge to be issued. Inclosed with the case will be the appropriate documentary evidence to support the charge of AWOL or desertion, the desires of the individual concerning waiver or requesting appointed counsel for representation and appearance before an Administrative Discharge Board, any matter submitted by respondent or his consulting counsel, and the report of medical evaluation.

15-7. Rights of the individual. Upon initiation of procedures prescribed in this section, an appointed counsel for consultation (para

1-3*c*) will be appointed. Counsel will advise the member in accordance with the provisions of paragraph 1-3*c* and this section. Counsel for representation, when appointed, will meet the qualifications described in paragraph 1-3*d*(1). Nothing contained in this chapter will be construed to preclude any person subject to the Uniform Code of Military Justice from preferring charges against the member or the commander exercising general court-martial jurisdiction in referring such charges to trial by court-martial.

15-8. Medical evaluation. *a.* When a unit commander determines that an individual under military control is to be processed for separation described in this section, he will initially refer the individual to the serving Army medical treatment facility and request a medical and mental status evaluation. The reason for considering the individual for separation will be furnished the medical treatment facility. The medical treatment facility providing dispensary care will make the final type physical examination and mental status evaluation. In exceptional cases ((1) through (4) below), the individual will be sent to a psychiatrist. The reasons for specifically requesting a psychiatric evaluation will be provided to the psychiatrist. The individual will not be referred to a psychiatrist for evaluation unless—

(1) Specifically requested by the individual subject to separation action.

(2) Specifically requested by the commander recommending separation action.

(3) Deemed necessary and appropriate by the medical examiner performing the medical and mental status evaluation.

(4) Requested by the board considering separation action.

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

c. In addition to SF 88 and SF 93, the medical treatment facility will prepare DA Form 3822-R (fig. 14-2).

d. The medical treatment facility commander will forward the original of DA Form 3822-R to the unit commander. A copy will be filed in the individual's Health Record.

15-9. Disposition through medical channels. If it appears that the individual being considered for discharge does not meet retention medical standards, he will be referred to a medical board or, if there is no board at the examining facility, to the nearest facility having a medical board. The facility commander will furnish a copy of the approved medical board proceedings to the individual's unit commander.

a. When the medical board proceedings indicate that an incapacitating medical condition is the direct or substantially contributing cause of the individual's misconduct, he will be retained under medical jurisdiction for appropriate treatment and disposition (AR 40-3).

b. When the medical board proceedings indicate that the individual does not meet retention standards and the incapacitating medical condition is not the direct or substantial contributing cause of the individual's misconduct, the unit commander will forward the proceedings to the general court-martial authority, who will determine whether physical disability or administrative processing will be followed. If the general court-martial authority determines that the individual will be processed through disability channels, action will be taken as prescribed in paragraph 13-11*c*. If the general court-martial authority determines that the member will be processed for discharge under the provisions of this chapter and if the member is also eligible for retirement under the provisions of chapter 12, the case will be referred to HQDA (DAPC-PAS-S), 200 Stovall Street, Alexandria, VA 22332, for a decision whether to retire or discharge.

15-10. Action by the general court-martial authority. The general court-martial authority will take one of the following actions:

a. Direct discharge when the individual has waived his rights to an Administrative Discharge Board.

b. Direct retention.

c. Convene and Administrative Discharge Board.

15-11. Composition and procedures of the Administrative Discharge Board. The composition of the board, board procedures, and recommendations of the board will be in accordance with section III, chapter 14.

15-12. Action by convening authority (commander exercising general court-martial jurisdiction) on the board proceedings. *a.* The convening authority will not discharge an individual if a board recommends retention, nor will he authorize the issuance of a discharge of a less favorable character than than recommended by the board. When a case has been referred to and action completed by an Administrative Discharge Board, the convening authority will take one of the following actions:

(1) When a board recommends that an individual be retained and the convening authority believes that discharge is warranted and in the Army's best interest, he will forward the case to HQDA (DAPC-PAS-S), 200 Stovall Street, Alexandria, VA 22332, with supporting reasons, for final decision.

(2) Approve a recommendation for discharge and direct issuance of the type of discharge certificate recommended by the board. The convening authority may direct issuance of a superior type certificate, but will not direct issuance of a less favorable certificate.

(3) Approve a recommendation for retention.

(4) Disapprove a recommendation for discharge and direct retention.

(5) Approve a recommendation for discharge and suspend execution (para 1-15).

b. For limitations on administrative discharge and board hearings, see paragraph 1-13.

c. The convening authority may delegate to his deputy or other officer within his headquarters the authority to approve, disapprove, or make other appropriate disposition of cases, except to direct an undesirable discharge. The convening authority is required to personally sign any action directing an undesirable discharge of an enlisted member under his command.

15-13. Disposition of proceedings. *a.* When execution of a discharge of an enlisted person has been directed by appropriate authority under the provisions of this chapter, the elimination proceedings will be filed in accordance with AR 640-10.

b. When the convening authority approves a recommendation that an enlisted member who holds a Reserve commission or warrant be discharge from such reserve status, a copy of the approved proceedings will be forwarded to the Commander, RCPAC, 9700 Page Boulevard, St. Louis, MO 63132, for appropriate action under the provisions of AR 135-175.

c. When the individual was the subject of DA Form 3835, insure that a report of return to military control has been furnished the Commander, US Army Deserter Information Point (USADIP), Fort Benjamin Harrison, IN 46249.

15-14. Forwarding fingerprints to the FBI. FD Form 249 will be prepared and submitted in accordance with paragraph 3-17, AR 635-10, when the member is discharged under the provisions of this section. This will accomplished *after* the member has been tried (para 1-5, AR 190-4).

SUBJECT: Discharge by reason of (desertion) (absent without leave)

TO:

1. *I, _____, SSN _____, have been advised by appointed counsel for consultation that I have been recommended for discharge by reason of misconduct for (desertion) (AWOL) under the provisions of chapter 15, AR 635-200. I also have been advised by my consulting counsel of the effect of such a discharge proceedings, of the rights available to me, and the effect of any action taken by me in waiving such rights. I understand that I may be discharged under other than honorable conditions and furnished an Undesirable Discharge Certificate. I understand the possible effects of an undesirable discharge and that, as a result of the issuance of such a discharge, I will be deprived of many or all benefits administered by the Veterans Administration and that I may be deprived of my rights and benefits as a veteran under both Federal and State law. I also understand that I may expect to encounter substantial prejudice in civilian life by reason of an undesirable discharge. Having been advised of the foregoing, I make the following choices:
I (request) (waive) consideration of my case by an Administrative Discharge Board. I (request) (waive) appearance before an Administrative Discharge Board. Statements in my own behalf (are) (are not) submitted herewith. I (request) (waive) representation by (my appointed counsel for representation) (_____ as military counsel) (civilian counsel at my own expense).

2. I understand that I may, up until the date the discharge authority orders, directs, or approves my discharge, withdraw this waiver and request that an Administrative Discharge Board hear my case.

3. I have retained a copy of this statement.

_____
(Signature of respondent and date)

_____
(Typed name, SSN, and grade)

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

_____
(Signature of counsel)

_____
(Typed name, SSN, grade)

*If the respondent declines to consult with counsel prior to waiving his rights, insert as first sentence of paragraph 1, the following statement: "Prior to completing this form, I have been afforded the opportunity to consult with appointed counsel for consultation; or military counsel of my own choice, if he is reasonably available; or civilian counsel at my own expense. I decline the opportunity."

Note. An individual who holds a Reserve status as a commissioned or warrant officer will include in his statement whether a waiver of board hearing does or does not apply to his Reserve status.

★*Figure 15-1.*

Section III. DISCHARGE OF ALIENS WHO ARE IN A STATUS OF DESERTION

15-15. General. This section provides for the discharge without return to military control of aliens who have remained continuously in a status of desertion for 1 year or longer.

15-16. Aliens in prolonged unauthorized absence status living in a foreign country. As an exception to paragraph 1-10*d*, alien members of the Army will be discharged for prolonged unauthorized absence *in absentia* when all the following circumstances exist:

a. The unauthorized absence has continued for 1 year or longer.

b. The alien is known to be residing in a foreign country.

c. The notification requirem[illegible] t[illegible] [illegible] paragraph 15-17 have been completed.

15-17. Letter of notification. *a.* The Commander, US Army Enlisted Records Center will notify service member of the basis for the pending discharge action, the type of discharge to be issued, and its effect as follows:

(1) When an absentee is residing at a known address in a foreign country which has registered mail service, a letter will be sent to the individual by registered mail, return receipt requested.

(2) When an absentee is residing at a known address in a foreign country which does not have registered mail service, the letter of notification will be sent to the US military attaché of the country in which the absentee resides for delivery to the absentee. The attaché will be requested to notify the Commander, US Army Enlisted Records Center, of the date of delivery to the absentee.

(3) When an absentee is residing in a foreign country, but a specific address is not known or a letter of notification has been returned as undeliverable, a letter will be sent by registered mail, return receipt requested, to the following, in turn:

(*a*) The absentee's permanent home of record.

(*b*) The absentee's next of kin.

b. When a reply is received from the absentee, it will be examined by the Commanding Officer, US Army Enlisted Records Center, and filed in the member's OMPF.

c. If a reply is not received within 45 days from date of delivery, the discharge action will be completed.

15-18. Type of Discharge. An individual discharged under the provisions of this section will be furnished DD Form 258A by the Commanding Officer, US Army Enlisted Records Center.

15-19. Distribution of separation documents. *a.* The appropriate discharge certificate and copy No. 1 of DD Form 214 will be mailed by registered mail, return receipt requested, to the individual at the address to which the letter of notification was sent. If no reply has been received to the letter of notification, the separation documents will be filed in OMPF for disposition in accordance with AR 635-10.

b. Copy No. 4 of DD Form 214 will be forwarded to HQDA (DAPC-PSS-M), 200 Stovall Street, Alexandria, VA 22332, for strength accountability. The remaining copies will be distributed in accordance with AR 635-5.

15-20. Exceptional circumstances. *a.* If, prior to the date that an undesirable discharge has been approved, ordered, or directed by the Commanding Officer, US Army Enlisted Records Center, information is received from the member or any other source that (if believed) would establish that the member has not been in continuously unauthorized absence for 1 year or more, or has been awarded the Bronze Star with V device, Soldiers Medal, Distinguished Flying Cross, Silver Star, Distinguished Service Cross, or Medal of Honor, discharge action prescribed in this section will be suspended. An informal inquiry will be conducted to verify the information and the file will be forwarded to HQDA (DAPC-PAS-S) 200 Stovall Street, Alexandria, VA 22332, re-

questing a Secretarial determination as to the final disposition to be taken.

b. Any information received from the member or any other source on or after the date that an undesirable discharge is approved, ordered, or directed by the Commanding Officer, US Army Enlisted Records Center, will be filed in the member's OMPF and will not affect the validity of the discharge action—such action being final.

★APPENDIX A
ADDRESSES OF STATE AND TERRITORY ADJUTANTS GENERAL

State or territory	*Address*
Alabama	P. O. Box 1311, Montgomery, AL 36102
Alaska	Military Department, State of Alaska, Anchorage, AK 99501
Arizona	747 West Van Buren, Phoenix, AZ 85007
Arkansas	P. O. Box 678, North Little Rock, AR 72115
California	P. O. Box 214334, Sacramento, CA 95821
Colorado	300 Logan St., Denver, CO 80203
Connecticut	360 Broad St., Hartford, CT 06115
Delaware	State Armory, P. O. Box 607, Wilmington, DE 19899
District of Columbia	National Guard Armory, 2001 E. Capital St., Washington, DC 20003
Florida	State Arsenal, St. Augustine, FL 32084
Georgia	P. O. Box 4839, Atlanta, GA 30302
Hawaii	Fort Ruger, Honolulu, HI 96816
Idaho	P. O. Box 1098, Boise, ID 83701
Illinois	State Armory Bldg., Springfield, IL 62706
Indiana	Stout Field, Indianapolis, IN 46241
Iowa	P. O. Box 616, Des Moines, IA 50303
Kansas	State Capitol Bldg., Topeka, KS 66612
Kentucky	State Capitol, Frankfort, KY 40601
Louisiana	HQ Bldg., Jackson Barracks, New Orleans, LA 70140
Maine	Camp Keyes, Augusta, ME 04330
Maryland	Fifth Regiment Armory, Baltimore, MD 21201
Massachusetts	905 Commonwealth Ave., Boston, MA 02215
Michigan	P. O. Box 210, Lansing, MI 48901
Minnesota	Veterans Service Bldg., St. Paul, MN 55101
Mississippi	P. O. Box 5027, Fondren St., Jackson, MS 39216
Missouri	P. O. Box 897, Jefferson City, MO 65101
Montana	1100 N. Main Street, Helena, MT 59601
Nebraska	1300 Military Rd., Lincoln, NB 68508
Nevada	P. O. Box 1120, Carson City, NV 89701
New Hampshire	State Mil. Res., Airport Rd., Concord, NH 03301
New Jersey	Chief of Staff, Department of Defense, State of New Jersey, P. O. Box 979, Trenton, NJ 08625
New Mexico	P. O. Box 4277, Santa Fe, NM 87502
New York	The Chief of Staff, Division of Military and Naval Affairs, Public Security Bldg., State Campus, Albany, NY 12226
North Carolina	P. O. Box 26268, Raleigh, NC 27611
North Dakota	Fraine Barracks, Bismarck, ND 58501
Ohio	Bldg. 110, Ft. Hayes, Columbus, OH 43216
Oklahoma	2205 North Central St., Oklahoma City, OK 73105

Oregon	2150 Fairgrounds Rd., NE, Salem, OR 97310
Pennsylvania	R. D. #2, Annville, PA 17003
Puerto Rico	P. O. Box 3786, San Juan, PR 00904
Rhode Island	1051 Main St., Providence, RI 02904
South Carolina	235 Wade Hampton State Office Bldg., Columbia, SC 29201
South Dakota	Camp Rapid, Rapid City, SD 57704
Tennessee	National Guard Armory, Sidco Dr., Nashville, TN 37204
Texas	P. O. Box 5218, West Austin Station, Austin, TX 78703
Utah	P. O. Box 8000, Salt Lake City, UT 84108
Vermont	Building No. 1, Camp Johnson, Winooski, VT 05404
Virginia	Room 506 Ninth Street, State Office Bldg., Richmond, VA 23219
Washington	Camp Murray, Fort Lewis, Tacoma, WA 98430
West Virginia	State Capitol, Charleston, WV 25305
Wisconsin	P. O. Box 328, Madison, WI 53701
Wyoming	5500 Bishop Blvd., P. O. Box 1709, Cheyenne, WY 2001

★APPENDIX B

AREA ADDRESSES OF AMERICAN NATIONAL RED CROSS WITH GEOGRAPHICAL JURISDICTIONS

NATIONAL HEADQUARTERS, 17th and D Streets, NW, Washington, DC 20006

Hawaii, Alaska, and insular chapters (American Samoa, Canal Zone, Virgin Islands, Guam, Puerto Rico) are communicated with directly through postal or commercial cable facilities. Chapters should follow instructions in Handbook for Service to Military Families (ARC 1295) when indicated.

EASTERN AREA, 615 North St. Asaph Street, Alexandria, VA 22314

Connecticut
Delaware
District of Columbia
Indiana (Dearborn, Ohio, Franklin, and Switzerland counties *only*)
Kentucky (Boone, Campbell, Kenton, Boyd, Greenup, Lewis, Bracken, Grant, Gallatin, Mason, Owen, and Pendleton counties *only*)
Maine
Maryland
Massachusetts
New Hampshire
New Jersey
New York
North Carolina (US Coast Guard, Elizabeth City; Camden, Chowan, Currituck, Gates, Pasquotank, and Perquimans counties *only*)
Ohio
Pennsylvania
Rhode Island
Vermont
Virginia
West Virginia

SOUTHEASTERN AREA, 1955 Monroe Drive, NE, Atlanta, GA 30324

Alabama
Arkansas (*except* Miller and Little River counties)
Florida
Georgia
Indiana (Clark, Crawford, Harrison, and Floyd counties *only*)
Kentucky (*except* Boone, Campbell, Kenton, Boyd, Bracken, Daviess, Gallatin, Grant, Greenup, Hancock, Henderson, Lewis, Mason, Owen, Pendleton, Sturgis, Union, and Webster counties)
Louisiana
Mississippi
North Carolina (*except* US Coast Guard, Elizabeth City; Camden, Chowan, Currituck, Gates, Pasquotank, and Perquimans counties)
South Carolina
Tennessee

MIDWESTERN AREA, 4050 Lindell Blvd., St. Louis, MO 63108

Arkansas (Miller and Little River counties *only*)
Illinois
Indiana (*except* Clark, Crawford, Dearborn, Ohio, Franklin, Harrison, Floyd, and Switzerland counties)
Iowa
Kansas
Kentucky (Daviess, Hancock, Henderson, Sturgis, Union, and Webster counties *only*)
Michigan
Minnesota
Missouri
Nebraska
North Dakota
Oklahoma
South Dakota
Texas
Wisconsin
Wyoming (Crook and Weston counties *only*)

WESTERN AREA, 1550 Sutter Street, San Francisco, CA 94101

Arizona
California
Colorado
Idaho
Montana
Nevada
New Mexico
Oregon
Utah
Washington
Wyoming (*except* Crook and Weston counties)

★APPENDIX C

SAMPLE REPORT OF PROCEEDINGS OF BOARD OF OFFICERS*

DEPARTMENT OF THE ARMY
COMPANY A
4th BATTALION, 96th INFANTRY
FORT JACKSON, SOUTH CAROLINA

15 May 1972

SUBJECT: Discharge for Unfitness under Chapter 13, AR 635-200

THRU: Commander
4th Battalion, 96th Infantry
Fort Jackson, South Carolina

TO: Commander
118th Infantry Division
Fort Jackson, South Carolina

1. It is recommended that Private (E-2) John A. Doe, 000-00-0000, be required to appear before a board of officers convened under the provisions of Chapter 13, AR 635-200 for the purpose of determining whether he should be discharged before the expiration of his term of service.

2. In support of the recommendation, the following information concerning Private Doe is provided.

a. He enlisted on 15 March 1971 for a term of 3 years and has no prior service. He is 20 years old.

b. He has no Reserve commission or warrant.

c. Discharge is recommended because of habits and traits of character manifested by repeated commission of petty offenses and habitual shirking.

*This is an example of a recommendation for discharge for unfitness. If individual is being recommended for discharge for unsuitability, sample will be changed accordingly.

EXHIBIT A

15 May 1972

SUBJECT: Discharge for Unfitness under Chapter 13, AR 635-200

d. His AFQT score is 42, his duty MOS is 11B, and his MOS evaluation score is 85. His aptitude area scores are as follows:

APT	OCC	SCORE
CO	1	A - 92, B - 89
EL	2-3	79
GM	4-5	105
MM	6	89
CL	7	85
GT	8-9-0	87
RC	0	100
IN		85
AE		70

e. During the period 1 August 1971, to date, this soldier has been assigned to various duty assignments (three different companies) in the battalion commensurate with his training and ability and has served under different superior officers and noncommissioned officers. In each instance, his performance of duty has been unsatisfactory. His military superiors and the psychiatric examiner agree that further rehabilitative efforts would be useless. His assignments in this battalion have been as listed below:

(1) 1 August 1971 - 3 November 1971, Company C.

(2) 4 November 1971 - 1 March 1972, Company B.

(3). 2 March 1972 - Date, Company A.

f. He has been counseled as indicated below:

(1) 8 September 1971 and 8 October 1971, by Captain Winfield M. Elrod, Commanding Officer, Company C, 4th Battalion, 96th Infantry.

(2) 19 December 1971, by Lieutenant Titus L. Moody, Executive Officer, Company B, 4th Battalion, 96th Infantry.

(3) 3 March 1972, by Captain William P. Peters, Commanding Officer, Company A, 4th Battalion, 96th Infantry.

(4) 2 April 1972, by Chaplain (Major) Howard X. Cross, Headquarters, 118th Infantry Division.

25 May 1972

SUBJECT: Discharge for Unfitness under Chapter 13, AR 635-200

g. As discharge is recommended for the reasons stated in c above, elimination for unsuitability is not considered appropriate. Private Doe's performance is characterized by intentional shirking of his duties and by behavior rendering him repeatedly subject to punitive action. His behavior is not due to an incapacity to become a satisfactory soldier within the meaning of unsuitability. There appear to be no grounds for other disposition.

h. Private Doe's conduct and efficiency ratings have been as follows:

(1)	22 March 1971-31 July 1971:	Conduct--Good Efficiency--Good
(2)	1 August 1971-3 November 1971:	Conduct--Fair Efficiency--Unsatisfactory
(3)	4 November 1971-1 March 1972:	Conduct--Fair Efficiency--Unsatisfactory
(4)	2 March 1972-Date:	Conduct--Unsatisfactory Efficiency--Unsatisfactory

i. Private Doe has two convictions by summary court-martial and one by special court-martial. He was convicted by summary court on 8 September 1971, for 7 days' AWOL and on 23 April 1972, for damaging US property through neglect. He was convicted by special court-martial on 10 May 1972, for 6 days' AWOL and disrespect to a noncommissioned officer while in execution of office. Private Doe has been punished in this company on three separate occasions under the provisions of article 15, UCMJ (incl 5).

5 Incl
1. Ltr of notification
2. Ltr of acknowledgement
3. Med exam (SF 88, SF 93, DA Form 3822-R
4. Ext of prev convictions (DD Form 493)
5. Recd of art 15 proceedings (DA Form 2627)

(NAME)
Captain, Infantry
Commanding

NOTE: The first three inclosures must be included in all cases. Inclosure 4 and 5 must be included if appropriate. Other inclosures may be added as desired.

AJ Doe, John A. (Enl) 000-00-0000 (15 May 1972) Ist Ind
SUBJECT: Discharge for Unfitness Under Chapter 13, AR 635-200

HQ, 4th Battalion, 96th Infantry, 118th Infantry Division, Fort Jackson, South Carolina, 18 May 1972

TO: Commander, 118th Infantry Division, Fort Jackson, South Carolina

Recommend approval.

FOR THE COMMANDER:

5 Incl
nc

(NAME)
Captain, Infantry
Adjutant

AJ Doe, John A. (Enl) 000-00-0000 (15 May 1972) 2nd Ind

HQ, 118th Infantry Division, Fort Jackson, South Carolina 23 May 1972

TO: Commander, Fort Jackson, South Carolina

Referred for consideration by the board of officers appointed by paragraph 1, Special Orders 114, this headquarters, 1 May 1972.

FOR THE COMMANDER:

5 Incl
nc

(NAME)
Captain, AGC
Assistant Adjutant General

HEADQUARTERS
118th INFANTRY DIVISION
FORT JACKSON, SOUTH CAROLINA

25 May 1972

SUBJECT: Notification to Appear Before Board of Officers

TO: Private John A. Doe, 000-00-0000
Company A, 4th Battalion, 96th Infantry
Fort Jackson, South Carolina

1. Under the provisions of paragraph 6, Army Regulation 15-6, and Army Regulation 635-200 notice is hereby given that a Board of Officers appointed by paragraph ., Special Orders 114, Headquarters 118th Infantry Division, Fort Jackson, South Carolina, 1 May 1972, will hold a hearing at Building T-4321 at 0900 hours on 15 June 1972, to determine whether you should be discharged because of unfitness before the expiration of your term of service.

2. The following witnesses are expected to be called:

Captain Winfield M. Elrod
Company C, 4th Battalion, 96th Infantry
Fort Jackson, South Carolina

1LT Titus L. Moody
Company B, 4th Battalion, 96th Infantry
Fort Jackson, South Carolina

Sergeant Robert H. Brown
Company C, 4th Battalion, 96th Infantry
Fort Jackson, South Carolina

Sergeant First Class Robert F. Jones
Company A, 4th Battalion, 96th Infantry
Fort Jackson, South Carolina

Captain William P. Peters
Company A, 4th Battalion, 96th Infantry
Fort Jackson, South Carolina

25 May 1972

SUBJECT: Notification to Appear Before Board of Officers

3. The recorder will endeavor to arrange for the presence of any available witnesses whom you may desire to call, upon request from you for such action.

4. Attached is a copy of a deposition from Captain Duane Evans, who will be unable to appear in person at the board hearings.

1 Incl
as

ALBERT A. FAKIAN
2LT, Artillery
Recorder

I hereby certify that the above is a true and correct copy of the original notification and was delivered by me personally to the individual concerned on 25 May 1972.

ALBERT A. FAKIAN
2LT, Artillery
Recorder

EXTRACT OF MILITARY RECORDS OF PREVIOUS CONVICTIONS

IDENTIFICATION

LAST NAME - FIRST NAME - MIDDLE INITIAL	SOCIAL SECURITY NO./SERVICE NO.	GRADE	ORGANIZATION
Doe, John A.	000-00-0000	Private	Co A, 4th Bn, 96th Inf

RECORD OF PREVIOUS CONVICTIONS BY COURTS-MARTIAL 1/

TYPE OF COURT-MARTIAL	CM ORDER OR SCM NO.	HEADQUARTERS	ARTICLE(S)
Summary	#14	4th Bn, 96th Inf	86

SYNOPSIS OF SPECIFICATION(S) INCLUDING DATE OF OFFENSE

O/a 1 Sep 71 AWOL to 7 Sep 71 from Co C, 4th Bn, 96th Inf, Ft Jackson, South Carolina

SENTENCE AS FINALLY APPROVED

HL w/o Conf for 15 days, Restr for 15 days and forf of $25.00

DATE SENTENCE ADJUDGED	DATE SENTENCE FINALLY APPROVED	I CERTIFY THE FOREGOING IS CORRECT 2/
8 Sep 71	8 Sep 71	(Signed) /S/ C. W. Brown (Type or print name and grade of person signing original entry in military record) C. W. Brown, CWO, W-2, USA, Hq 4th Bn, 96th Inf (Type or print name and grade of person signing original entry in military record)

TYPE OF COURT-MARTIAL	CM ORDER OR SCM NO.	HEADQUARTERS	ARTICLE(S)
Summary	#4	4th Bn, 96th Inf	108

SYNOPSIS OF SPECIFICATION(S) INCLUDING DATE OF OFFENSE

O/a 23 April 72 did through neglect damage military property of U.S. at Ft Jackson, South Carolina

SENTENCE AS FINALLY APPROVED

HL w/o Conf 10 days and forf of $25.00

DATE SENTENCE ADJUDGED	DATE SENTENCE FINALLY APPROVED	I CERTIFY THE FOREGOING IS CORRECT 2/
23 Apr 72	23 Apr 72	(Signed) /S/ C. W. Brown (Type or print name and grade of person signing original entry in military record) C. W. Brown, CWO, W-2, USA, Hq 4th Bn, 96th Inf (Type or print name and grade of person signing original entry in military record)

TYPE OF COURT-MARTIAL	CM ORDER OR SCM NO.	HEADQUARTERS	ARTICLE(S)
Special	SPCMO #10	4th Bn, 96th Inf	86, 91

SYNOPSIS OF SPECIFICATION(S) INCLUDING DATE OF OFFENSE

O/a 27 April 72 AWOL to 2 May 72 from Co A, 4th Bn, 96th Inf, Ft Jackson, South Carolina

Disrespect to noncommissioned officer while in the execution of his office at Ft Jackson, South Carolina, on or about 2 May 72.

SENTENCE AS FINALLY APPROVED

CHL 3 mos; forf of $50.00 per mo for 3 mos.

DATE SENTENCE ADJUDGED	DATE SENTENCE FINALLY APPROVED	I CERTIFY THE FOREGOING IS CORRECT 2/
10 May 72	22 May 72	(Signed) /S/ C.W. Brown (Type or print name and grade of person signing original entry in military record) C. W. Brown, CWO, W-2, USA, Hq 4th Bn, 96th Inf (Type or print name and grade of person signing original entry in military record)

ATTESTING CERTIFICATE

ORGANIZATION OF CUSTODIAN	PLACE OF ORGANIZATION	DATE
Hq, 4th Bn, 96th Inf	Ft Jackson, South Carolina	10 June 72

I CERTIFY THAT I AM THE OFFICIAL CUSTODIAN OF THE MILITARY PERSONNEL RECORDS PERTAINING TO PREVIOUS CONVICTIONS BY COURT-MARTIAL OF THE ABOVE-NAMED PERSON, AND THAT THE FOREGOING IS A TRUE COPY OF THE ENTRIES CONTAINED THEREIN. 1/

TYPED NAME, GRADE, AND OFFICIAL CAPACITY OF CUSTODIAN	SIGNATURE
1LT Harold C. James, AGC, Personnel Officer	

1/ Only admissable previous convictions will be listed. To determine admissibility, see rules on the reverse hereof. For Army personnel, the extract will be prepared from the Service Record or DA Form 24. For Air Force Personnel, the extract will be prepared from AF Form 1724. For Navy personnel, the extract will be prepared from NAVPERS Form 601-6. For Marine Corps personnel, the extract will be prepared from NAVMC Form 118(11)-PD.

2/ If the service record certification block being extracted fails to contain the required: (a) Signature of the personnel records custodian, request that officer to take immediate corrective action; (b) grade and organization of the custodian of the conviction record, enter remark such as "(Name)", "(Grade not shown)", "(Organization not shown)", as appropriate, on the second line of this block of the extract.

DD FORM 1 MAR 70 493 REPLACES DD FORM 493, 1 MAY 62, WHICH IS OBSOLETE.

Figure C-1

RULES FOR DETERMINING ADMISSIBILITY OF PREVIOUS CONVICTIONS

(See MCM, 1969 (Rev.), Paragraphs 64d and 75b(2))

Previous convictions must relate to offenses committed during the six years next preceding the commission of any offense of which the accused stands convicted. In computing the six-year period, periods of unauthorized absence as shown by the findings in the case or by the evidence of previous convictions should be excluded.

Evidence is only admissible as evidence of a previous conviction when the accused has been tried for an offense within the meaning of Article 44(b), UCMJ. Therefore, no proceeding in which an accused has been found guilty by a court-martial upon any charge or specification shall, as to that charge or specification, be admissible as a previous conviction until the finding of guilty has become final after review of the case has been fully completed. However, a pending request to the Judge Advocate General to vacate or modify the findings and sentence of a court-martial on grounds of newly discovered evidence, fraud on the court, lack of jurisdiction over the accused or the offense, or error prejudicial to the substantial rights of the accused is not a part of the review within the meaning of Article 76, UCMJ and it does not affect the admissibility of that court-martial as a previous conviction. A vacation of a suspended sentence does not itself qualify as a previous conviction and will not be entered on this form.

INTRODUCING EVIDENCE OF PREVIOUS CONVICTIONS

NOTE: To be considered by a court-martial, previous convictions must be ADMITTED in evidence. Ordinarily, they are proved by introducing in evidence a duly authenticated extract copy of accused's military personnel record (DD Form 493). They may also be proved by the record of previous convictions or by the order promulgating the results of trial. After the Record of Previous Convictions has been marked for identification (See page A8-24, MCM, 1969 (Rev.) and shown to the defense counsel, the introduction proceeds as follows:

TC: Prosecution Exhibit _____ for identification, a duly authenticated extract copy of the accused's military personnel record of previous conviction(s) by court-martial, is offered in evidence as Prosecution Exhibit _____.

DC: *(No objection). (The accused objects to _____ on the grounds that _____.)*

MJ *(Pres)*: Prosecution Exhibit _____ for identification is *(is not)* admitted in evidence as Prosecution Exhibit _____.

Figure C-1—Continued

SUMMARIZED RECORD OF PROCEEDINGS UNDER ARTICLE 15, UCMJ

(AR 27-15)

This form will be used ONLY in cases involving enlisted personnel and then ONLY when no punishment OTHER THAN oral admonition or reprimand, restriction for 14 days or less, extra duties for 14 days or less, or a combination thereof has been imposed.

NAME	SERVICE NUMBER/SOCIAL SECURITY ACCOUNT NUMBER	GRADE
Doe, John A.	000-00-0000	Pvt E-2
ORGANIZATION	**DATE OF BIRTH**	**BASIC PAY PER MONTH**
Co A, 4th Bn, 96th Inf	14 January 1950	$320.70

SECTION I - IMPOSITION OF PUNISHMENT

UNIT DESIGNATION AND STATION

Co A, 4th Bn, 96th Inf, Ft Jackson, South Carolina

1. On 29 March, 19 72, the above described individual, then appearing before me, was informed that a report had been made that (he) (~~she~~)[1] did on or about 28 March, 19 72, at Co A, 4th Bn, 96th Inf, Ft Jackson, SC, fail to repair

[2]

After having been advised of (his) (~~her~~)[1] rights under the provisions of Article 31, UCMJ, and being informed of my intention to impose nonjudicial punishment upon (him) (~~her~~)[1] as to such offense(s) under the provisions of Article 15 unless (he) (~~she~~)[1] expressly demanded trial by court-martial,[3] (he) (~~she~~)[1] was further informed that if (he) (~~she~~)[1] did not demand trial by court-martial,[3] (he) (~~she~~)[1] should submit any matters in extenuation, mitigation, or defense, that is any excuses, explanations, or reasons for (his) (~~her~~)[1] actions which (he) (~~she~~)[1] desired me to consider.

2. No demand for trial by court-martial for the offense(s)[1] described above was made.[3] Matters in extenuation, mitigation, or defense were not submitted [4, 5]
(not submitted) (submitted and considered)

3. On 29 March, 19 72, the punishment(s)[1] specified below (was) (~~were~~)[1] imposed:

[4]
(Oral (admonition) (reprimand))

Restriction to _____ for ___ days, _____ [4]
(suspended until ___)

Extra duties for 5 days, _____ [4]
(suspended until ___)

Restriction to _____ for ___ days and extra duties for ___ days to run concurrently

_____ [4]
(suspended until ___).

4. Private Doe was advised of (his) (~~her~~)[1] right to appeal in accordance with para 135, MCM, 1951, and informed if (he) (~~she~~)[1] desired to appeal, (his) (~~her~~)[1] appeal should be directed to

Commanding Officer, 4th Bn, 96th Inf Ft Jackson, South Carolina [6]

William P. Peters, CAPT, Inf
(Typed or printed name, grade and branch of officer imposing punishment)

Commanding Officer, Co A, 4th Bn, 96th Inf William P. Peters
(Title)

DA FORM 1 MAR 66 2627 REPLACES EDITION OF 1 FEB 63, WHICH WILL BE USED 1

Figure C-2

SECTION II - ACKNOWLEDGEMENT OF IMPOSITION OF PUNISHMENT

THRU: _____ 7 _____ 30 March 1972 (Date)

TO: CO, Co A, 4th Bn, 96th Inf

I have examined the foregoing record of proceedings which resulted in the imposition of punishment under the provisions Article 15 UCMJ.

I do not 4 appeal from this punishment.
(do) (do not)

_____ Incl

John A. Doe, Pvt (E-2) 000-00-0000 /s/ John A. Doe
(Typed or printed name, grade and service no./SSAN)

SECTION III

THIS SPACE MAY BE USED FOR ADDITIONAL REMARKS AND CONTINUATION OF SECTIONS. THE CORRESPONDING SECTION BEING CONTINUED SHOULD BE INDICATED. IF ADDITIONAL SPACE IS REQUIRED, ATTACH ADDITIONAL SHEETS, NUMBERING EACH SHEET CONSECUTIVELY STARTING WITH PAGE 3.

USE THE FOLLOWING INSTRUCTIONS WHERE THE CORRESPONDING NUMBER APPEARS ON THE FORM

1/ Strike out inapplicable word or letter.

2/ Insert language describing the nature of the alleged misconduct in the form of a concise statement of the offense charged in such terms that a specific violation or violations of the UCMJ is clearly stated. If additional space is required, use Section III.

3/ If the alleged offender is attached to or embarked in a vessel, he is not permitted to demand trial by court-martial in lieu of nonjudicial punishment. In such cases, all reference to a demand for trial by court-martial shall be lined out and an appropriate remark will be made in Section III indicating the official name of the vessel and that the alleged offender was attached to or embarked in such vessel at the time nonjudicial punishment was imposed.

4/ Insert applicable word(s).

5/ Written material which is submitted for consideration should be attached to this form.

6/ Designate by title the next superior authority to whom the appeal should be directed (see para 135, *MCM, 1951* and *AR 27-15*).

7/ In the event the person punished exercised his right to appeal, this form should be transmitted to the next superior authority specified in para 4, Section I. The superior authority acting on the appeal shall utilize DA Form 2627-2, which when completed will be attached to this form.

8/ Here, if desired, state the reasons for the appeal. If additional space is required, use Section III. Attach any documents desired to be considered to this form and list the number of inclosures. If none, leave blank.

2

Figure C-2—Continued

SUMMARY OF PROCEEDINGS

The board was appointed by paragraph 1, Special Orders No. 114, Headquarters, 118th Infantry Division, a copy of which is attached.

The board convened at Fort Jackson, South Carolina, on 15 June 1972.

The board met pursuant to the foregoing order at 0900 hours on 15 June 1972.

PERSONS PRESENT:

Major Walter C. Brown, 000-00-0000, Infantry, President
Major Robert Johnson, 000-00-0000, Infantry Member
Captain Lewis B. Johnson, 000-00-0000, Infantry Member
First Lieutenant Allen H. Gillman, 000-00-0000, Infantry
Second Lieutenant Albert A. Fakian, 000-00-0000, Infantry (Recorder)
First Lieutenant George F. Huffnagle, 000-00-0000, JAGC (Counsel for Respondent)
Captain James R. Cronkhite, 000-00-0000, Infantry (Counsel for Respondent)

PERSONS ABSENT:

None.

Private John A. Doe, 000-00-0000, Company A, 4th Battalion, 96th Infantry, appeared before the board with his counsel (1LT George F. Huffnagle) (Captain James R. Cronkhite).

The order appointing the board and the applicable substance of the regulations under which it was convened were read aloud by the recorder.

Private John A. Doe was asked if he desired to challenge any member of the board for cause; he replied he did not.

A true copy of written advance notification to Private John A. Doe, dated 25 May 1972, was received and read in evidence and is hereto appended.

Private John A. Doe was present during all open sessions of the board with his counsel and was afforded full opportunity to cross-examine adverse witnesses, to present evidence in his own behalf, to testify in person or submit a written statement, and to submit a brief.

EXHIBIT B

A letter, subject: Discharge for Unfitness Under AR 635-200, Company A, 4th Battalion, 96th Infantry, with two indorsements (inclosures withdrawn), was offered in evidence by the recorder. There being no objection, the letter was admitted in evidence.

A certificate of 1LT Paul O. Macy, dated 12 May 1972, was offered in evidence by the recorder. There being no objection, the certificate was admitted in evidence.

A duly authenticated extract copy of the respondent's service record containing record of convictions by court-martial was offered in evidence by the recorder. There being no objection, the document was admitted in evidence.

True copies of summarized records of proceedings under article 15, UCMJ (DA Form 2627) pertaining to nonjudicial punishment imposed upon the respondent on 10 April 1972, 18 March 1972, and 29 March 1972, were offered into evidence by the recorder.

The following witnesses called by the board were sworn and testified in substance as follows:

Captain Winfield M. Elrod, Company C, 4th Battalion, 96th Infantry.

I am the company commander of Company C, 4th Battalion, 96th Infantry. Private Doe was assigned to my company from 1 August 1971 until 3 November 1971. Before his assignment to my company, he had been in basic training. I initially assigned Doe to a squad in the company, and apparently he performed satisfactorily for the first month. About that time, he went AWOL for 7 days. Thereafter, Doe developed a bad attitude toward his job and the Army. I assigned Doe to another platoon as assistant supply clerk, and then as assistant to the company clerk where the first sergeant could keep an eye on him, but he performed unsatisfactorily in all of them. I then assigned Doe as an armorer-artificer's helper under the direct supervision of Sergeant Brown, and that is where Doe remained until his transfer out of my company. I gave him nonjudicial punishment under article 15 two times, once for being late to formation, and once for insubordination to a noncommissioned officer. As time passed, he became more sullen and uncooperative.

CROSS-EXAMINATION

I counseled Doe several times, but he refused to say what was bothering him. I counseled him the first time when he was punished for his AWOL. About a month later, I counseled him again and explained to him that he was going to have to change his ways for his own good and for the good of the Army. I counseled him in those instances when I imposed nonjudicial punishment upon him. I told him that his prior record indicated that he could perform the duties required of him and that his tour would be much better if he did his job. He did not respond to my counseling.

NOTE: All subsequent testimony should be recorded similarly. After all testimony has been recorded, continue as shown below.

A statement signed by the respondent, dated 14 May 1972, to the effect that he had been advised of the basis of this action, desired to have a board hearing, and desired counsel, was offered in evidence by the recorder. There being no objection, the document was admitted in evidence.

The recorder stated that he had nothing further to offer.

The rights of the respondent were explained to him by the president of the board. The respondent elected to take the stand as a witness. He was sworn and testified in substance as follows:

DIRECT EXAMINATION

I have been in the Army since 15 March 1971. I am 20 years old. I lived in Jersey City, NJ, and went to school there up to the 9th grade. Before I finished the 9th grade, I was 16 years old, so I quit. I got mixed up with a bad crowd, and in 1971 the police picked me up. Then I enlisted in the Army. At first, I liked the Army, but then I got tired of being bossed around all the time. The sergeants gave me a bad time. Everything was jump, jump, jump. At first I did my work, but I didn't make PFC, so I figured it was no use and wanted out. I guess I don't want a bad discharge, but I don't want all those rotten details either.

CROSS-EXAMINATION

I have heard what the officers and sergeants have said about me. The only way I can explain it is that they don't understand me. They were always pushing me around.

The recorder made an argument.

Counsel for the respondent made an argument.

The recorder made a closing statement.

Neither the recorder nor the respondent having anything further to offer, the board was closed.

Attached is the verbatim record of the findings and recommendations of the board.

The board adjourned at 1400 hours on 15 June 1972.

VERBATIM FINDINGS AND RECOMMENDATIONS

FINDINGS: In the board proceedings concerning Private (E-2) John A. Doe, 000-00-0000, the board carefully considered the evidence before it and finds:

1. Private Doe is undesirable for further retention in the military service because of habits and traits of character manifested by repeated commission of petty offenses.

2. Private Doe is undesirable for further retention in the military service because of habitual shirking.

3. His rehabilitation is not deemed possible.

RECOMMENDATION:

In view of the findings, the board recommends that Private Doe be discharged from the Service because of unfitness with issuance of an Undesirable Discharge Certificate (DD Form 258A).

_____
President

_____
Member

_____
Member

_____ _____
Recorder

★EXHIBIT C (Now figure 1-1.)

[AGPO]

By Order of the Secretary of the Army:

HAROLD K. JOHNSON,
General, United States Army,
Chief of Staff.

Official:

J. C. LAMBERT,
Major General, United States Army,
The Adjutant General.

Distribution:

Active Army and NG: To be distributed in accordance with DA Form 12-9 requirements for Military Personnel Procedures, Enlisted—A.
USAR: None.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) to The Adjutant General, ATTN: AGPO, Department of the Army, Washington, DC 20315.

* U. S. GOVERNMENT PRINTING OFFICE : 1972 O - 510-505(6845A)

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thorizes separation for the purpose stated only, in order to preclude nonproductive reassignments for short periods of time.

e. Authority (AR 635-200) and SPN 701 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty, as appropriate.

5-16. Enlisted personnel eliminated from service academies. Individuals who are eliminated from cadet or midshipman status at service academies because of academic failure, resignation, or reasons other than physical disqualifications, will be discharged if they have completed their service obligation, or released from active duty and returned to the Army National Guard or Army Reserve, or transferred to the Army Reserve to fulfill their Reserve obligations, provided they have less than 3 months remaining in the period for which enlisted or ordered to active duty. Authority (AR 635-200) and SPN 420 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity. The authority contained in this paragraph shall not preclude the Secretary of the Army from transferring a cadet to the Army Reserve and ordering him to active duty, as authorized by title 10, United States Code, section 4348(b).

5-17. Reserve component personnel ordered to ADT under Reserve Enlistment Program. Commanders of training installations are authorized to release Reserve component personnel ordered to ADT under Reserve Enlistment Program of 1963 upon completion of MOS training when training is completed prior to the period of time specified in ADT orders provided a minimum period of 4 months' ADT has been completed. Authority (AR 635-200) and SPN 764 for separation will be included in orders issued effecting early release from ADT.

5-18. Early relief from ADT because of emergency conditions. REP 63 trainees will be considered for early relief from initial tours of ADT based on eligibility for leave for cogent reasons such as death or serious illness of a member of the reservist's immediate family. Commanders of training activities, including Army service schools, may authorize early relief from ADT in lieu of granting leave, if the reservist has completed at least 4 months' ADT and the training benefits which will result from return to the training center upon completion of leave are not substantial enough to justify return to duty in lieu of early relief from ADT.

★5-19. Separation of enlisted members of medical holding detachments. Commanders specified in paragraph 2-17*a* are authorized to order separation for the convenience of the Government of those enlisted personnel, as set forth below, who are assigned to medical holding detachments and who sign a statement that they are willing to accept separation under this paragraph. Reserve component personnel ordered to ADT under the Reserve Enlistment Program of 1963 are not eligible for separation under this paragraph.

a. Any enlisted person, other than in *b* and *c* below, may be separated upon completion of hospitalization provided he has less than 3 months to serve to ETS.

b. Any enlisted person who is returned from a short tour area to CONUS or his area of residence for hospitalization may be separated if he has 150 days or less remaining to ETS at the time of release from the medical facility.

c. Any enlisted person who is medically evacuated from a hostile fire area for hospitalization in a long tour area may be returned to CONUS or his area of residence and be separated if he has 150 days or less remaining to ETS at the time of release from the medical facility.

d. Authority for separation (para 5-19, AR 635-200) and SPN 412 will be included in directives or orders directing individuals to report to the appropriate transfer activity for discharge or release from active duty, as appropriate.

★**5-19.1. Physical disqualification for duty in MOS.** *a.* Individuals who, within their last 6 months of service, are given physical profiles which will preclude them from further duty in their primary, secondary, or tertiary MOS without retraining, and who do not intend to reenlist, will be separated when all the following criteria apply:

(1) The individual has 6 months or less service remaining until discharge or release from active duty and signs a statement that he is willing to accept separation under this paragraph.

(2) The individual has been determined by appropriate medical authority to have assignment limitations due to physical impairment that will preclude utilization in his primary, secondary, or tertiary MOS for a period of more than 60 days.

(3) The individual cannot be reclassified into another MOS without retraining. Excluded from this category are individuals who can be retrained within a period of 30 days either by on-the-job training or formal training conducted at the installation to which they are currently assigned.

b. Individuals who fulfill the above criteria and who desire to participate in PROJECT TRANSITION training will be retained, at their option, long enough to complete such training on a full-time basis. In the event TRANSITION training is not available at the installation to which such individual is assigned he will be offered one of the options authorized in paragraph 4-19*a* and *b*, AR 600-200.

c. This paragraph does not apply to the following:

(1) Personnel who have a medical condition which warrants processing under AR 635-40.

(2) Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963.

d. The provisions of this paragraph will not preclude earlier separation of personnel who are eligible under paragraph 5-19.

e. Commanders specified in paragraph 2-17*a* are authorized to order the separation of eligible personnel under this paragraph. The authority (para 5-19.1, AR 635-200) and SPN 416 will be included in directives or orders directing individuals to report to the appropriate transfer activity for discharge or release from active duty, as appropriate.

Section VIII. EARLY SEPARATION TO ATTEND SCHOOL OR TO ACCEPT TEACHING POSITIONS

5-20. Separation to attend school or to accept teaching positions. Enlisted personnel may be discharged or released from active duty for the convenience of the Government in order to enter or return to school or to accept teaching positions when their services are not essential to the mission of their assigned organization. Commanders specified in paragraph 2-17*a* are authorized to order the separation for the convenience of the Government of enlisted personnel (other than Reserve component personnel on active duty for training) who have less than 3 months remaining in their required period of service. REP 63 enlistees and reservists ordered to active duty due to unsatisfactory participation in Reserve assignment are not eligible for separation under the provisions of this section. An application for separation under this paragraph may be submitted not more than 60 days prior to the requested release date.

a. Separation to enter or return to school.

(1) Separation will be effected not earlier than the appropriate date specified in (3) below for attendance at a recognized institution of higher education or at a vocational/technical school when the following conditions are met:

(*a*) A recognized institution of higher education is one at which the course of instruction in which the individual has requested enrollment leads to an associate, baccalaureate,

or higher degree. A recognized institution is one listed in the Education Directory, Part 3, Higher Education, published by the Office of Education, US Department of Health, Education, and Welfare, or has been determined by that office to be eligible for such listing.

(*b*) The vocational/technical school must be a recognized school at which the course instruction in which the individual has requested enrollment is of no less than 3 months' duration. A recognized vocational/technical school is one which is approved by the cognizant State Board for Vocational Education, or one of the following nationally recognized accrediting agencies or associations listed by the United States Commissioner of Education:

1. Accrediting Commission for Business Schools.

2. National Association for Practical Nurse Education and Service, Inc.

3. National League for Nursing, Inc.

4. National Association of Trade and Technical Schools.

5. Committee on Occupational Education of the Southern Association of Colleges and Schools.

(*c*) Application will include the following information:

1. Documentary evidence from an appropriate school official (Registrar, Dean of Admissions, etc.) that the applicant has been accepted for enrollment, without qualification, commencing with a specific school term, in a full-time resident course of instruction leading to an associate, baccalaureate or higher degree. If the school is not currently listed in the Education Directory, Part 3 ((*a*) above), the statement of the school official must include whether the school has been determined by the Office of Education to be eligible for such listing. When applying for separation to attend a vocational/technical school the individual must include documentary evidence from the school that he has been accepted, without qualification, for enrollment commencing with a specific school term in a full-time resident course of instruction of no less than 3 months duration. Regardless of the type school, the statement will include the latest date on which the applicant must report to the school in person for registration in order to meet the school requirement for attendance, must state the school's specific accreditation status, must include the date that status was acquired, and must include the name of the accrediting agency or association granting such accreditation. The words "without qualification" mean that the individual must be accepted for admission without being subject to any further approval by the school prior to his entrance. A statement that an applicant is admissible subject to a review of his records, or subject to passing an entrance examination, qualifies such acceptance and does not meet the requirements for early release. On the other hand, an individual who is accepted on probation does meet the requirements for early release as he will be permitted to begin the specified course of instruction at the school. The term "full-time resident course of instruction" means that the individual must take the minimum number of credit hours for the semester, quarter, or term that is considered by the school to be a full-time course of instruction, and does not include night school.

2. A statement, signed by the individual concerned (after he has been informed of the provisions of Articles 3(b), 31(b), and 88, Uniform Code of Military Justice), as follows:

> "I understand that if I am separated from the Armed Forces by means of either a knowingly false representation in regard to any of the qualifications or disqualifications prescribed by law, regulation, or orders for such separation, or by deliberate concealment of any disqualification for separation, I shall be subject to courts-martial jurisdiction under the Uniform Code of Military Justice, Article 3(b), for violation of the Uniform Code of Military Justice, Article 88, for prosecution in a United States District Court for violation of Title 18, United States Code, Section 1001, or other applicable statutes."

3. A statement from the applicant that he has made payment of the entrance fee or that he is able and willing to do so.

4. Applicant must clearly establish that the specific school term for which he seeks enrollment is academically the most opportune time for

him to begin or resume his education. A statement to the effect that "this is the most opportune time for me to begin/resume my education" is not sufficient. Specific reasons as to why further delay would cause personal hardship must be included.

(*d*) The date on which the applicant must report to school must fall within the last 3 months of remaining service.

★(2) Application for early release to attend a theological school which is not listed in the Education Directory, Part 3, Higher Education, published by the Office of Education, U.S. Department of Health, Education, and Welfare, and has not been determined by that office to be eligible for such listing; foreign schools; and all doubtful cases will be forwarded by the commander having discharge authority direct to HQDA (DAPC-PAS-S) 200 Stovall St., Alexandria, VA 22332.

(3) The effective date of early separation under this program normally will not be earlier than 10 days prior to the class starting date. The following exceptions may be made when appropriate:

(*a*) On submitting specific evidence that the period between the separation date specified above and the class starting date is clearly insufficient, members may be separated up to 30 days prior to the day classes convene. This is not intended as authority to grant release a full 30 days prior to class starting date in every such case, but to provide reasonable latitude in justifiable cases to authorize separation on a date which will give the member adequate time to register and enter the school on time. Examples of circumstances which meet this criterion are:

1. Member is returning from overseas.

2. Member must move his family to the location of the educational institution.

3. The school's latest registration date, in relation to the class starting date, will work an undue hardship on the member.

(*b*) In the event late registration is permitted by the school, individuals who are ineligible for separation under the foregoing criteria may be separated on the first day within the last 3 months of service that they become eligible for separation.

(4) Individuals will be discharged, released from active duty and returned to the Army National Guard or Army Reserve, or released from active duty and transferred to the US Army Reserve, as appropriate. Authority (AR 635-200) and SPN 413 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for separation.

(5) Accrued leave may not be utilized in conjunction with early separation under the provisions of this paragraph.

b. Separation to accept teaching positions.

(1) Separation will be accomplished not earlier than 10 days prior to the effective date of employment when the following conditions are met:

(*a*) Release is for the purpose of accepting a teaching position in a public school system or comparable private educational institution, or a recognized college or university.

(*b*) The date on which the applicant must report for employment must fall within the last 3 months of remaining service.

(*c*) Teaching must be the normal occupation of the individual or he shows definite intent to engage in that occupation following separation.

(*d*) Applicant has evidence of employment by a specific school specifying date employment must commence.

(*e*) Individuals returned from overseas, or individuals who are required to move their families to the locations of the educational institutions may, on submitting specific evidence that the period between the separation date specified above and the effective date of employment is insufficient, be released up to 30 days prior to the effective date of employment.

(2) Individuals will be discharged, released from active duty and returned to Army National Guard or US Army Reserve, or released from active duty and transferred to the US Army Reserve, as appropriate. Authority (AR 635-200) and SPN 41C for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty.

★Section IX. EMPLOYMENT

(Rescinded)

Section X. TRAVEL AND FORM OF SEPARATION CERTIFICATES

5-22. Travel allowance. See Joint Travel Regulations.

5-23. Form of separation certificate to be given.

a. Discharge certificate, based upon the character of service rendered and a Report of Separation from Active Duty (DD Form 214) will be issued to the individual concerned.

b. Individuals released from active duty and transferred or returned to a Reserve component (USAR or ARNG) "For Convenience of the Government" will be furnished an Armed Forces of the United States Report of Transfer or Discharge.

c. An individual to be released from military control pursuant to paragraph 5-12 or an administrative determination that he is not currently a member of the Army cannot be legally discharged from the Army. Such individual will, instead, be released from the custody and control of the Army without being furnished a certificate of discharge of any kind or Armed Forces of the United States Report of Transfer or Discharge (DD Form 214).

★Section XI. SOLE SURVIVING SONS AND SURVIVING FAMILY MEMBERS

5-24. General. *a.* Commanders specified in paragraph 2-17*a* are authorized to order discharge for the convenience of the Government of personnel who qualify under the provisions of this section as sole surviving sons or surviving family members. The authority for separation (sec. XI, chap. 5, AR 635-200) and SPN 229 will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for separation.

b. Discharge under this section is *not* authorized—

(1) During a period of war or national emergency hereafter declared by the Congress.

(2) When a service member who qualifies under the provisions of this section waives his status under the provisions of paragraph 11-75, AR 614-200. Although a member who has waived his status as a sole surviving son may request reinstatement of that status, reinstatement shall *not* provide a basis for discharge under this section.

(3) A member who, having been advised of the provisions of this section, enlists, reenlists or otherwise voluntarily extends his period of active duty subsequent to the date of notification of the family casualty on which the sole surviving sonship or status as a surviving family member is based (and subsequent to enactment of Public Law 92-129, 92d Congress (28 September 1971) shall be considered as having automatically waived his rights for discharge under PL 92-129.

(4) Where the individual has court-martial charges pending against him; or has been tried and convicted by court-martial and the case is being reviewed or appealed; or is serving a sentence (or otherwise satisfying punishment) imposed by court-martial, until final action (including completion of any punishment imposed pursuant to such court-martial) has been completed with respect to such charges, review, or appeal, or until the sentence has been served (or until any other punishment imposed has been satisfied, as appropriate).

c. The following definitions apply to these terms as used in this section—

(1) A "sole surviving son" is the only remaining son in a family whose father (or one or more sons or daughters) served in the Armed Forces of the United States and—

(*a*) Was killed in action; or

(*b*) Died as a result of wounds, accident or disease; or

(*c*) Is 100 percent physically disabled (to include 100 percent mental disability) as determined by the Veterans Administration or one of the military services and is hospitalized on a continuing basis and not gainfully employed by virtue of such disability.

(2) "Family members" include a husband and wife, or the father, mother, sons and daughters, and all sisters and brothers as defined in 37 USC 501(a)(2), (3) and (4).

(3) "Armed Forces" or "Armed Forces of the United States" denotes collectively all components of the Army, Navy, Air Force, Marine Corps and Coast Guard.

Note. Neither the acquisition or retention of sole surviving son or surviving family member status is dependent upon the existence of any other living family member (Supreme Court Decision, *McKart* v. *US*, 395 US 185 (1969)). Thus, the continued existence of a family unit is not required as a prerequisite for qualification hereunder as a "sole surviving son" or "surviving family member."

d. In determining eligibility, the death or 100 percent disability under *c*(1) above must have been incurred in line of duty (or resulted from wounds, accident or disease which was incurred in line of duty) as determined under the provisions of AR 600-10 or comparable regulations of other services.

e. Requests for discharge may be submitted only by the military member concerned and must be in writing. All applications submitted will include the following evidence:

(1) Name, grade, MSN or SSN, branch of service (i.e., Army, Navy, Air Force, Marine Corps or Coast Guard), relationship and date of death or disability of the family member upon which request is based.

(2) Veterans Administration Claim Number, if appropriate.

(3) Name, age and sex of other family members.

f. See table 11-4, AR 614-200, for offices to contact to obtain verification of status of other family members, when appropriate.

g. Army National Guard personnel who qualify for separation under this section will *not* be discharged, but will be released from active duty or active duty for training and returned to the control of the appropriate State National Guard authorities for discharge. A copy of the approved application for discharge will be furnished the adjutant general of the State.

5-25. Separation of sole surviving sons. *a.* Except as provided in *b* below, enlisted personnel who become sole surviving sons *subsequent* to enlistment, induction, order to active duty or active duty for training under the Reserve Enlistment Program of 1963 and whose applications meet the criteria in paragraph 5-24 may apply for and be discharged. (Individuals who were sole surviving sons prior to induction *may* qualify for separation under paragraph 5-5.)

b. An individual who qualifies as a sole surviving son on the basis of the 100 percent disability status of a father, brother or sister as defined in paragraph 5-24*c*, which occurred *either* prior or subsequent to induction, enlistment, or order to active duty or active duty for training, may apply for and be discharged unless he has reenlisted or voluntarily extended his period of active duty. In order to qualify for a veteran's exemption under the provisions of 50 App USC 456(b)(3), he will be required to complete at least 6 months of active duty prior to discharge.

5-25.1. Separation of surviving family members. Except as provided in paragraph 5-24*b*, a surviving family member may apply for and be discharged if he—

a. Has been inducted into the Armed Forces under the Military Selective Service Act of 1967, as amended, *and*

b. Is serving on *active* duty with the Armed Forces *on or after* 28 September 1971, *and*

c. Has *not* enlisted or otherwise voluntarily extended his period of active duty in the Armed forces, *and*

d. If the father, brother or sister, while serving in the Armed Forces after 31 December 1959—

(1) Was killed in action; or

(2) Died in line of duty; or

(3) Died subsequent to such date as a result of injuries received or disease incurred in line of duty during such service; or

(4) Is in a captured or missing status as a result of such service.

Section XII. EMPLOYMENT WITH A LEGALLY ESTABLISHED LAW ENFORCEMENT AGENCY. (APPLICABLE TO CONUS, ALASKA, HAWAII, AND THE US TERRITORIES.)

5-26. Separation to accept employment as a public police officer. Commanders specified in paragraph 2-17*a*, are authorized to order separation for the convenience of the Government of enlisted personnel who have 3 months or less remaining in their periods of service, whose services are not essential to the mission of their assigned organizations, and who submit valid application for separation evidencing employment with a legally established law enforcement agency of a city, county, State, or Federal Government, including those of the US Territories. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 and reservists ordered to active duty due to unsatisfactory participation in Reserve assignment are not eligible for separation under this program.

5-27. Definitions. For the purpose of this regulation the following definitions apply:

a. Public police officer. An individual employed by legally established law enforcement agencies of city, county, State, or Federal Government, including those of the US territories. This specifically excludes private or corporate police organizations and elective police positions in local political jurisdictions.

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b. Bona fide offer of employment. An employment offer certified by an appropriate official of a city, county, State, or Federal police agency (including that of a US territory) that the applicant meets all requirements for training and/or employment as a police officer. In addition, individuals accepted for employment in nonuniformed positions are eligible for early release provided the position is integral to the police agency and the individual will be a bona fide member thereof.

5-28. Submission of application. Application for separation may be submitted up to 6 months prior to applicant's expiration of term of service. An application for separation will include the following information:

a. A bona fide offer of employment as a public police officer with the date such employment is to commence, and

b. A statement signed by the individual concerned (after having been informed of the provisions of Articles 3(b), and 83, Uniform Code of Military Justice), as follows:

"I understand that if I am separated from the Armed Forces by means of either a knowingly false representation in regard to any of the qualifications or disqualifications prescribed by law, regulation, or orders for such separation, or by deliberate concealment of any disqualification for separation, I shall be subject to courts-martial jurisdiction under the Uniform Code of Military Justice, Article 3(b), for violation of the Uniform Code of Military Justice, Article 83, or prosecution in a U.S. district court for violation of Title 18, United States Code, Section 1001, or other applicable statutes."

5-29. When separation is not authorized. Separation from active military service is not authorized when—

s/Sch 43 10 Apr 1974

CHAPTER 2

SEPARATION OF ENLISTED PERSONNEL

Section I. ELIGIBILITY FOR SEPARATION

2-1. Statutory authority. Title 10, United States Code, section 1169, provides that no enlisted member of the Army may be discharged before his term expires except—

a. As prescribed by the Secretary of the Army.

b. By sentence of a general or special court-martial.

c. As otherwise provided by law.

2-2. Discharge or release from the Active Army upon termination of enlistment, period of induction, and other periods of active duty or active duty for training. *a.* The periods of military service required of all members of the Army will be in accordance with applicable laws. Periods for which enlistment is authorized are set forth in NGR 25-1, AR 140-111, and AR 601-210. Periods for which individuals are inducted or ordered to active duty are prescribed by law.

b. The following aliens will not be separated prior to the full period for which enlisted or inducted purely as a matter of convenience, except as provided in paragraph 5-2:

(1) Aliens who enlisted in the Regular Army for a period of 3 years (see section 328, Act of 27 June 1952 (66 Stat. 249; 8 USC 1439) for requirements as to naturalization).

(2) Aliens who were enlisted or inducted in the Army for a period of 24 months active duty and who were in the United States at the time of enlistment or induction (see section 4, Act of 24 October 1962 (76 Stat. 1247; 8 USC 1254)).

If performance or conduct does not justify their retention, they will be processed for separation under appropriate regulations.

c. Personnel who are physically unfit for retention (chap. 3, AR 40-501) but who were accepted for, or continued in, military service under the provisions of AR 635-40 or similar directives, will not be separated by reason of expiration of term of service unless processing for separation by reason of physical disability is waived.

d. Subject to the provisions of section V of this chapter an individual enlisted, inducted, or ordered to active duty normally will be discharged or released from active duty on the date upon which he completes the period for which enlisted, inducted, or ordered to active duty. However, an individual other than those listed in *b* above, whose term of service expires or who otherwise becomes eligible for discharge or release from active duty on a Saturday, Sunday, or legal holiday may, with his consent, be discharged or released to or transferred to the United States Army Reserve on the last working day prior to normal date of discharge or release. An individual listed in *b* above, whose term of service expires or who otherwise becomes eligible for separation on a Saturday, Sunday or legal holiday, may, with his consent, be released from active duty and be transferred to the United States Army Reserve on the last working day prior to his normal date of discharge or release, if otherwise appropriate, *but may not be discharged* on such date. Individuals whose rate of pay is subject to change on a Saturday, Sunday, or legal holiday upon which they would be separated will not be discharged until their normal separation date unless they request otherwise. The actual date of release or discharge will be recorded in item 11d, *DD Form 214. Personnel released from active duty* and transferred to the United States Army Reserve upon completion of the term of service for which inducted or ordered into active Federal service, or released to their reserve component upon completion of active duty, will not be discharged until completion of their reserve obligation.

e. AR 135-90 and AR 135-91 define the various service obligations incurred by military personnel upon initial entry into military service and prescribe the methods of fulfillment. Enlisted personnel who will not continue or reenter on active duty in another status will be released by separation orders to the Army National Guard of the United States or to the United States Army Reserve as set forth in paragraph E-1, AR 635-10 (under Separation orders, pages E-5 and E-6).

★*f.* A noncitizen who incurred a reserve obligation upon entry into military service but who at

time of release from active duty fails or refuses to give a mailing address within the United States, Puerto Rico, the Virgin Islands, Guam, or the Canal Zone, but gives only an address in a foreign country as a permanent mailing address (item 33, DD Form 214, Armed Forces of the United States Report of Transfer or Discharge), thus showing his intention to reside permanently outside the United States, is not eligible for transfer to the United States Army Reserve. He will be discharged upon and by reason of having completed the period of service for which enlisted or inducted, but will be advised prior to such discharge that it may permanently bar him from United States citizenship.

g. Members of the Army National Guard of the United States and the United States Army Reserve ordered to active duty for a period in excess of 90 days will, upon release from active duty, revert to control of the appropriate reserve component.

h. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 will be out-processed in accordance with AR 612-201.

i. Individuals serving as cadets in military academies whose expiration of enlisted term of service occurs while individual is serving in such capacity will be discharged or released, as appropriate.

j. An enlisted person who at the time of entry on active duty held an appointment as a United States Army Reserve commissioned or warrant officer, or who while on active duty accepts appointment and such appointment is still current, will not be transferred to the United States Army Reserve in his enlisted status but will be discharged. Special orders discharging the individual will be prepared as prescribed in AR 310-10 and will indicate that the individual is transferred to the United States Army Reserve in his commissioned or warrant grade. Discharge to enter another military status does not terminate the individual's military service obligation incurred under title 10, United States Code, subsection 651a.

★*k.* The discharge authority delegated to commanders by this regulation shall not include the authority to discharge a member under court-martial sentence to dishonorable or bad conduct discharge, prior to the completion of appellate review, unless the discharge authority intends such discharge action as a remission of the conviction.

2-2.1. Counseling required for certain retirement-eligible personnel. *a.* Each enlisted member of the Regular Army who, upon expiration of term of service, will have completed 20 or more years of active Federal service will be counseled by his personnel officer regarding his options and their consequences in accordance with the following if he:

(1) Has a service obligation remaining which would require extension of his current enlistment, or reenlistment, to complete.

(2) May be ineligible for immediate or subsequent reenlistment for any reason.

b. Counseling will be accomplished during the sixth month prior to the member's ETS, whether or not he states an intention to submit an application for retirement.

c. The member will be required to sign a statement that he has been counseled and that he fully understands the consequences of being discharged upon ETS rather than extending or reenlisting in order to complete a service obligation (see para 12-12*b*(6), this regulation, and para 4-3, AR 601-280, concerning enlistment extensions), or of retiring if he is ineligible to reenlist. The formats in figures 2-1 and 2-2 will be reproduced locally for this purpose. Figure 2-1 will be used for personnel affected by *a*(1) above and figure 2-2 for personnel affected by *a*(2) above. The statement will be completed in duplicate and both copies will be signed by the member. The original signed statement will be forwarded to the Commander, US Army Enlisted Personnel Support Center, Fort Benjamin Harrison, IN 46249, for file in the member's OMPF as a permanent document. The signed copy of the statement will be placed in the member's MPRJ as an action-pending document.

d. The following information will be imparted to the service member during his counseling session:

(1) Under 10 USC 3914 an enlisted member must be on active duty at the time he applies for retirement, and retirement must be accomplished while he is on active duty.

(2) A member who elects to be discharged upon ETS rather than reenlist or extend his enlistment, as appropriate, to complete a service obligation (para 12-9) will not be eligible to enlist until 93 days following his discharge. The subse-

quent reenlistment may be in a grade lower than the grade held at the time of discharge. Thus, retirement during that term of service would also have to be in the lower grade unless the individual is promoted to a higher grade during such period of service prior to his retirement, or is eligible to retire under 10 USC 3917 (30 or more years of active Federal service).

(3) Retirement cannot be retroactive. Therefore, a member who is discharged, later reenlists, and then retires, cannot be placed in a retired pay status for the period between his discharge and subsequent reenlistment. His retired pay will be based on the grade in which he is retired.

(4) Individuals precluded from reenlistment for any reason (e.g., provisions of the Qualitative Management Program, chap. 4, AR 600-200) would forfeit their retirement eligibility altogether, since there would be no way for them to regain an active duty status for the purpose of applying for retirement.

e. The failure to counsel an enlisted member under this paragraph will not operate to alter his status or entitlement to any benefits.

Section II. DISCHARGE, RELEASE FROM ACTIVE DUTY, OR RELEASE FROM ACTIVE DUTY FOR TRAINING AFTER EXPIRATION OF PERIOD OF ACTIVE DUTY OR ACTIVE DUTY FOR TRAINING

2-3. Time lost to be made good. Every individual in active Federal service who renders himself unable for more than 1 day to perform duty will be liable, after a return to full duty status, to serve for such period as is necessary to complete his full term of service or obligation, exclusive of such time lost.

a. Lost time in the sense of this regulation refers to periods of more than 1 day during which an individual on active duty is unable to perform duty because of—

(1) Desertion.

(2) Absence without proper authority.

(3) Confinement under sentence.

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

(5) Intemperate use of drugs or alcoholic liquor.

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

b. Time lost during an enlistment or induction period will be made good at the end of the enlistment or induction period, except that when an enlistment or period of induction is extended by law, time lost will be made good at the end of the extension. This requirement may be waived by Headquarters, Department of the Army. Recommendations for waiver of time lost will be submitted to HQDA (DAAG-PSS-S) WASH DC 20314 when the discharge authority considers that because of unusual or extenuating circumstances waiver of time lost is in the best interest of the individual and the Government.

c. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 (trainees performing

at least 4 months ADT will be required to make up time lost except that commanding officers of training installations are authorized to waive this requirement if the individual has completed the required training and the commander does not consider it would be in the best interest of the service to retain the individual on active duty for training to make good time lost. Commanding officers of training installations are authorized to issue necessary amendatory orders extending the initial period of active duty for training in the cases of reservists who are required to make good time lost while undergoing active duty for training. Five copies of each amended order issued prior to release from ADT date indicated in original orders will be furnished the State adjutant general or the commander that issued the original active duty for training orders.

d. Enlisted members of the Army National Guard of the United States and the United States Army Reserve who are being released from active duty because the unit in which they were ordered to active duty is being returned as a unit to inactive status will not be retained on active duty to make good time lost.

2-4. When investigation is initiated with view to trial by court-martial or member is awaiting trial or result of trial. ★*a.* A member may be retained beyond the expiration of his term of service by a general court-martial convening authority, or his designee, when an investigation of his conduct has been initiated with a view to trial by court-martial; charges have been preferred; or the member has been apprehended, arrested, confined or otherwise restricted by the appropriate military authority. However, if charges have not been preferred, the member shall not be retained more than 30 days beyond the expiration of his terms of service without the personal approval of the general court-martial convening authority concerned.

b. An individual who, on the date on which he would otherwise be eligible for discharge or release from active duty, is awaiting trial or result of trial by court-martial will not be discharged or released from active duty until final disposition of the court-martial charges. For effective date of discharge, see section V, this chapter. Enlisted personnel under sentence to dishonorable or bad conduct discharge will not be discharged prior to completion of appellate review, unless so directed by Headquarters, Department of the Army. If the individual is absent without leave at the time appellate review is completed, the punitive discharge may be executed notwithstanding his absence.

2-5. En route to United States or to territory of origin. Whenever an individual is held in service after the expiration of his period of service under the conditions set forth in *a* and *b* below, he will be regarded as having been so retained for the convenience of the Government.

a. As a casual for separation. An individual en route as a casual to the United States from overseas will not under any circumstances be separated until he has arrived at his destination.

b. As a member of an organization. An individual whose period of service expires while at sea en route to the United States with his organization and who signifies his intention to reenlist for the same organization on the day following discharge will be discharged and reenlisted at sea. Those who do not signify their intention to reenlist will be held in the service until they arrive in the United States.

2-6. Requiring medical care or sick in hospital when the period of service expires and disease or injury has been determined as incurred incident to service. Any enlisted person, except those on active duty for training (ADT) on orders which are self-terminating, whose period of service will expire while requiring medical care or during the course of hospitalization for a disease or injury which finally has been determined to have been incurred incident to service (in line of duty) may, with his consent, be retained in service beyond the period of his service in order that he may complete the required medical care or hospitalization, and, if required, be brought before a physical evaluation board (see AR 635-40; for ADT cases, see AR 135-200). The final determination whether a member's disease or injury was incurred incident to service, referred to in this paragraph and in paragraph 2-7, is the decision of the Secretary of the Army in the line-of-duty investigation of the member's disease or injury conducted under the provisions of AR 600-10. The enlisted person will be counseled for retention on active duty by an officer authorized to administer oaths pursuant to the Uniform Code of Military Justice, Article 136 (authority of Armed Forces personnel to administer oaths, take acknowledgements, and perform other notarial acts as con-

tained in AR 600-11). He will furnish the enlisted person with the list of retention advantages in *d* below, will explain orally the advantages, and will have the enlisted person execute an affidavit as shown in *e* below, whether or not retention is desired. In those instances in which the individual has been determined to be mentally incompetent or otherwise unable to give consent, the next of kin or legal representative will be furnished the list of retention advantages and will be requested to furnish an affidavit as to the decision regarding retention. Any enlisted person so retained will receive at Government expense medical care, hospitalization, pay and allowances (including expense money authorized by law and credit for longevity), and will be subject to forfeiture in the same manner and to the same extent as if the period of service had not expired. See DOD Military Pay and Allowances Entitlements Manual.

a. Any individual whose period of service will expire while requiring medical care or during the course of hospitalization may be held in service without his consent to make good time lost under title 10, United States Code, section 972.

b. No enlisted person may be held in service beyond the expiration of his term of service without his written consent in affidavit form or, in the case of mentally incompetent personnel, without the written consent in affidavit form of the next of kin or legal representative, solely to provide further medical care or to effect further hospitalization and subsequent separation or retirement for physical disability. The affidavit will be filed in the individual's Military Personnel Records Jacket, US Army (DA Form 201) and forwarded to US Army Personnel Services Support Center, Fort Benjamin Harrison, IN 46249, when transfer processing has been completed. Individuals for whom authority to retain beyond expiration of term of service is not granted will be discharged or released from active duty on the date of expiration of term of service. A hospitalized individual so discharged or released from active duty may be permitted to remain in the hospital as a pay patient at his own expense and without military status if his condition is such that he is physically unable to leave the hospital at the time of discharge or release from active duty or in mentally incompetent cases, if his discharge would be attended by danger to himself or others. In any such case in which the individual is eligible for authorized hospitalization as a beneficiary of the Veterans Administration or, if ineligible for Veterans Administration hospitalization but transfer to a State, county, municipal, or private institution may be effected, the hospital commander will take appropriate action to arrange for and effect transfer. In cases in which the next of kin or legal representative does not authorize retention in the service beyond expiration of term of service of a mentally incompetent patient, disposition will be made in accordance with AR 40-3. If a mentally incompetent patient has been determined to be dangerous to himself or others and the next of kin does not elect to assume responsibility for the patient and the patient is not eligible for transfer to a Veterans Administration hospital, the hospital commander will follow procedures outlined in paragraph 70*b*, AR 40-3.

c. If it is impossible to locate the next of kin of a mentally incompetent patient, or the next of kin does not indicate whether the individual should be retained or discharged, the hospital commander will not discharge the individual but will continue, when appropriate, physical disability processing. The hospital commander will immediately forward full details of the case, including reasons for not completing physical disability processing by the date of expiration of term of service, and action to secure consent of next of kin for retention, by the most expeditious means to The Adjutant General (HQDA (DAAG-PSS-R) Washington, DC 20314). Disposition instructions will be issued by the Secretary of the Army.

d. An enlisted person whose period of service will expire while requiring medical care or during the course of hospitalization will be advised concerning the advantages of remaining on active duty (DA Pam 608-2) and furnished the following list of retention advantages, provided the disease or injury for which medical care is being provided or for which hospitalized was incurred incident to service (in line of duty):

(1) Advantages while remaining on active duty for further medical care or continued hospitalization or while being processed for disability benefits are—

(*a*) Medical care and/or hospitalization provided.

(*b*) Receipt of normal benefits such as pay, allowances to include class Q allotment,

if authorized, and exchange and commissary privileges.

(c) Eligibility for dependent medical care.

(d) Accumulation of additional active service creditable for longevity and retirement for length of service.

(e) State income tax benefits where allowed by the laws of the State concerned.

(2) Advantages if processed and found eligible for disability separation are—

(a) If permanently retired, election of retirement pay based on either basic pay multiplied by the percentage of disability involved (30 to 75 percent), or basic pay multiplied by 2½ percent multiplied by years of total active service. If temporarily retired, however, the same election of pay is authorized, but the minimum pay will not be less than 50 percent of basic pay while temporarily retired (AR 37-104-1). If discharged for disability, may be entitled to receive severance pay.

(b) To the extent retirement pay is based on the percent of disability involved, such pay is excluded in the computation of gross income reportable for taxation.

e. An enlisted person whose period of service will expire during the receipt of medical care or course of hospitalization will execute the following affidavit:

WITH THE ARMY OF THE UNITED STATES, SS
AFFIDAVIT

At _____

Personally appeared before me, the undersigned, authorized by law to administer oaths pursuant to the Uniform Code of Military Justice, Article 136, one _____ who, after being advised by me of the rights and advantages of remaining in an active duty status in the Army beyond the scheduled date of his expiration of term of service for the purpose of continuing medical care or hospitalization and, if eligible, subsequent separation or retirement for physical disability under the provisions of chapter 61, title 10, U.S.C., and after being duly sworn, deposes and says:

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

_____
(Signature of member)

_____
(Grade and organization of officer administering oath)

_____
(Signature of officer administering oath)

★2-7. Retained in service pending final line of duty determination for disease or injury and disposition subsequent to finding. *a.* An enlisted person whose period of service will expire during the course of continued medical care or hospitalization may be retained in service with his consent pending final determination whether the disease or injury was incurred incident to service and for

disability evaluation processing. An enlisted person desiring retention in service will execute the affidavit in *e* below.

b. When it is determined that the member's disease or injury was incurred incident to service, the provisions of paragraph 2-6 will be complied with.

c. When it has been determined that the member's disease or injury was not incurred incident to service and he has an unfitting condition which requires processing through disability channels, he may continue to be retained to complete the disability evaluation processing of his case.

d. When it is finally determined that the member's injury or disease for which an enlisted member is receiving medical care or is hospitalized was not incurred incident to service and there is no unfitting condition requiring processing through physical disability processing channels, the member will be discharged or released from active duty, as appropriate. If a member has time lost to be made good under the provisions of paragraph 2-3, date of expiration of term of service will be established as of the day prior to injury or onset of disease. Where continued hospitalization is deemed necessary, the medical treatment facility commander may, in his discretion, afford continued hospitalization to a member who has been separated from the service on expiration of term of service. If such continued hospitalization after separation is afforded, charges will be collected from the patient by the medical treatment facility concerned at the pay-patient rate applicable for the fiscal year involved.

e. An enlisted person whose period of service will expire during the course of continued medical care or hospitalization pending final determination whether the disease or injury for which he is receiving medical care or hospitalization was incurred incident to service will execute the following affidavit:

WITH THE ARMY OF THE UNITED STATES, SS

AFFIDAVIT

At_____

Personally appeared before me, the undersigned, authorized by law to administer Oaths pursuant to the Uniform Code of Military Justice, Arti-

him to begin or resume his education. A statement to the effect that "this is the most opportune time for me to begin/resume my education" is not sufficient. Specific reasons as to why further delay would cause personal hardship must be included.

(*d*) The date on which the applicant must report to school must fall within the last 3 months of remaining service.

★(2) Application for early release to attend a theological school which is not listed in the Education Directory, Part 3, Higher Education, published by the Office of Education, U.S. Department of Health, Education, and Welfare, and has not been determined by that office to be eligible for such listing; foreign schools; and all doubtful cases will be forwarded by the commander having discharge authority direct to HQDA (DAAG-PSS-S), Washington, DC 20314.

(3) The effective date of early separation under this program normally will not be earlier than 10 days prior to the class starting date. The following exceptions may be made when appropriate:

(*a*) On submitting specific evidence that the period between the separation date specified above and the class starting date is clearly insufficient, members may be separated up to 30 days prior to the day classes convene. This is not intended as authority to grant release a full 30 days prior to class starting date in every such case, but to provide reasonable latitude in justifiable cases to authorize separation on a date which will give the member adequate time to register and enter the school on time. Examples of circumstances which meet this criterion are:

1. Member is returning from overseas.

2. Member must move his family to the location of the educational institution.

3. The school's latest registration date, in relation to the class starting date, will work an undue hardship on the member.

(*b*) In the event late registration is permitted by the school, individuals who are ineligible for separation under the foregoing criteria may be separated on the first day within the last 3 months of service that they become eligible for separation.

(4) Individuals will be discharged, released from active duty and returned to the Army National Guard or Army Reserve, or released from active duty and transferred to the US Army Reserve, as appropriate. Authority (AR 635-200) and SPN 413 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for separation.

(5) Accrued leave may not be utilized in conjunction with early separation under the provisions of this paragraph.

b. Separation to accept teaching positions.

(1) Separation will be accomplished not earlier than 10 days prior to the effective date of employment when the following conditions are met:

(*a*) Release is for the purpose of accepting a teaching position in a public school system or comparable private educational institution, or a recognized college or university.

(*b*) The date on which the applicant must report for employment must fall within the last 3 months of remaining service.

(*c*) Teaching must be the normal occupation of the individual or he shows definite intent to engaged in that occupation following separation.

(*d*) Applicant has evidence of employment by a specific school specifying date employment must commence.

(*e*) Individuals returned from overseas, or individuals who are required to move their families to the locations of the educational institutions may, on submitting specific evidence that the period between the separation date specified above and the effective date of employment is insufficient, be released up to 30 days prior to the effective date of employment.

(2) Individuals will be discharged, released from active duty and returned to Army National Guard or US Army Reserve, or released from active duty and transferred to the US Army Reserve, as appropriate. Authority (AR 635-200) and SPN 41C for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty.

★Section IX. EMPLOYMENT

5-21. Separation to accept employment. This section authorizes the separation for the convenience of the Government of personnel who were enlisted, inducted or ordered to active duty, and who have 3 months or less remaining in their period of service, for the purpose of accepting employment.

a. Eligibility.

(1) The member's services must not be essential to the mission of his unit of assignment.

(2) It is not necessary that the employment be continuously active during all 12 months of a calendar year, but it must be regular, full-time employment which—

(*a*) Contemplates a continuous period of at least 6 months, or

(*b*) Offers employment for a continuous period of at least 3 months which will provide the individual's primary source of income for the 12 consecutive months immediately following separation.

(3) Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 and reservists ordered to active duty due to unsatisfactory participation in their reserve assignment are *not* eligible for separation under this section.

b. Application for separation. Applications for separation may be submitted not more than 4 months nor less than 1 month prior to the requested release date. The application must include:

(1) Evidence of a bona fide employment offer (includes self-employment). A notarized statement from the tentative employer is acceptable evidence. The sworn statement of the military member explaining the nature and type of self-employment will be accepted. These statements are accepted as proof of employment, only.

(2) The date the individual must report for work.

(3) Information that the employment meets one of the requirements of *a*(2) above.

c. Date of release. The effective date of release from active duty will be not more than 10 days prior to the date the member must report for work and not more than 3 months prior to his ETS. Accrued leave may not be utilized so as to extend this 3-month limitation.

d. Authority.

(1) Commanders specified in paragraph 2-17*a* are authorized to approve early separation under this section.

(2) Authority for separation (Section IX, AR 635-200) and SPN 414 will be included in directives or orders directing individuals to report to the appropriate transfer activity for separation processing.

(3) Individuals will be discharged, released from active duty and returned to the Army National Guard or United States Army Reserve, or released from active duty and transferred to the United States Army Reserve, as appropriate.

Section X. TRAVEL AND FORM OF SEPARATION CERTIFICATES

5-22. Travel allowance. See Joint Travel Regulations.

5-23. Form of separation certificate to be given. *a.* Discharge certificate, based upon the character of service rendered and an Armed Forces of the United States Report of Transfer or Discharge (DD Form 214) will be issued to the individual concerned.

rately whichever is to the member's benefit. The criteria set forth in (1) *through* (3) do not preclude an individual from being considered to have served satisfactorily in any lower grade or rank previously held. When the member served in a grade two or more grades higher than the grade held at time of retirement and a determination is made that he did not serve satisfactorily in the highest grade, it will be determined that he served satisfactorily in the next lower grade unless his service in that lower grade comes within the purview of one or more of the following subparagraphs.

(1) When service in the highest grade was performed under any circumstances other than during the course of active duty as defined in *a* above.

(2) When reversion to a lower grade was—

(*a*) Expressly for prejudice or cause,

(*b*) Due to misconduct, or

(*c*) Punishment pursuant to Article 15, UCMJ, or court-martial action.

(3) When there is information in the member's military personnel record pertaining to his service in the highest grade which indicates clearly that he did not serve satisfactorily in that grade. This includes the grade in which member is currently serving.

e. Cases of enlisted members who appear to be eligible for advancement on the retired list concurrent with retirement will be forwarded for determination, with all information pertinent to the higher grade, to HQDA (DAPC-PAS-RS), 200 Stovall St., Alexandria, VA 22332, not later than 75 days prior to the requested retirement date. This will include:

(1) Cases covered in *c* above.

(2) Cases of members who are to retire in an enlisted status who have served on active duty in any Armed Force in an enlisted grade higher than that in which they are currently serving.

f. Members advanced to a higher commissioned grade may apply to the Secretary of the Army within 3 months of advancement for restoration on the retired list to their former enlisted status (10 USC 3965).

g. Members may, for personal reasons, desire to defer advancement to a higher grade. Accordingly prior to such advancement a member may apply for a specified period of deferment and for placement or retention on the retired list in his current status. The application for deferment of advancement will include the following statement, over the personal signature of the member:

> I understand that subsequent advancement will not be retroactive and that increased pay or other entitlements accruing therefrom will be based on the actual date of advancement.

(1) Members who are retiring after completion of 30 years' active Federal service who are eligible for concurrent advancement on the retired list to a higher grade and who desire to defer such advancement may submit a request for deferment through channels to the retirement approval authority. The request must be received by that commander not later than 30 days prior to the requested retirement date.

(2) Retired members may apply to the Commander, US Army Reserve Components Personnel and Administration Center, ATTN: AGUZ-RCPD-RAD, 9700 Page Blvd, St. Louis, MO 63132. The application must be received by that Center not later than 30 days prior to the date the member completes 30 years' service (active Federal service plus service on the retired list).

h. See paragraph 12-15 concerning the eligibility of former Command Sergeants Major, E-9 for placement on the retired list in that grade title. The difference between SGM, E-9 and CSM, E-9, is one of grade *title* only, and not a difference in grade. The provisions of this paragraph do not apply to such cases.

Section III. REQUIREMENTS AND PROCEDURES

★**12-8. Eligibility.** Members who have completed 19 years and 6 months or more of active Federal service may apply for retirement not earlier than 6 months prior to their desired retirement date. The member must complete at least 20 years of active Federal service and

all applicable service obligations (*para 12-9*) by the requested retirement date. (*See para 12-11 concerning applying for retirement.*)

12-9. Service obligations. *a.* This paragraph applies to members retiring under 10 USC 3914, only (i.e., those who have completed 20, but less than 30, years of active Federal service).

★*b.* A member will be required to serve as indicated in (1) or (2) below, whichever is later. As an exception, this requirement is waived for personnel whose reenlistment is precluded under chapter 4, AR 600-200 (Qualitative Management), and whose ETS is less than 12 months from DROS to assignment in CONUS or area of residence.

(1) At least 1 year in his current assignment or at current duty station, whichever is earlier.

(2) If member's dependents traveled at Government expense, 1 year from the date of their arrival at member's new duty station.

★*c.* Subject to the conditions in (1) and (2) below, an individual receiving an alert or orders for reassignment providing for a permanent change of station may submit an application for retirement within 30 days of his receipt of the alert or reassignment orders, whichever is earlier, in lieu of complying with such alert/orders (*See para B-17, AR 614-200* concerning deletion from assignment alert/orders.) *Applications submitted under this subparagraph may not be withdrawn—member will be required to retire on the retirement date specified in the application.*

(1) The requested retirement date may *not* be more than 6 months subsequent to the date of the application.

(2) The member must meet eligibility requirements and service obligation requirements by the requested retirement date.

★*d.* Individuals will not depart an oversea command to CONUS for the purpose of participating in Project TRANSITION prior to retirement until after completion of 1 year in their current oversea assignment.

e. An individual assigned to a unit deploying from an oversea area to CONUS who has submitted or who has an approved application for retirement will move with the unit providing his retirement will not be delayed. Notwithstanding the provisions of *b* above, such individuals will be retired on the date originally requested.

f. An individual who has attended a military or civilian course of instruction must complete any service obligation voluntarily incurred as a result of such instruction.

★*g.* Except as provided in (1) and (2) below, an individual who is promoted to pay grade E-7, E-8, or E-9 incurs a 2-year service obligation (AR 600-200). To be eligible to retire in such grade the member must complete the obligated service. If a member is promoted to such pay grade after submitting an application for retirement, he will be required either to submit a written request for withdrawal of his retirement application (*see para 12-14*) or to decline the promotion in writing. Such request for withdrawal of retirement application or declination of promotion will be submitted no later than 15 days after promotion (date of promotion, not date of rank) or prior to the requested retirement date, whichever is earlier. When an individual accepts promotion to such pay grade and an application for retirement has been forwarded to the retirement approval authority, that commander and HQDA (DAPC-EPC), 2461 Eisenhower Ave., Alexandria, VA 22331, will be notified by message or other appropriate expenditious means.

(1) An individual who will have completed 30 or more years' active Federal service on the requested retirement date.

(2) An individual who is already eligible through prior service, for a higher grade at time of retirement.

★*h.* Individuals whose current expiration of term of service is prior to completion of service obligation will be counseled in accordance with paragraph 2-2.1.

12-10. Waivers. ★*a.* Exceptions to service obligations may be granted when the best interests of the service are involved and/or when substantial hardship exists or would otherwise result if the member is not retired. ETS in

itself is not justification for an exception. Requests for exception to service obligations may be submitted by the service member, only, and must be fully defined and documented.

b. For the purpose of this chapter, substantial hardship is defined as a situation or circumstance which imposes undue privation or suffering on the member or his immediate family. Potential loss of extremely favorable employment because of an employer's reporting deadline, or attendance at an institution of higher learning (as defined in para 5-20 *a*), may constitute a hardship.

★*c.* Requests for waivers or exceptions to service obligations will be forwarded through channels to HQDA (DAPC-PAS-RS), 200 Stovall St., Alexandria, VA 22332. DA Form 2339, with both sections I and II completed and signed, will be attached to the request. Commanders must comment on the justification submitted and include a statement concerning the essentiality of the member to the mission of the command.

★**12-11. Applying for retirement.** *Requests for* retirement will be submitted on DA Form 2339 (Application for Voluntary Retirement). *See paragraph 12-12 for preparation instructions.*

a. Prior to applying for retirement, the member should weigh all considerations carefully and be firm in his decision to retire on a certain date (*see para 12-14*).

b. Members who plan to participate in Project TRANSITION must submit their retirement applications sufficiently in advance to assure their receipt of retirement orders before departing from current duty station. *Except as provided in this paragraph, retirement applications must be submitted and forwarded so as to reach the retirement approval authority at least 2 months prior to the retirement date.* In an emergency, or to preclude an extreme hardship to the member or his immediate family, an application may be submitted to reach the retirement approval authority less than 2 months prior to the requested retirement date. In such case, the applicant must state the specific reason for the delay in submitting the application, must set forth clearly the nature of the emergency or hardship involved, and must include a statement that he is aware that insufficient time for processing may preclude retirement on the date requested.

c. To preclude or minimize personnel turbulence, members who wish to retire who are nearing completion of oversea tours will be encouraged to request a retirement date which coincides with their DEROS. This applies especially to members serving on short tours. Exceptions may be made to preclude extreme hardship on the member or his immediate family.

d. Personnel officers will—

(1) Require each member who desires to apply for retirement to first read this chapter.

(2) Assure that each applicant understands section V, including his responsibility for cooperating with the arrangements made to complete his medical examination on time.

(3) Assure that all applicants for retirement who have not been counseled concerning Project TRANSITION receive such counseling (*see sec VII, AR 621-5*).

(4) Furnish a copy of DA Pam 600-5 (Handbook on Retirement Services) to each applicant who has not already received one.

12-12. Preparation of DA Form 2339. *a.* Each member requesting retirement will, with the assistance of the personnel officer, complete Section I, DA Form 2339, including date and signature. Each item will be completed in full. The words "not applicable (N/A)" or "none" will be entered where appropriate. When an exception to a service obligation is requested, complete justification will be included as an inclosure to DA Form 2339.

b. The officer having custody of the applicant's personnel records will—

(1) Assist the member in preparing his application. Special attention will be given to items 4, 6, and 21.

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

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

★(*c*) *Item 16.*

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

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

★(*d*) *Item 21.* If member elects to be processed for retirement at a location of choice transfer activity (*see para 2-18, AR 635-10*), enter the complete designation and location of such transfer activity. *For example:* US Army Transfer Point, Fort Sheridan, IL 60037. Member must check the appropriate election and sign his name.

(2) Complete Section II, DA Form 2339. Each item will be completed in full.

(*a*) *Item 23.* Enter in this item the complete designation and location of the authorized transfer activity where the member is required to be processed for retirement (*chap 2 and app A, AR 635-10*).

★(*b*) *Item 32.* Enter the statements from *1* and *2* below (also *3*, if applicable) and require applicant to sign all copies immediately below these statements. Enter the information required by *3* through *7*, as applicable:

1. "I have read section V, chapter 12, AR 635-200. I am aware of the purpose of this examination as stated in section V. I understand it is my responsibility to cooperate with the arrangements made by my commander and the medical treatment facility to complete the examination on time."

2. "I have been briefed concerning the Survivor Benefit Plan. I understand that I will automatically be in the plan and will pay the full cost for coverage for my wife, and children if applicable, unless I submit an election form to the contrary prior to my retirement."

3. If applicant is to participate in Project TRANSITION, enter the TRANSITION training site, course title, inclusive dates of course, and date scheduled to depart oversea command (if applicable). If applicant does not desire TRANSITION training, enter statement "I do not desire TRANSITION training."

4. If application is being submitted under the provisions of paragraph 12-9*c*, enter the following statement: "Appl sbm in lieu of PCS mov."

5. If report of medical examination is not attached (*para 12-12b(7)*) enter the following statement: "Report of medical examination will be forwarded on (date examination is expected to be completed)."

6. Enter the number of days approved DDALV prior to retirement for applicants stationed overseas.

7. If member currently is serving in the grade of SGM, E-9, but formerly served as a CSM, E-9, enter whichever of the following statements is applicable (*see para 12-15*):

"SGM, E-9 _____ (name) served satisfactorily as a CSM, E-9 from _____ (date) to _____ (date). He was released from CSM program solely because of an assignment limiting physical condition incurred in LD."

"SGM, E-9 _____ (name) served as a CSM, E-9 from _____ (date) to _____ (date). He (was released from CSM program due to inadequate performance of duty) or (voluntarily withdrew from the CSM program for reasons other than an assignment limiting physical condition incurred in LD)."

★(3) Forward a signed additional copy of the application, as soon as sections I and II are completed, to HQDA (DAPC-EPC), 2461 Eisenhower Ave., Alexandria, VA 22331, *via air mail.* The submission of this copy of the application will not be delayed pending completion of medical examination or verification of service.

(4) Obtain verification of service (*para 12-25*).

★(5) Schedule the member for medical examination (*sec V*). Commanders will arrange for and assure that this examination begins on the earliest possible date within the 6-month period prior to member's requested retirement date. Commanders will follow through to assure

there is no unnecessary or undue delay in completing the examination on time (*para 12-26*).

★(6) Insure that the member's enlistment does not expire prior to the requested retirement date. If his enlistment will expire prior to the requested date of, or eligibility for voluntary retirement, it may be extended to the date of retirement, but not more than 6 months, under the provisions of paragraph 4-3, AR 601-280 (see also para 4-6, AR 600-200). These requests will be approved and oaths of extension accomplished before retirement applications are submitted. When the individual is not eligible for extension under AR 601-280, applications for exception will be forwarded to the Commander, Enlistment Eligibility Activity, 9700 Page Boulevard, St. Louis, MO 63132, for final action.

★(7) Forward the completed application to the retirement approval authority, direct or through channels prescribed by that commander, as soon as section II is completed and signed. If the medical examination has been completed by, or is scheduled to be completed within 15 days of, the date section II, DA Form 2339, is completed and signed, the report of the examination will accompany the application when forwarded to the retirement approval authority. In all other cases, the report of medical examination, or medical board proceedings not referred to a physical evaluation board, will be forwarded to the retirement approval authority as soon as completed. Verification(s) of service will be attached, if obtained.

★(8) If, after retirement orders are issued, there is any change in the member's status or physical condition which precludes retirement, notify the retirement approval authority and HQDA (DAPC-EPC), 2461 Eisenhower Ave., Alexandria, VA 22331 immediately and obtain the decision of the retirement approval authority either to revoke the orders or to let them stand. Notify the service member of the decision prior to the effective date of retirement.

★12-13. Responsibility of retirement approval authority. Commanders specified in paragraph 2-17*a* will take action to assure that—

a. No member is retired who has not completed at least 20 years of active Federal service which is creditable for retirement (*see IV*).

b. Members are not permitted to use the submission of an application for retirement as a means of avoiding reassignment, except as explicitly provided in paragraph 12-9c, and that members who submit applications under that paragraph are not permitted to withdraw their applications or change the requested retirement date to a later date.

c. Retirement orders are issued as far in advance of the retirement date as possible so as to give the member ample time to arrange for movement of dependents and transportation of household goods, etc.

d. Paragraph 12-12*b*(3) is complied with.

★12-14. Request for withdrawal of application or change in retirement date. *a.* Except as provided in paragraph 12-9*g* and (1) and (2) below, an application from an eligible member may *not* be withdrawn. Further, an application for retirement may *not* be withdrawn after travel has been performed in connection with retirement or TRANSITION training in conjunction with retirement. Applications may be withdrawn when—

(1) It can be definitely established that the retention of the member on active duty will be for the convenience of and in the best interests of the Government, or will preclude an extreme hardship to the member or his immediate family (latter applicable only to those cases where the hardship was unforeseen at the time of application).

(2) Individuals who submitted retirement applications by reason of denial of reenlistment under chapter 4, AR 600-200 (Qualitative Management Program) and retirement date was established in conjunction with ETS who are selected for promotion to E-7, E-8, or E-9, *if they intend to accept the promotion.* Those who withdraw their applications will be required to complete the promotion service obligation (*para 12-9g*). The statement of counseling under paragraph 2-2.1 will be attached to the request for withdrawal.

b. Except as provided in *a*(2) above, individuals who applied for retirement in lieu of PCS reassignment will *not* be permitted to withdraw their applications for retirement based solely on selection for promotion. (*See para 12-9g* for action in cases of members actually promoted prior to established retirement date.)

★*c.* A request for change in the retirement date will *not* be approved unless extenuating circumstances arise after submission of the application which clearly justify an exception to policy, to preclude an extreme hardship to the member or his immediate family which was unforeseen at the time of application. The effective date of retirement may *not* be changed to a date which is more than 6 months after the date of the retirement medical examination.

★*d.* Requests for withdrawal of applications or change in retirement date must be fully documented and will be forwarded, with one copy of the DA Form 2339 attached, through channels to reach the retirement approval authority not later than 30 days prior to the previously requested retirement date. The retirement approval authority may disapprove those requests which *clearly do not meet* established criteria or which *are not fully documented.* Those requests on which the retirement approval authority recommends approval will be forwarded to reach HQDA (DAPC-PAS-RS), 200 Stovall St., Alexandria, VA 22332, not later than 20 days prior to the previously requested retirement date. The retirement approval authority will inform the unit commander of this referral. When approval or disapproval action has not been received by the unit commander by the third day prior to whichever of the following dates applies, he will query the retirement approval authority or MILPERCEN, HQDA, as applicable, by telephone (even when Condition MINIMIZE is in effect) to ascertain the action to be taken:

(1) Date member is to depart oversea command for return to CONUS or area of residence.

(2) Date member is to depart his duty station for authorized or location of choice transfer activity, as applicable.

(3) Previously requested retirement date when the retirement approval authority has approved a request for retirement in the oversea command.

12-15. Grade title on retired list of former Command Sergeants Major. *a.* Noncommissioned officers holding the grade of Sergeant Major, E-9 at time of retirement who were released from the Command Sergeants Major program on or after 13 July 1967 solely because of an assignment limiting physical condition which was incurred in line of duty and who served satisfactorily as Command Sergeants Major, including those who voluntarily requested release from the program for such reason, will be placed on the retired list in the grade title "Command Sergeant Major."

★*b.* Members whose release from the Command Sergeants Major program was due to one of the following *reasons are not eligible* to have their names placed on the retired list in the grade title of Command Sergeant Major. When there is insufficient information in field records on which to determine the member's eligibility for such grade title, inquiry will be made to HQDA (DAPC-EPC), 2461 Eisenhower Ave., Alexandria, VA 22331.

(1) Members released due to inadequate performance of duty.

(2) Members who voluntarily withdrew for reasons other than indicated in *a* above.

(3) Members holding grade of E-8 or below on date of retirement.

c. Retirement orders on eligible members will reflect relief from active duty as SGM, E-9 and placement on the retired list as CSM, E-9.

d. See paragraph 12-12*b*(2)(*b*) for entries to be made on DA Form 2339 (Application for Voluntary Retirement).

★**12-16. Retirement orders.** *a.* These orders may be issued by either the retirement approval authority or the agency which normally issues orders on personnel of the member's unit of assignment, as specified by the retirement approval authority. In those cases in which MILPERCEN, HQDA, is the retirement approval authority, retirement orders will be issued by the normal orders issuing agency for the mem-

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b. DA Form 3713 will be distributed as follows at the time retirement orders are issued. In no event will this form be distributed later than the second workday following the issuance of such orders. Distribution will be made via air mail in all cases in which retirement orders are issued during the member's last duty month.

(1) Copy 1 (original): to Commander, US Army Finance Support Agency, ATTN: Chief, Retired Pay Division, Fort Benjamin Harrison, IN 46249, with one copy of the retirement or amendment orders.

(2) Copy 2: to Commander, MILPERCEN (DAPC-PSS-D) 200 Stovall St., Alexandria, VA 22332.

(3) Copy 3: place in the Military Personnel Records Jacket with the retirement orders and papers specified in paragraph 12-21.

(4) Copy 4: to Commander, MILPERCEN (DAPC-PAS-RS) 200 Stovall St., Alexandria, VA 22332.

★*c.* Each group of DA Forms 3713 will be transmitted by a cover letter which contains the full organization designation and address of the organizational element responsible for forwarding them. The letter will list, separately:

(1) The number of DA Forms 3713 inclosed.

(2) The number of revocation orders inclosed.

★*d.* When items of information on DA Form 3713 must be corrected after the form has been distributed, a new DA Form 3713 will be prepared and distributed as indicated in *b* above. The item numbers being changed will be shown on the line for that purpose (upper left corner of the form) and items 1, 2, 3, 4, 11, 12, 13 (or 14), 15 and 17, plus the items being changed, will be completed in each case. All other items will be left blank.

e. When retirement orders are revoked following the distribution of DA Form 3713, a copy of the revocation order will be distributed as indicated in *b* above. These orders will be forwarded to the addressees with the normal distribution of DA Forms 3713.

★**12-21. Disposition of retirement papers.** One copy of the retirement orders (including any amendments or revocations) will be placed in the Military Personnel Records Jacket, together with the following essential papers:

a. The original DA Form 2339 (Application for Voluntary Retirement).

b. The complete medical examination report (*para 12-30*) showing the medical review and approval for retirement (*para 12-29*).

c. Verification(s) of service, if any obtained (*para 12-25*).

d. Determinations of extraordinary heroism (*para 12-5c*).

e. Grade determinations for concurrent advancement on the retired list (*para 12-7c*).

f. Approved or disapproved requests for waiver of or exception to service obligations (*para 12-10*).

g. Approval or disapproval action on requests for withdrawal of application or change in retirement date (*para 12-14*).

h. Determinations concerning grade title of former Command Sergeants Major (*para 12-15*).

i. Copy 3, DA Form 3713 (Data for Retired Pay).

(*Note*: As this copy is used to determine eligibility for advancement to a higher grade, *it must be in the MPRJ* when MPRJ is forwarded to RCPAC.)

j. Other essential papers reflecting actions and reasons for actions taken.

12-22. References. Additional information concerning retirement is contained in the following publications:

Decorations and awards	AR 672-5-1
Identification and dependents' privilege cards	AR 606-5
Preparation of DD Form 214	AR 635-5
Preretirement leave	AR 630-5
Records disposition	AR 635-10
Retirement ceremony	AR 600-25
Retirement processing	AR 635-10
Selection of home	Paragraph M4158, JTR
Shipment of household goods	Paragraph M8260, JTR
Transportation of dependents	Paragraph M7010, JTR

Section IV. COMPUTATION OF SERVICE

12-23. Service creditable for retirement. In general, years of service creditable for retirement are computed by adding all active service in the Armed Forces of the United States and service computed under 10 USC 3683 (10 USC 3925). All service shown below is creditable for retirement under this chapter and is creditable for basic pay purposes. For other service creditable for basic pay, see Chapter 1, Part 1, Department of Defense Military Pay and Allowances Entitlements Manual. Whenever "active Federal service" is specified, it includes active duty for training and other full-time training duty (37 USC 101(18)). Service below is creditable for retirement if performed as a commissioned officer, commissioned warrant officer, warrant officer, Army field clerk, flight officer, or enlisted member unless otherwise specified.

a. Army.

(1) US Army (Regular).

(2) Women's Army Corps.

(3) Active Federal service in the—

(*a*) Regular Army Reserve.

(*b*) Army of the United States.

(*c*) US Army Reserve.

(*d*) Organized Reserve Corps.

(*e*) Officers Reserve Corps.

(*f*) Enlisted Reserve Corps.

(*g*) Army National Guard.

(*h*) Army National Guard of the United States.

(*i*) Army Nurse Corps as it existed at any time before 16 April 1947.

(4) All active service performed under an appointment under the act of 22 December 1942 (ch. 805, 56 Stat. 1072) or the act of 22 June 1944 (ch. 272, 58 Stat. 324).

(5) All active full-time service, except as a student or apprentice, with the Medical Department of the Army as a civilian employee—

(*a*) In the dietetic or physical therapy categories, if the service was performed after 6 April 1917 and before 1 April 1943, or

(*b*) In the occupational therapy category, if the service was performed before appointment in the Army Nurse Corps or the Women's Medical Specialist Corps and before 1 January 1949.

(6) Cadet, US Military Academy.

(7) Women's Army Auxiliary Corps (active service performed after 13 May 1942 and before 30 September 1943).

(8) Philippine Scouts.

(9) Officer Training Camp as an enlisted member.

(10) Fraudulent enlistment, if enlistment was not voided.

(11) Civilian Conservation Corps (active duty as commissioned officer).

b. Navy.

(1) US Navy (Regular).

(2) Active Federal service in the—

(*a*) US Naval Reserve.

(*b*) Naval Militia.

(*c*) Naval Reserve Force.

(*d*) Navy Nurse Corps as it existed at any time before 6 April 1947.

(3) V-12 Program of World War II (service in dual status as enlisted member on active duty as midshipman in the program).

(4) Midshipman, US Naval Academy.

c. Air Force.

(1) US Air Force (Regular).

(2) Active Federal service in the—

(*a*) Air Force of the United States.

(*b*) US Air Force Reserve.

(*c*) Air National Guard.

(*d*) Air National Guard of the United States.

(3) Aviation Cadet.

(4) Cadet, US Air Force Academy.

d. Marine Corps.

(1) US Marine Corps (Regular).

(2) Active Federal service in the—

(*a*) US Marine Corps Reserve.

(*b*) Marine Corps Reserve Force.

e. Coast Guard.

(1) US Coast Guard (Regular).

(2) Active Federal service in the US Coast Guard Reserve.

(3) Midshipman, US Coast Guard Academy.

f. Public Health Service. Active Federal service as a commissioned officer in the Reserve Corps of the Public Health Service.

g. Minority service. All service perfromed under an enlistment or induction entered into before attaining the age prescribed by law for that enlistment or induction when such service is otherwise creditable.

12-24. Periods not creditable for retirement. None of the following periods are creditable for retirement under this chapter:

a. All time required to be made good (10 USC 972). *See paragraph 2-3.*

b. Periods of service voided by the Government other than those voided by reason of minority.

c. Time in a nonpay (noncasualty) status under 37 USC 552(C).

d. Service in a Reserve component not on—

(1) Active duty.

(2) Active duty for training.

(3) Other full-time training duty.

12-25. Verification of service. ★*a.* Each enblisted member of the Regular Army will be interviewed by the officer having custody of his personnel records when the member completes 18 years' service for basic pay to determine if he has had service (active Federal service or inactive service in any branch of the Armed Forces) in addition to that shown in his Military Personnel Records Jacket (DA Form 201) or Personal Financial Records, US Army (DA Form 3716). Futher verification is not required in the cases of members whose only claimed service is Army service which is clearly substantiated in their MPRJ or PFR.

★*b.* Army service claimed by the member which is not clearly substantiated in his MPRJ or PFR.

(1) Claimed National Guard service will be verified with the Adjutant General of the State or territory (see appendix for list of addresses).

(2) When the applicant has had breaks in Army service or periods of prior Army service which have been previously verified, one copy of DA Form 2339 (Application for Voluntary Retirement) will be submitted to the Commander, US Army Enlisted Records Center, ATTN: PARC Fort Benjamin Harrison, IN 46249, requesting verification. It is important that inclusive dates for all service claimed, both active Federal service and inactive service, be furnished.

c. Verification of other than Army service claimed by the applicant will consist of certified statements of service and other official statements furnished from the applicable addressee(s) below. Statements will contain all dates of active duty, active duty for training or other full-time training duty, and all time lost. The original or certified copies will be attached as inclosure(s) to an application fro retirement.

(1) *Navy.* Military Personnel Records Center, GSA (Navy), 9700 Page Boulevard, St. Louis, MO 63132.

(2) *Air Force.* Military Personnel Records Center, GSA (Air Force), 9700 Page Boulevard, St. Louis, MO 63132.

(3) *Marine Corps.* Military Personnel Records Center, GSA (Marine Corps), 9700 Page Boulevard, St. Louis, MO 63132.

(4) *Coast Guard.* Military Personnel Records Center, GSA (Coast Guard) 9700 Page Boulevard, St. Louis, MO 63132.

(5) *National Guard.* Adjutant General of the State concerned.

d. The signature of the unit commander or personnel officer at the close of Section II, DA Form 2339 certifies that the service claimed by the member in items 16 through 20, DA Form 2339, is correct, except as otherwise indicated in items 27 and/or 32.

★Section V. MEDICAL EXAMINATION

★12-26. General. Each member retired under this chapter will be required to undergo a medical examination prior to retirement. Such examination will be accomplished not earlier than 6 months and not later than 3 months prior to the member's requested retirement date.

★12-27. Purpose and scope. *a.* The purpose of a medical examination prior to retirement is to identify conditions which may require attention, to record as accurately as possible the state of health of the individual, and to protect the interests of the individual and the Government.

b. The scope of the examination will be that prescribed in appendix IX, AR 40-501.

★12-28. Responsibilities. *a. Individual.* All retirement applicants will cooperate with the efforts of their commanders and the commanders of medical treatment facilities in order to complete their retirement medical examinations on time.

b. Immediate commanders will—

(1) Insure that action is started in time for the completed medical examination report to accompany the retirement application.

(2) Insure that the member does not delay his examination as a means to circumvent this regulation and extend the retirement date initially requested.

(3) Furnish the following information to the retirement approval authority without delay if member's requested retirement date is coincident with his ETS, he is not eligible to reenlist, and medical fitness for retirement cannot be determined by the 30th day prior to such retirement date. This information will be furnished by electrical means (whether or not MINIMIZE is in effect) to HQDA (DAPC-PAS-RS) 200 Stovall St., Alexandria VA 22332 in those cases in which MILPERCEN is the retirement approval authority (*para 12-8b*).

(*a*) Date action was started to accomplish retirement medical examination and reason(s) for delay.

(*b*) Diagnosis and prognosis of current medical condition and probable date and type of disposition.

(*c*) Copy of current Clinical Record—Narrative Summary (SF 502).

c. Commanders of medical treatment facilities will provide timely medical examination and consultation service to each member to be retired so that the medical examination will be completed on time.

d. Commanders having custody of personnel records will—

(1) File one copy of the completed medical examination report (SF 88, SF 93, and consultation reports or special tests accomplished for retirement) in DD Form 722 (Health Records Jacket).

(2) Place additional copies of the completed medical examination report in DD Form 722 for distribution by the transfer activity in accordance with AR 635-10.

★12-29. Review of medical examination reports. All reports of medical examination for retirement, or medical board proceedings not referred to a physical evaluation board, will be reviewed and approved by the commander of the medical treatment facility which accomplished the examination, or his designated representative. This authority will *not* be further delegated. The review and approval action on reports of medical examination will be indicated in item 32, SF 88. This review is to assure that the medical examination report accurately records the member's state of health and to assure that the member receives appropriate medical care (including hospitalization when medically indicated) for any conditions requiring such before his retirement.

★12-30. Reports of medical examination. *a.* The report of medical examination, or medical board proceedings, will accompany the retirement application when forwarded to the retirement approval authority.

b. The medical examination will consist of the originals of the following:

(1) Report of Medical Examination (SF 88).

(2) Report of Medical History (SF 93).

(3) Electrocardiogram properly mounted and identified on clinical Record—Electrocardiographic Record (SF 520).

(4) Report of any consultation(s) accomplished.

(5) Complete report of medical board proceedings, if accomplished (AR 40-3)—Medical Board Proceedings (DA Form 8-118), Clinical Record—Narrative Summary (SF 502) and report of Medical Examination (SF 88).

★**12-31. Hospitalization.** *a.* If a member who has requested retirement becomes hospitalized, the commander of the medical treatment facility, or a senior medical officer who has detailed knowledge of medical fitness and unfitness standards, disposition of patients, and disability separation processing to whom he delegates such authority, will make the following determinations (and recommendation, if applicable) within 15 days of the date the member becomes hospitalized (immediately if hospitalized during the member's last duty month)—

(1) Whether the condition(s) for which hospitalized will result in referral to a physical evaluation board.

(2) Whether continued hospitalization will be required beyond the member's retirement date.

(3) If (1) and (2) above are both affirmative, a recommendation, with reasons, that the member (be) (not be) retained on active duty under paragraph 2-6 beyond his retirement date for completion of hospitalization and physical evaluation board action. The diagnosis, prognosis, and any other information having a bearing on the recommendation will be included.

b. The determinations/recommendation required by *a* above will be forwarded to the member's retirement approval authority to reach that commander not later than the sixth workday prior to member's retirement date. A copy of the determinations/recommendation will be forwarded *by air mail* to the Commander, US Army Health Services Command, ATTN: HSC-PA-H, Fort Sam Houston, TX 78234, at the time the original is forwarded to the retirement approval authority.

c. If *a*(1) above is negative, the officer will be retired on his requested retirement date, *even though continued hospitalization may be required after that date.*

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No. 635-200

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, *15 July 1966*

PERSONNEL SEPARATIONS

ENLISTED PERSONNEL

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SUPERSESSION LIST

This regulation supersedes the following:

AR 635-200, 8 April 1959, including C 1, 23 December 1959; C 2, 26 October 1960; C 5, 15 November 1961; C 6, 10 May 1962; C 8, 13 November 1962; C 9, 14 March 1963; C 10, 3 March 1964; C 11, 21 October 1964.

AR 635-205, 11 January 1960, including C 4, 21 July 1961; C 5, 15 November 1961; C 7, 9 November 1962; C 8, 28 November 1962; C 10, 12 July 1963; C 12, 4 March 1964; C 13, 1 November 1965.

AR 635-207, 12 January 1961, including C 2, 21 March 1962; C 3, 4 March 1964.

AR 635-210, 17 February 1961, including C 4, 5 September 1962; C 5, 25 June 1965.

AR 635-220, 4 June 1956, including C 1, 15 January 1957; C 2, 18 November 1957; C 3, 8 April 1959.

Change 1, 1 June 1967, superseded--
Paragraphs 3 and 5, DA message 781990, 13 September 1966; paragraph 5, DA message 788111, 27 October 1966; and DA messages 803710, 2 March 1967, 809840, 12 April 1967, and 812939, 2 May 1967.

Change 2, 30 June 1967, superseded--
DA messages 819508, 15 June 1967, and 777512, 10 August 1966.

Change 3, 22 December 1967, superseded--
AR 635-204, 5 December 1958; and DA messages 829207, 22 August 1967, and 842171, 1 December 1967.

Change 4, 9 April 1968, superseded--
DA messages 842978, 7 December 1967, and 850597, 7 February 1968.

Change 5, 12 June 1968, superseded--
AR 635-230, 19 August 1960, including all changes.

Change 6, 20 August 1968, superseded--
So much of DA message 870626, 2 July 1968, as pertains to AR 635-200.

Change 7, 11 September 1968, superseded--
DA messages 875195, 6 August 1968, and 875516, 9 August 1968.

Change 8, 11 October 1968, superseded--
DA messages 879408, 10 September 1968, and 882403, 3 October 1968.

Change 9, 6 March 1969, superseded--
Paragraph 1c, DA message 889925, 9 December 1968.

Change 10, 25 April 1969, superseded--
So much of DA message 900218, 7 March 1969, as pertains to AR 635-200, and Part I, DA message 903276, 1 April 1969.

Change 12, 10 July 1969, superseded--
DA message 913584, 20 June 1969.

Change 13, 19 August 1969, superseded--
DA message 915445, 8 July 1969.

Change 14, 4 October 1969, superseded--
So much of DA message AGPO-P 1615112 Sep 69 (U), subject: Changes to AR's 630-10, 635-200, and 635-206 as pertains to AR 635-200.

Change 15, 12 November 1969, superseded--
So much of DA message AGPO-P 151449Z Aug 69 (U), subject: Interim Changes to AR 645-200 and AR 635-100, as pertains to AR 635-200.

Change 18, 3 April 1970, superseded--
DA message AGPO-P 122153Z Feb 70 (U), subject: Interim Change to AR 635-200.

Change 19, 14 April 1970, superseded--
DA message AGPO 192137Z Mar 70 (U), subject: Interim Change to AR 635-200.

Change 20, 9 July 1970, superseded-- So much of DA message AGPO 251916Z May 70 (U), subject: Interim changes to AR 635-100, AR 635-200, AR 635-206, and AR 635-212 as pertains to AR 635-200, and so much of DA message AGPO 222038Z Jun 70 (U), subject: Interim changes to AR 635-100 and AR 635-200 as pertains to AR 635-200.

Change 22, 8 September 1970, superseded--
So much of DA message AGPO 122043Z Aug 70(U), subject: Interim changes to AR 635-7, AR 635-100, and AR 635-200, as pertains to AR 635-200.

Change 23, 25 September 1970, superseded--
DA message AGPO 022037Z Sep 70(U), subject: Interim change to AR 635-200.

Change 24, 4 November 1970, superseded--
Paragraph 1 of DA message AGPO 301615Z Sep 70(U), subject: Enlisted Retirements for Length of Service; and paragraph 1 of DA message AGPO 272153Z Oct 70(U), subject: Interim change to AR 635-200.

Change 25, 14 January 1971, superseded--
DA message AGPO 191839Z Nov 70(U), subject: Interim Change to AR 635-200.

Change 26, 12 April 1971, superseded--
DA message AGPO 061648Z Mar 70(U), subject: Retired Grade of Former Command Sergeants Major.

Change 38, 23 August 1972, superseded—
Section V, AR 635-206, 15 July 1966.

CHAPTER 1

GENERAL PROVISIONS

Section I. GENERAL

1-1. Purpose. This regulation provides:

a. The authority for separation of enlisted personnel upon expiration of term of service.

b. The authority and general provisions governing the separation of enlisted personnel prior to expiration of term of service.

c. The procedures for implementation of laws and policies governing voluntary retirement of enlisted personnel of the Regular Army by reason of length of service.

d. The criteria governing the issuance of Honorable, General, and Undesirable Discharge Certificates.

1-2. Scope. *a.* This regulation is applicable to all Active Army enlisted personnel and Reserve component personnel ordered to active duty including active duty for training under the Reserve Enlistment Program of 1963, unless specifically excluded. Unless specifically provided for, the provisions of this regulation, as well as all regulations in the 635-series dealing with the discharge of enlisted personnel, are binding upon field commanders but not upon Headquarters, Department of the Army.

b. The provisions of chapter 12 govern the retirement of Regular Army enlisted personnel, male or female, who are retiring in their Regular Army enlisted status.

1-3. Definitions. For the purpose of this regulation the following definitions will apply:

a. Member, enlisted person, and individual. An enlisted man or an enlisted woman of the Army and includes all persons enlisted or inducted in any component of the Army in active Federal service unless otherwise indicated or obviously inappropriate.

b. Discharge. Discharge is complete severance from all military status.

c. Release from active duty. Release from active duty is termination of active duty status and transfer or reversion to a Reserve component not on active duty. Personnel enlisted or inducted who have a reserve obligation under Title 10, United States Code, the Universal Military Training and Service Act, or any other provision of law, are transferred to the Army Reserve. Members of the National Guard of the United States and Army Reserve revert from an active duty status to their respective components to complete unexpired enlistments and/or unfulfilled obligations.

d. Separation. Separation is a general term which includes release from active duty, release from military control of persons without a military status, discharge and retirement.

e. Military record. Military record comprises a member's behavior while in military service, including general comportment and performance of duty.

f. Military behavior. The term "military behavior," as used herein, refers to the conduct of the individual while a member of the Army.

g. Administrative separation. Discharge or release from active duty upon expiration of enlistment or required period of service, or prior thereto, in the manner prescribed by the De-

partment of Army or by law, but specifically excluding separation by sentence of a general or special court-martial.

h. Administrative Discharge Board. Administrative Discharge Board, as used herein, is a board of officers appointed to render findings based on facts obtaining or believed to obtain in a case and to recommend retention in the service or discharge and reason therefor, and the type of separation or discharge certificate to be furnished.

i. Appointed counsel.

(1) An appointed counsel for an individual being processed for separation which could result in issuance of an Undesirable Discharge under AR 635–100, AR 635–206, and this regulation, or an individual being processed as a class III case under AR 635–100, is a lawyer within the meaning of Article 27(b)(1) of the Uniform Code of Military Justice, unless appropriate authority certifies in the permanent record the nonavailability of a lawyer so qualified and sets forth the qualifications of the substituted nonlawyer counsel.

(2) An appointed counsel for an individual being processed for separation by reason of unsuitability is a commissioned officer in the grade of first lieutenant or higher; he need not meet the qualifications described in (1) above.

j. Discharge authority. The officer authorized by Army regulations to take final action with respect to specific types of discharge.

k. Convening authority. The officer authorized by Army regulations to convene an administrative discharge board and take final action with respect to a specified type of discharge.

Section II. SEPARATION CERTIFICATES

1–4. Statutory authority. Title 10, United States Code, section 3811, provides that a discharge certificate shall be given to each lawfully inducted or enlisted member of the Army upon his discharge.

1–5. Discharge certificates. Discharge certificates are furnished all enlisted and inducted personnel when they are discharged. Instructions for the completion of the various types of discharge certificates are in AR 635–5. The issuance of discharge certificates is governed by this regulation. The five types of discharge certificates are as follows:

DD Form No.	*Type of discharge*	*Character of discharge or separation*	*Given by—*
256A	Honorable	Honorable	Administrative action
257A	General	Under honorable conditions	Administrative action
258A	Undesirable	Under conditions other than honorable	Administrative action
259A	Bad Conduct	Under conditions other than honorable	Sentence of special or general courts-martial.
260A	Dishonorable	Dishonorable	Sentence of general courts-martial.

★1–6. Report of Separation from Active Duty (DD Form 214). Individuals who are discharged or released from active duty or active duty for training will be furnished a factual record of military service rendered, the character and duration thereof, and the type of separation on DD Form 214. Instructions for the completion and distribution of DD Form 214 are contained in AR 635–5.

Section III. FACTORS GOVERNING ISSUANCE OF HONORABLE, GENERAL AND UNDESIRABLE DISCHARGE CERTIFICATES

1–7. General considerations. Because the type of separation may significantly influence the individual's civilian rights and eligibility for benefits provided by law, eligibility for reentry

into service, and acceptability for employment in civilian industry, it is essential that all pertinent factors be considered so that the type of separation will accurately reflect the nature of the service rendered. The type and character of separation issued upon administrative separation from current enlistment or period of service will be determined solely by the mem-

has been proper over a reasonable period of time subsequent to the conviction(s), he may be considered for an honorable discharge (*c* and *d* above).

(3) A member's service may be characterized as general by the commanding officer authorized to take such action or higher authority when the member is eligible for or is subject to separation and it has been determined, under the prescribed standards, that such separation is warranted.

f. Undesirable discharge. An undesirable discharge is an administrative separation from the service under conditions other than honorable. It may be issued for unfitness, misconduct, homosexuality, or for security reasons.

(1) *Special considerations.* In any case in which an undesirable discharge is authorized by regulation a member may be awarded an honorable or general discharge, as appropriate, if, during the current or a prior enlistment or period of service or voluntary or involuntary extension of either, he has been awarded a personal decoration, or if warranted by the particular circumstances of a specific case.

(2) *Consideration required.* Commanders and members of boards of officers responsible for recommending discharges to be furnished, and commanders having responsibility for determining finally the type of discharge to be issued, are urged to consider all facets of a particular case involving discharge in order that a fair decision will result.

1-10. Issuance of an undesirable discharge. An undesirable discharge will be directed only by a commander exercising general court-martial jurisdiction, or by higher authority, based upon the approved recommendation of a board of officers, unless the member waives the board or resigns, or requests discharge for the good of the service. Prior to such action, the following procedures and safeguards must be observed:

a. A member who is under military control will be notified in writing that his discharge has been recommended pursuant to a specific regulation, and of the specific allegations on which the proposed action is based, and advised that he has the following rights:

(1) To present his case before an administrative discharge board.

(2) To be represented by appointed counsel (para 1-3*i*); military counsel of his own choice, provided such counsel is reasonably available; or civilian counsel at his own expense.

(3) To submit statements in his own behalf.

(4) To waive the above rights in writing.

★(5) To withdraw his waiver of his rights in (1), (2), and (3) above any time prior to the date the discharge authority orders, directs, or approves his discharge and requests that his case be presented before a board of officers.

The member will be given an opportunity and a reasonable time (not less than 48 hours) to consult with counsel ((2) above) prior to waiving the above rights. If he elects to waive these rights, the member will personally sign a written waiver. His counsel will sign as a witness, indicating whether he is qualified under Article 27(b)(1) of the Uniform Code of Military Justice, if he is not a member of the Judge Advocate General's Corps. If the member refuses counsel, his waiver must explicitly state that fact.

b. If a member waives his rights, the discharge authority may disapprove the waiver and refer the case to an administrative discharge board, or direct retention on active duty, or direct discharge by reason of unfitness, misconduct, homosexuality, or security. If discharge is directed, the type of certificate will be specified.

c. A member unable to appear in person before an administrative discharge board by reason of confinement by civil authorities will be advised (by registered mail) of the proposed discharge action, the type of discharge certificate that may be issued, and the fact that action has been suspended to give him the opportunity to exercise the following rights:

(1) To request appointment of a military counsel or employ civilian counsel at his own expense to represent him and, in his absence, present his case before an administrative discharge board.

(2) To submit statements in his own behalf.

(3) To waive the foregoing rights, either in writing or by declining to reply to the letter of notification within 30 days from the date of receipt.

d. A member beyond military control by reason of unauthorized absence may be issued an undesirable discharge in absentia only under the direction of Headquarters, Department of the

Army. Notification of the imminent discharge action and the effective date thereof will be sent by registered mail to the record address of the member or the next of kin, as appropriate. Separation of members of the Reserve components will be subject to the limitations of Title 10 U.S.C. 1163.

e. A member who submits a resignation or requests discharge for the good of the service may be issued an undesirable discharge without board action provided he has been afforded the opportunity (not less than 48 hours) to consult with counsel (*a*(2) above), and provided that the member certifies in writing his understanding that he will receive a discharge under other than honorable conditions and that he understands the adverse nature of such a discharge and the possible consequences thereof. The member must personally sign his written resignation or request for discharge. His counsel shall sign as a witness, indicating whether he is qualified under Article 27(b)(1) of the Uniform Code of Military Justice, if he is not a member of the Judge Advocate General's Corps. If the member refuses all counsel (*a*(2) above), his resignation or request for discharge must explicitly state that fact.

★*f.* An individual who holds a Reserve status as a commissioned or warrant officer will include in his statement whether a waiver of board hearing does or does not apply to his Reserve status.

1-11. Determination of character of service. *a.* In all cases requiring an administrative discharge board or waiver thereof, the discharge of an enlisted member will be characterized by the officer authorized to approve such a separation or by higher authority. In all other cases, the character of separation will be determined by the immediate commanding officer of the last unit to which the member was assigned or attached prior to his separation processing at the transfer facility, except when otherwise directed by higher authority. The officer characterizing the service will—

(1) Review the individual's military record and determine the character of separation to be awarded in accordance with governing criteria.

(2) Enter in the "Remarks" section of the Enlisted Qualification Record (DA Form 20) the character of separation to be issued upon separation.

b. Commanders of transfer activities will examine each enlisted qualification record of personnel undergoing transfer processing and will issue the type of discharge ordered by the discharge authority (sec. VI, chap. 2) with the characterization determined by the appropriate officer (*a* above).

c. The commanders of transfer activities will change neither the type nor character of separation except in those instances when the member's conduct, subsequent to the determination by the discharge authority and the characterization by the appropriate officer (*a* above), warrants a change in type or character of separation. When no administrative discharge board is convened, the commander of the transfer activity may issue an honorable or general discharge. Appropriate entries will be made in the individual's enlisted qualification record with the reason for the determination or characterization by the commander of the transfer activity.

1-12. Orientation on the types of discharges. AR 350-21 requires that a comprehensive explanation be given enlisted personnel entering on active duty regarding the types of discharge certificates, the basis for issuance of each type, and their possible effect on reenlistment, civilian employment, veterans' benefits, and related matters. While it is incumbent upon the commanders specified in that regulation to assure that newly enlisted or inducted personnel receive this instruction, all commanders should institute periodic orientation programs to emphasize the importance and benefits of an honorable discharge. *Failure of an enlisted member to receive or understand such instruction, however, will in no event be considered a bar to or defense in an administrative or court-martial proceeding.*

1-13. Limitations on administrative discharge and board hearings. *a.* Discharges pursuant to this regulation should not be based upon conduct which has already been considered at a prior administrative or judicial proceeding and disposed of in a manner indicating that discharge is not warranted. Accordingly, administrative discharges under the provisions of AR 604-10, AR 635-206, and AR 635-212 are subject to the following limitations:

(1) No member will be considered for administrative discharge because of conduct which has been the subject of judicial proceedings resulting in an acquittal or action having the effect thereof. The determination whether an action has the effect of an acquittal will be determined solely by Headquarters, Department of the Army, pursuant to a request submitted by the convening authority through command channels.

(2) No member will be considered for administrative discharge because of conduct which has been the subject of administrative proceedings resulting in a final determination that the member should be retained in the service.

(3) No member will be considered for administrative discharge because of conduct which was considered by a general or special court-martial if a sentence to a punitive discharge was authorized to be adjudged but was not adjudged, or was disapproved or suspended on review by the convening authority or any appellate agency, and remains suspended.

b. The limitations set forth in *a* above are not applicable when—

(1) Substantial new evidence, fraud, or collusion is discovered, which was not known at the time of the original proceeding, despite the exercise of due diligence, and which will probably produce a result significantly less favorable for the member at a new hearing.

(2) Subsequent conduct by the member warrants considering him for discharge. Such conduct need not independently justify the member's discharge, but must be sufficiently serious to raise a question as to the member's potential for further useful military service. However, this exception does not permit further consideration of conduct of which the member has been absolved in a prior final factual determination by an administrative or judicial body.

★(3) An express exception has been granted by Headquarters, Department of the Army, pursuant to a request by a convening authority through channels that, due to the unusual circumstances of the case, administrative separation should be accomplished.

c. No convening authority will direct discharge if a board recommends retention, nor will he authorize the issuance of a discharge of less favorable character than that recommended by the board. However, a convening authority may direct retention when discharge is recommended, or he may issue a discharge of a more favorable character than that recommended.

★*c.*1 A convening authority may forward a case to The Adjutant General, ATTN: AGPO-SS, when a board of officers has recommended retention and he believes, due to unusual circumstances of the case, that discharge is warranted and in the Army's best interest. Headquarters, Department of the Army, may grant discharge authority. Discharge will be under honorable conditions and the member will be awarded an honorable or general discharge certificate.

d. If, in his review of a case in which separation has been recommended by the board, the convening authority notes a defect in the proceedings which he deems to be harmless, he will take such final action as he deems appropriate, subject to *c* above. With respect to substantial defects, he may take one of the following actions:

(1) Direct retention.

(2) If the board has failed, to make findings or recommendations required by the applicable regulations, return the case to the same board for compliance with the regulations concerned.

(3) If there is an apparent procedural error or omission in the record of proceed-

ings, which may be corrected without reconsideration of the findings and recommendations of the board, return the case to the same board for corrective action.

(4) If the board committed an error which materially prejudiced a substantial right of the respondent, the convening authority may set aside the findings and recommendations and refer the case to a new board for a rehearing. No member of the new board shall have served on a prior board which considered any of the same matter against the respondent. The new board may be furnished the evidence properly considered by the first board, to include extracts from its record of testimony of those witnesses not deemed by the convening authority to be reasonably available to testify at the rehearing. Additional admissible evidence may be furnished to or obtained by the new board. The convening authority may, upon due notice to the respondent, incorporate new allegations based on subsequent conduct of the respondent. Unless the new board considers substantial additional evidence unfavorable to the respondent, the convening authority may not approve any portion of the findings and recommendations of the new board which is less favorable to the member than the action of the first board.

(5) No more than one rehearing may be directed without approval from Headquarters, Department of the Army.

Section IV. DETERMINING RETENTION, SEPARATION OR SUSPENSION

1-14. Retention, separation, or suspension. In determining whether a member should be retained or be administratively separated, the individual's entire military record, including records of nonjudicial punishment imposed during a prior enlistment or period of service, all records of conviction by courts-martial and any other factors which are material and relevant may be evaluated. Commanding officers, investigating officers, administrative discharge boards, and other agencies charged with making such determinations will consider records of nonjudicial punishment imposed during a prior enlistment or period of service only if such records of punishment would have, under the particular circumstances of the case, a direct and strong probative value in determining whether retention or administrative separation is appropriate.

a. Cases in which the circumstances may warrant use of such records ordinarily will be limited to those involving patterns of conduct which would become manifest only over an extended period of time.

b. When a record of nonjudicial punishment imposed during a current enlistment or period of service is considered, isolated incidents and events which are remote in time, or have no probative value in determining whether retention of separation should be accomplished, will have minimal influence on the determination.

c. If a decision is made that a member should be administratively separated, section III of this chapter applies in determining the type of discharge.

1-15. Suspension of execution of approved discharge. *a.* In order to afford a highly deserving member a probationary period to demonstrate successful rehabilitation prior to expiration of his enlistment or period of obligated service, the discharge authority or higher authority may suspend execution of an approved discharge for a period not to exceed 6 months. During the period of suspension, the member will be afforded an opportunity to demonstrate that he is capable of behaving properly under varying conditions during the probationary period and that he can perform his assigned duties efficiently.

b. Upon satisfactory completion of the probationary period, the authority who suspended the discharge will cancel execution of the approved discharge. If the individual has been transferred to the command of another dis-

charge authority, the discharge will be canceled by the new discharge authority or higher authority.

c. If there is additional misconduct on the part of the member during the probationary period or actions which constitute substandard performance of duty or demonstrate characteristics of unsuitability, the commander concerned or the convening authority, whichever is appropriate, will take one of the following actions:

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

(2) Vacate suspension of the approved discharge when the member has been beyond military control for 15 days or more and discharge him in absentia.

(3) Advise the enlisted person in writing that vacation action is being considered and the reasons which warrant such consideration. The enlisted person will be given an opportunity to furnish information in his own behalf or decline to make any statement. The commander taking the action will consider any information the individual submits in his own behalf and will—

(*a*) Vacate suspension of approved discharge and execute discharge, or

(*b*) Continue to suspend execution of the approved discharge.

e42

_____
(Date)

SUBJECT: Request for Discharge

TO: (Discharge Authority)

(Name)

1. I, _____, enlisted for Warrant Officer Flight Training under the provisions of table 5-24, AR 601-210. Having been found by the Commanding General, US Army Health Services Command, to be medically disqualified for Class 1A flying, I request discharge under the provisions of paragraph 5-9.1, AR 635-200.

2. I have been counseled concerning an alternate training course. I do not desire to serve in the US Army. I understand that, under the provisions of the Military Selective Service Act of 1967, if I am discharged I will be subject to being drafted unless otherwise deferred.

(Signature of individual)

_____
(Typed Name, SSN, and grade)

★*Figure 5-1.*

_____
(Date)

SUBJECT: Request to Remain on Active Duty

TO: (Unit Commander)

(Name)

1. I, _____, enlisted for Warrant Officer Flight Training under the provisions of table 5-24, AR 601-210. Having been found by the Commanding General, US Army Health Services Command, to be medically disqualified for Class 1A flying, I understand that I have the option of being retrained on active duty for the remainder of my enlistment.

2. Being medically qualified for military service under the provisions of chapter 3, AR 40-501, I hereby request retention on active duty in an enlisted status. I have been counseled concerning an alternate training course and understand that I may select a training course for which qualified and for which a quota exists.

(Signature of individual)

_____
(Typed Name, SSN, and grade)

★*Figure 5-2.*

Section XV. INVOLUNTARY SEPARATION

5-35. General. Enlisted personnel may be discharged or released from active duty, as appropriate, prior to the expiration of their terms of service or periods for which ordered to active duty (10 U.S.C. 1169).

★5-36. Reduction in authorized strength. When budgetary or authorization limitations require a reduction in enlisted strength, such reduction may be accomplished by an official order issued pursuant to instructions of the Commanding General, MILPERCEN, HQDA, applicable to an individual or to all members of a class of personnel so specified in such order.

a. Personnel to be separated under this paragraph will be notified through channels by commanders specified in paragraph 2-17*a* based upon information and instructions furnished by MILPERCEN, HQDA.

b. Personnel designated for separation under this paragraph will be discharged or relieved from active duty, as appropriate, not later than 3 months after receipt of notification. A date will be established for separation within this period which will work the least hardship on the individual. If the member to be separated becomes a disciplinary problem following his receipt of notification of separation under this paragraph, the commander exercising general courts-martial jurisdiction may order his immediate separation.

c. Individuals who are within 2 years of qualifying for retirement under chapter 12 of this regulation on the scheduled separation date will not be processed under this paragraph unless such action is directed by the Secretary of the Army.

d. The commanders specified in paragraph 2-17*a* are responsible for effecting the timely separation of enlisted personnel notified of involuntary separation under this paragraph.

e. Individuals separated under this paragraph will be given an honorable or general discharge, depending upon their character of service.

f. Authority for separation (para 5-36, AR 635-200) and SPN 431 will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel office designated to accomplish separation processing.

5-37. To be published.

5-38. Concealment of arrest record. *a. Policy.* Enlisted personnel who concealed an arrest record which did not result in civil court conviction at the time of enlistment or induction may be discharged. This policy permits the elimination of personnel who represent a potential undesirable element and will be used only in cases where it is clearly apparent that an individual has concealed a serious arrest record. In applying this policy, the following should be considered:

(1) The arrest concealed must be for a felony offense. AR 601-270 contains a partial listing of felony offenses.

(2) A pattern of arrests is suggestive of undesirable character traits. The pattern may include misdemeanors and lesser offenses in addition to a felony.

(3) The age of the individual when arrested and the period of time which has elapsed since the arrest.

(4) The preservice background of the individual· e.g., education, employment record, community activities, etc.

(5) The nature of, and the circumstances surrounding the arrest.

b. Discharge authority. The officer exercising general court-martial jurisdiction is authorized to direct discharge or retention of the enlisted member. When retention is authorized, the DA Form 20 will be annotated to reflect that concealment of the arrest has been waived. After waiver, no further cognizance of, or action with respect to, the concealment of arrest will be taken.

c. Procedures. When evidence to support the concealment of an arrest record has been obtained, the unit commander will forward it to the appropriate discharge authority. The correspondence will include:

(1) Conduct and efficiency ratings.

(2) A specific recommendation for retention or discharge, and the reasons therefor.

d. Evidence. To support the existence of an arrest record as required by this paragraph, bona fide evidence must be obtained from the appropriate law enforcement agency. A typical example of bona fide evidence includes:

(1) A completed DD Form 1584 (DOD National Agency Check Request) (ENTNAC), with accompanying "rap sheet" listing incidents of arrest; further contact with agencies or departments which made the arrest may be necessary. An ENTNAC is completed on each individual shortly after entrance into the Army, and should be examined by unit commanders.

(2) A completed DA Form 3286 (Statements for Enlistment) or other evidence which shows clearly that the individual concealed an arrest record.

e. Type of discharge. Individuals discharged under this paragraph will be given an honorable or general discharge in accordance with paragraph 1-9.

f. Separation orders. Directives or orders directing individuals to report to the appropriate transfer activity or unit personnel office designated to accomplish separation processing will cite paragraph 5-38, AR 635-200, and SPN 440 as authority.

★CHAPTER 6
SEPARATION BECAUSE OF DEPENDENCY OR HARDSHIP

Section I. GENERAL

6-1. Scope. This chapter sets forth the criteria and procedures and provides authority for the separation of enlisted personnel from active military service by reason of dependency or hardship.

6-2. Applicability. The procedures set forth in this chapter are applicable to personnel who are enlisted, inducted, ordered to active duty, or ordered to active duty for training under the Reserve Enlistment Program of 1963.

6-3. Separation authority. By authority of the Secretary of the Army, the commanders specified in section VI, chapter 2, will order discharge or release from active military service of enlisted personnel on account of dependency or hardship. The commander's deputy, or other officer within his headquarters, may be delegated authority to approve, disapprove, or otherwise appropriately dispose of cases.

Section II. DEPENDENCY OR HARDSHIP

6-4. Criteria. Enlistees, inductees, and enlisted members of the Reserve components serving on active duty or active duty for training may be discharged or released, as appropriate, because of dependency or hardship when it is considered that undue and genuine dependency or hardship exists.

a. Dependency. Dependency exists when by reason of death or disability of a member of the enlisted person's family, other members of his family become principally dependent upon him for care or support.

b. Hardship. Hardship exists when in circumstances not involving death or disability of a member of the enlisted person's family, his separation from the service will materially affect the care or support of his family by alleviating undue and genuine hardship.

6-5. Application of criteria. *a.* Separation from the service of enlisted personnel by reason of dependency or hardship will be granted when *all* the following circumstances exist:

(1) When conditions have arisen or been aggravated to an excessive degree since entry on active duty, or active duty for training.

(2) When conditions are not of a temporary nature.

(3) When every reasonable effort has been made by the enlisted person to alleviate the dependency or hardship conditions without success.

(4) When discharge or release from active military service of the enlisted person is the only readily available means of eliminating or materially alleviating the dependency or hardship conditions.

b. Circumstances outlined below do not justify separation by reason of dependency or hardship. However, the existence of these circumstances does not preclude separation by reason of dependency or hardship, provided the application meets the criteria described in *a* above.

(1) Pregnancy of an enlisted man's wife is not considered a disability for which his separation is justified. However, this does not preclude separation because of a disability occurring as a result of pregnancy.

(2) Undue and genuine hardship does not necessarily exist solely because of altered income or because the enlisted person is separated from his family, or must suffer the inconveniences normally incident to military service.

6-6. Conditions affecting determination regarding separation for dependency or hardship. *a.* For the purpose of separation under this chapter, the term "members of the family" include only spouse, children, father, mother, brothers, sisters, and any person who stood in loco parentis to the enlisted person prior to his entry into the service. The term "in loco parentis" as used herein is defined as "any person who has stood in the place of a parent to an enlisted person for 5 continuous years when the member was a minor child".

b. When an enlisted person is eligible for separation under this chapter, separation will not be

disapproved because of the individual's indebtedness to the Government or to an individual.

c. When an individual is eligible for separation under this chapter, separation will not be disapproved because his services are needed by his organization.

d. When an individual is under charges, in confinement, has been recommended for elimination under AR 635-206 or AR 635-212, being investigated under the military personnel security program, or is being processed for discharge or retirement for physical disability, he will not be separated on account of dependency or hardship until proper disposition is made of the case.

e. A sentence to confinement not including dishonorable or bad conduct discharge will be fully served unless sooner terminated by proper authority before a separation for dependency or hardship may be given.

6-7. Application for separation. Separation from the service of enlisted personnel by reason of dependency or hardship must be requested in writing by the enlisted person. DA Form 2476 (Application for Separation—Hardship or Dependency) may be used to submit the application. However, an application will not be returned merely because it was not submitted on the DA Form 2476, so long as the essential evidence has been submitted.

a. To whom application is submitted.

(1) A person serving in the United States or stationed overseas will submit his application to his commanding officer. In each instance the application will be supported by the evidence required in paragraphs 6-8.

(2) A person assigned to an oversea unit who is temporarily in the United States on leave or TDY will submit his application to the commander of the Army installation (except Armed Forces Examining and Entrance Stations and Recruiting Main Stations) nearest his leave address or the installation to which he is temporarily assigned.

(3) A person assigned to a unit or installation within the United States but temporarily in an oversea command on leave or TDY will submit his application to the commander of the oversea command in which he is located. The commander specified in section VI, chapter 2, will specify the unit to which the member will be attached while the application is being considered.

(4) Enlisted personnel on orders for oversea shipment, either as individuals or as members of units, who apply for dependency or hardship separation prior to departure from unit of assignment will be held at the losing station pending final disposition of the application.

(5) Enlisted personnel on orders for reassignment from one CONUS installation to another CONUS installation, either as individuals or as members of units, who apply for dependency or hardship separation prior to departure from unit of assignment, will comply with movement orders when such action is deemed appropriate by the losing commander. That commander will hold the individual at the losing installation when the application reflects sufficient grounds for approval. Otherwise, the individual will be advised to submit the application upon arrival at the gaining installation.

(6) Applications for dependency or hardship separation from personnel en route overseas may be accepted at oversea replacement stations from personnel who are attached or assigned to the US Army Personnel Center or who have direct assignments to the oversea units when personal interview with the member reveals information which may justify separation. When the application is accepted, the member will be retained at the oversea replacement station until final decision. When separation of an individual with a direct assignment to an oversea unit is approved, the oversea commander will be notified.

(7) A person assigned to a CONUS unit who is on leave within CONUS will normally submit his application to his commanding officer in accordance with (1) above. However, when exceptional circumstances require the person's continued presence and the commanders concerned agree, attachment of CONUS assigned personnel to a CONUS installation for the purpose of submitting an application for separation under this chapter is authorized.

b. Forwarding to the approval authority. Forwarding indorsements prepared by commanders having custody of the applicant's records will set forth the following information if it does not appear elsewhere in the inclosures:

(1) Amount and type of allotments the enlisted person has in effect, together with the name and relationship of each allottee, where applicable.

(2) A statement whether a determination of dependency for benefits under the Dependents' Assistance Act of 1950 (DOD Military Pay and Allowances Entitlements Manual) has been requested and the decision of the Allotments and Deposits Operations, Finance Center, US Army.

(3) Date of current enlistment, entry on active duty, or entry on active duty for training and the expiration of term of service.

(4) Whether the applicant is under charges; in confinement; under investigation for separation under the provisions of AR 635-40, AR 635-206, AR 635-212, or AR 604-10.

6-8. Evidence required. The supporting evidence for an application for separation due to dependency or hardship normally will be in affidavit form. The evidence must substantiate the dependency or hardship conditions upon which the application for separation is based.

a. The evidence required will depend on the nature of the claimed hardship. The application should include, as a minimum, the following affidavits:

(1) The enlisted person's personal request for separation, explaining the nature of the hardship condition, and what he intends to do to alleviate the hardship condition.

(2) An affidavit or statement by or on behalf of the enlisted person's dependents substantiating the dependency or hardship claim.

(3) Affidavits by at least two agencies or individuals, other than members of the enlisted person's family, substantiating the dependency or hardship claim.

b. Additional evidence may be required as follows:

(1) When the basis for the application is financial difficulty, a detailed statement is required to establish the monthly income and expenses of the family.

(2) When the basis for the application is death of a member of the enlisted person's family, a death certificate or other valid proof of death should be furnished.

(3) When the basis for the application is disability of a member of the enlisted person's family, a physician's certificate should be furnished showing the diagnosis, prognosis, and date of disability.

(4) When the enlisted person requests separation in order to support members of his family, other than spouse or children, the application should show the names and addresses of other members of the family. Proof that they cannot aid in the care of their family should be furnished.

6-9. Procedure. *a.* Upon receipt of a written application, together with the required supporting evidence from an individual, the commanders specified in section VI, chapter 2, or other officers within the commanders' headquarters to whom authority has been delegated, will—

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

(2) Procure any additional information that may be necessary to determine the validity of the request. The services of the American National Red Cross may be utilized when the information contained in the application is not considered sufficient upon which to base a decision (para 6-10).

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

b. Enlisted personnel temporarily in the United States on leave or TDY from an oversea assignment may report to any Army installation, except Armed Forces Examining and Entrance Stations or Recruiting Main Stations, for the purpose of submitting an application for separation due to dependency or hardship. The personnel officer will assist the member in submitting the application and other actions will be taken as follows:

(1) *By the unit commander.*

(*a*) Attach the enlisted person pending final decision on the application and forward the application to the reviewing authority.

(*b*) By electrically transmitted message, notify the oversea commander who issued the leave or TDY orders that the enlisted person has been attached, the reasons for the attachment, and request information as to whether AR 600-31 is applicable to the member. If a tracer message is required, include the theater commander as an information addressee. In the event of condition MINIMIZE, these messages will be dispatched via air mail.

(*c*) If the application is approved, make arrangements for the movement of the enlisted person to the transfer activity.

(*d*) If the application is disapproved, release the enlisted person from attachment and revert to emergency/ordinary leave for return to the oversea assignment. Notify the oversea commander by electrically transmitted message of the date of

departure and forward the disapproved application to oversea commander for inclusion in the member's personnel file as a temporary document. In the event of condition MINIMIZE, the message will be dispatched via air mail.

(2) *By reviewing authority.*

(*a*) Process application in accordance with *a* above.

(*b*) Return application to commander of unit of attachment after final action has been taken.

(*c*) If application is approved, direct enlisted person's assignment to the appropriate transfer activity. By electrically transmitted message, notify the oversea commander who issued the leave or TDY orders of approval and request that complete personnel records be forwarded to the transfer activity by air mail. If a tracer message is required, include the theater commander as an information addressee. In the event of condition MINIMIZE, these messages will be dispatched via air mail.

(3) *By the transfer activity commander.*

(*a*) Report the enlisted person as assigned.

(*b*) Accomplish the preprocessing procedures set forth in AR 635-10, including the medical examination; partially completed, signed pay voucher; and as much of the DD Form 214 as can be completed pending receipt of the personnel records.

(*c*) Authorize the enlisted person to proceed home on leave (ordinary and/or excess in accordance with AR 630-5), provided the enlisted person so desires. The enlisted person will be advised that his separation documents and final pay will be mailed to him at the address he has furnished. The partially completed records will be suspended pending receipt of the original records.

(*d*) Upon receipt of the original records, the transfer activity commander will complete and mail the separation documents to the individual, submit verified pay and allowance vouchers to the local finance office for check payment, and dispose of records in accordance with AR 635-10.

(4) *By the oversea commander.* Respond immediately to any messages received pursuant to (1) or (2) above.

6-10. Service of American National Red Cross. *a.* Requests for supplemental factual information pertaining to applications for discharge or release of individuals because of dependency or hardship may be made to the American National Red Cross. Such requests originating within military agencies will be restricted to specific information in those cases where it appears probable separation is warranted.

b. The following procedures will be followed when military agencies request assistance from the American National Red Cross:

(1) The military agency requesting assistance will prepare a brief containing sufficient information to identify the applicant for separation. The brief will also include the name, address, and relationship of the dependent or dependents regarding whom the information is desired.

(2) If there is a Red Cross representative serving the organization or installation concerned, the brief, together with a request for the specific information will be forwarded to the representative.

(3) If there is no Red Cross representative serving the organization or installation, the request will be sent to the appropriate area office. American National Red Cross area offices are listed in appendix B.

(4) The contents of reports furnished by the Red Cross will not be disclosed to the enlisted person or his family.

c. Enlisted personnel or their dependents may, on their own initiative, request local chapters of the American National Red Cross to assist in obtaining necessary evidence to substantiate applications for separation. The American National Red Cross does not, however, make formal reports to military agencies unless requested to do so by appropriate military commanders.

6-11. Types of separation. *a.* Enlisted personnel will be discharged from the military service, except as provided in *b*, *c*, and *d* below.

b. ARNGUS personnel on active duty will be released for hardship and dependency reasons and returned to the control of the appropriate State National Guard authorities.

c. ARNGUS trainees will be discharged from their status as reservists of the Army and returned to the control of the Adjutant General of the appropriate State, District of Columbia, or Puerto Rico.

d. USAR trainees will be discharged from their status as reservists of the Army.

6-12. Form of separation certificate. *a. Discharge.* A DD Form 256A (Honorable Discharge Certificate) or DD Form 257A (General Discharge Certificate) will be furnished in accordance with chapter 1.

b. Report of separation. DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) will be furnished each enlisted person separated from the service under this chapter.

6-13. Reason and authority for separation. The reason and authority for separation (item 11c, DD Form 214) will be entered as follows:

a. When separation is for reason of dependency. "Chapter 6, section II, AR 635-200, SPN 226."

b. When separation is for reason of hardship. "Chapter 6, section II, AR 635-200, SPN 227."

CHAPTER 9

RESIGNATION

Section I. GENERAL

9-1. Statutory authority. *a.* Title 10, United States Code, section 3815(a), provides that an enlisted member of the Regular Army who serves at least 3 years of an unspecified enlistment under 10 U.S.C. 3256(b) may submit his resignation to the Secretary of the Army, and he shall be discharged within 3 months thereafter.

b. However, Title 10, United States Code, section 3815(b), provides that such a resignation need not be accepted by the Secretary of the Army—

(1) Until the member completes 2 years of service in his current oversea assignment, if the resignation is submitted after the member embarks for such an assignment or while he is stationed overseas.

(2) Until 2 years after the member completes a course of instructions under Title 10, United States Code, section 4301, if he has taken such a course.

(3) Until 6 months after its submission, if the member is under investigation or in default concerning public property or funds.

(4) While the member is absent without leave or is serving a sentence of a court-martial.

(5) During a war, or during a national emergency declared by Congress or the President.

9-2. General Provisions. *a. Applicability.* This chapter applies only to individuals who enlisted for an unspecified period of time when such period was authorized by the Department of the Army. An individual may tender a resignation under the conditions specified herein. Other individuals will not submit resignations.

b. How resignation submitted. The resignation will be tendered in letter form, through the individual's immediate commander, and will contain a complete statement of reasons for which submitted. The format for resignations is found at figure 1.

c. Refusal of acceptance of resignation. In the absence of a war or national emergency declared by the President or Congress, commanders authorized to accept resignations may recommend refusal to accept resignations only under the conditions set forth in paragraph 9-11*e*. Resignations submitted under this regulation must be accepted within 3 months of submission unless refused by the Secretary of the Army on the basis of one or more of the conditions set forth in paragraph 9-11*e*.

Section II. DISCHARGE BY RESIGNATION

9-3. Unconditional resignation. *a.* An unconditional resignation will not be accepted if such resignation is submitted when specified periods of enlistments have been involuntarily extended pursuant to Department of the Army policy or regulations until the individual has completed the length of time for which specified periods of enlistment have been extended.

b. Authority is granted to waive requirement of 2 years' oversea service on current oversea tour for those individuals who desire

to resign for purpose of immediate reenlistment in the same oversea command. No travel outside major oversea command is authorized. Personnel reenlisting while serving in an oversea command must complete the normal foreign service tour within that command before being reassigned to another oversea area. Discharge under this subparagraph is authorized only for the specific purpose of immediate reenlistment and as such, is not a complete separation.

c. The resignation will be forwarded through channels to the officer who has discharge authority over the enlisted person concerned (para 9–11*a*) and who is authorized to accept or, under conditions set forth in paragraph 9–11*e*, to recommend refusal to accept the resignation. However, the commanding officer of any unit, activity, or station having the facilities to accomplish discharge is authorized to accept the resignation of an individual who signifies that he intends to immediately reenlist for a specified period to fill his own vacancy.

d. Indorsing commanders may recommend refusal to accept an unconditional resignation only under conditions set forth in paragraph 9–11*e*.

e. The tender of an unconditional resignation may be withdrawn at any time before notification of acceptance. After notification of acceptance, but before effect has been given to the acceptance by discharge of the individual concerned, no resignation may be withdrawn or materially modified without the consent of the officer who accepted the resignation, or his successor, or the Secretary of the Army.

f. An individual whose unconditional resignation is accepted under this paragraph will be informed that if he requests withdrawal of resignation after travel has been performed incident thereto and such request for withdrawal is approved, he will normally be returned to his former station promptly if he has not completed the prescribed tour of duty in that area. A written statement in triplicate will be obtained from the individual that he understands the foregoing. One copy will be placed in the individual's Military Personnel Records Jacket, one copy will be forwarded with the tender of resignation and, in those cases approved by oversea commanders, one copy will be airmailed to The Adjutant General, Department of the Army, ATTN: AGPO–SS, Washington, D.C., 20315.

g. An unconditional resignation, if accepted, will be accepted under honorable conditions. The individual will be furnished an Honorable Discharge Certificate (DD Form 256A) or a General Discharge Certificate (DD Form 257A), depending upon the character of service rendered, as described in section III, chapter 1. The reason and authority for discharge (item 11c, DD Form 214) will be entered as shown in appendix I, AR 635–5.

9–4. Counsel prior to submission of resignation. When an individual is considering submitting a resignation in lieu of any disciplinary or administrative board action (see fig. 1), he will be given adequate time (not less than 48 hours) to consult with counsel (para 1–10*a*(2)) and to consider the wisdom of such a resignation. If he elects to resign, the member shall personally sign his resignation. If the resignation is submitted in lieu of board action for unfitness under AR 635–212 (para 9–5*b*) or misconduct under AR 635–206 (para 9–5*c*) or homosexuality under AR 635–89 (para 9–9), or if it is submitted for the good of the service (para 9–7), the member will certify in his written resignation that he understands that he may receive a discharge under other than honorable conditions and that he understands the adverse nature of such a discharge and all the possible consequences thereof. The member's counsel shall sign as a witness, indicating whether he is qualified under Article 27(b)(1) of the Uniform Code of Military Justice if he is not a member of The Judge Advocate General's Corps. If the member has refused counsel, his resignation must explicitly so state.

9–5. Resignation in lieu of board action. An individual who is to appear before a board of

SUBJECT: Resignation

TO:

1. Under the provisions of Chapter 9, Army Regulation 635-200, I hereby voluntarily tender my resignation from the Army. This resignation is tendered (without conditions) (in lieu of board proceedings under AR 635-____ for /unsuitability/ /unfitness/ /homosexuality/ /misconduct/) (in lieu of board proceedings under AR 604-10) (in lieu of reduction for inefficiency under AR 600-200) (in lieu of accepting punishment under Article 15 of the Uniform Code of Military Justice) (for the good of the service under circumstances which could lead to a bad conduct or dishonorable discharge). I have not been subjected to coercion with respect to this resignation. I have been advised of the implications that are attached to it.

2. (Applicable to resignations in lieu of board proceedings.) I hereby waive a hearing before a board of officers, at which, with benefit of counsel, I would be afforded an opportunity to submit matters in mitigation or defense in my case.

3. (Applicable to resignations in lieu of board proceedings for unfitness, homosexuality, misconduct under AR 635-206, AR 604-10, and applicable to resignations for the good of the service under circumstances which could lead to a bad conduct or dishonorable discharge.)

4. (Applicable to unconditional resignations, resignations in lieu of board proceedings for unsuitability, and resignations in lieu of reduction for inefficiency or in lieu of accepting Article 15 punishment.) I understand that this resignation, if accepted, may be under General or Honorable conditions.

5. Statements in my own behalf (are) (are not) submitted herewith (as Inclosure __).

6. I understand that, once this resignation is submitted, it may be withdrawn, whether or not accepted, only with the consent of the officer empowered to accept it. An unconditional resignation, as defined in paragraph 9-3, AR 635-200, may be withdrawn in accordance with subparagraph 9-11b(1), AR 635-200.

★*Figure 1.*

7. Prior to completing this form, I have been afforded the opportunity to consult with appointed counsel, or military counsel of my own choice, if he is reasonably available, or civilian counsel at my own expense. I (have consulted with counsel _____, who
(name of counsel)
has fully advised me in this matter on _____, (decline the
(date)
opportunity to consult counsel).

8. I have retained a copy of this resignation and of any inclosures I submitted.

Signature of individual member

_____

Typed name, service number, grade, present duty station, and unit to which assigned and/or attached

Having been advised by me (of the basis for his contemplated separation), the effects of his resignation, and the rights available to him, (name of individual) personally made the choices indicated in the foregoing resignation.

Signature of counsel

_____

Typed name, service number, grade and branch. (If counsel is not a JAGC officer, he must indicate whether he is qualified under Article 27(b)(1) of the Uniform Code of Military Justice.)

★*Figure 1.* Continued.

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★CHAPTER 10

DISCHARGE FOR THE GOOD OF THE SERVICE

10-1. General. *a.* An individual who has committed an offense or offenses, the punishment for which, under the Uniform Code of Military Justice and the Manual for Courts-Martial, United States, 1969 (Revised Edition), includes a bad conduct or dishonorable discharge, may submit a request for discharge for the good of the service. The request for discharge may be submitted at any time after court-martial charges are preferred against him, regardless of whether the charges are referred to a court-martial, and regardless of the type of court-martial to which the charges may be referred. The request for discharge may be submitted at any stage in the processing of the charges until final action on the case by the court-martial convening authority. An individual who is under a suspended sentence of a punitive discharge may likewise submit a request for discharge for the good of the service.

b. The request for discharge for the good of the service does not preclude or suspend disciplinary proceedings in a case. Whether such proceedings will be held in abeyance pending final action on a request for discharge under the provisions of this chapter is a matter to be determined by the commander exercising general court-martial jurisdiction over the individual concerned.

c. In the event that disciplinary proceedings are not held in abeyance, the general court-martial convening authority may nevertheless approve the member's request for discharge for the good of the service after the member has been tried. In this event, the officer who convened the court by which the member was tried, in his action on the case, should not approve any punitive discharge adjudged, and should approve only so much of any adjudged sentence to confinement at hard labor or hard labor without confinement as has been served at the time of his action.

10-2. Personal decision. Commanders will insure that there is no element of coercion in submitting a request for discharge for the good of the service. The member will be given a reasonable time (not less than 48 hours) to consult with counsel (para 1-10*a*(2)) and to consider the wisdom of submitting such a request for discharge. If he elects to submit the request, the member will personally sign the written request, certifying that he understands that he may receive a discharge under other than honorable conditions and that he understands the adverse nature of such a discharge and the possible consequences thereof. The member's counsel shall sign as a witness, indicating whether he is qualified under Article 27(b)(1) of the Uniform Code of Military Justice, if he is not a member of the Judge Advocate General's Corps. If the member refuses all counsel (para 1-10*a*(2)), his request for discharge must explicitly state that fact.

10-3. Preparation and forwarding. *a.* A request for discharge for the good of the service will be submitted as shown in figure 2.

b. The request for discharge will be forwarded through channels to the officer who has general courts-martial jurisdiction over the individual concerned. Commanders through whom the request for discharge is forwarded will recommend either approval or disapproval with the reasons for the recommendation; if approval is recommended, the type discharge to be issued also will be recommended.

c. The following data will accompany the request for discharge:

(1) A copy of the court-martial charges.

(2) Report of a medical examination as prescribed in chapter 10, AR 40-501.

(3) A complete copy of all reports of investigation.

(4) Any statement, documents, or other matter considered by the commanding officer in arriving at his conclusion and making his recommendation.

(5) A statement of any reasonable ground for belief that the individual is, or was at the time of his misconduct, mentally defective, deranged, or abnormal. When appropriate, evaluation by a psychiatrist will be included.

d. When an individual is under a suspended sentence of discharge, a copy of the court-martial orders, or a summary of facts which relate to the conduct upon which the request for discharge is predicted, will be forwarded.

10-4. Consideration of request. The discharge authority in this chapter should not be used in cases where the nature, gravity, and circumstances surrounding an offense require a punitive discharge and confinement. Use of this authority is appropriate and encouraged in cases where the administrative burdens involved in courts-martial and confinement are not considered warranted in view of the nature of the offense, the minimal rehabilitative effect punishment can be expected to have on the offender, and the lack of any ultimate benefit to the Army or to society which would be achieved by punishment. Examples of such cases would include those involving individuals who are chronic disciplinary problems or who would qualify as candidates for administrative discharge by reason of misconduct or unfitness if court-martial action were not initiated.

10-5. Withdrawal of request for discharge. Unless trial results in an acquittal or a sentence less than discharge, a request for discharge submitted under the provisions of this chapter may be withdrawn only with the consent of the commander exercising general court-martial jurisdiction.

10-6. Medical examination. An individual who submits a request for discharge for the good of the service will undergo a medical examination of the scope prescribed in chapter 10, AR 40-501. The report of medical examination will accompany the request for discharge.

10-7. Discharge authority. Commanders exercising general courts-martial jurisdiction are authorized to approve requests for discharge for the good of the service and to order the discharge of individuals or to disapprove such requests. This authority may be delegated as specified in paragraph 2-17*b*.

10-8. Discharge certificate issued. An undesirable discharge certificate will normally be furnished an individual who is discharged for the good of the service. However, the discharge authority may direct an honorable or general discharge, if warranted. The reason and authority for discharge (item 11c, DD Form 214) will be "For the good of the service, SPN 246."

SUBJECT: Request for Discharge for the Good of the Service

TO:

1. Under the provisions of Chapter 10, AR 635-200, I (name of member) hereby request discharge for the good of the service. I have not been subjected to coercion with respect to this request for discharge, and I have been advised of the implications that are attached to it.

2. I understand that, if this request for discharge is accepted, I may be discharged under other than honorable conditions and furnished an Undesirable Discharge Certificate. I understand that, as a result of the issuance of such a discharge, I may be deprived of many or all Army benefits, that I may be ineligible for many or all benefits administered by the Veterans' Administration, and that I may be deprived of my rights and benefits as a veteran under both Federal and State law. I also understand that I may expect to encounter substantial prejudice in civilian life by reason of an undesirable discharge.

3. I understand that, once this request is submitted, it may be withdrawn only as provided in paragraph 10-5, AR 635-200.

4. Statements in my own behalf (are) (are not) submitted herewith (as Inclosure ——).

5. Prior to completing this form, I have been afforded the opportunity to consult with appointed counsel, or military counsel of my own choice, if he is reasonably available, or civilian counsel at my own expense. I (decline the opportunity to consult with counsel) (have consulted with counsel, _____ (name of counsel), on _____ (date), who has fully advised me of the nature of my rights under the Uniform Code of Military Justice at the various possible stages of the proceedings including those of appeal involved in a trial by court-martial; counsel has fully informed me of the elements of the offense(s) with which I am charged and the facts which must be established to sustain a finding of guilt; and counsel has explained the possible defenses which appear to be available against the charges at this time).

6. I have retained a copy of this request for discharge and of any inclosures I submitted.

Signature of individual member

Typed name, SSN, grade, present duty station, and unit to which assigned or attached.

Having been advised by me of (the basis for his contemplated trial by court-martial and the maximum punishment authorized under the Uniform Code of Military Justice) (the significance of his suspended sentence to a bad conduct or dishonorable discharge); of the possible effects of an undesirable discharge, if this request is approved; and the procedures and rights available to him, _____ (name of individual) personally made the choices indicated in the foregoing request for discharge.

Signature of counsel

Typed name, SSN, grade, and branch. (If counsel is not a JAGC officer, he must indicate whether he is qualified under Article 27(b)(1) of the Uniform Code of Military Justice.)

★*Figure 10-1*

CHAPTER 11
DISHONORABLE AND BAD CONDUCT DISCHARGE

★**11-1. DD Form 260A (Dishonorable Discharge).** An enlisted person will be given a dishonorable discharge pursuant only to an approved sentence of a general court-martial, after completion of appellate review and after such affirmed sentence has been ordered duly executed. See paragraphs 14*b*, 98, and 127, MCM, 1969 (Revised Edition).

★**11-2. DD Form 259A (Bad Conduct Discharge).** An enlisted person will be given a bad conduct discharge pursuant only to an approved sentence of a general or special court-martial, after completion of appellate review and after such affirmed sentence has been ordered duly executed. See paragraphs 14*b*, 98, and 127, MCM, 1969 (Revised Edition).

11-3. Personnel confined in foreign penal institutions. Personnel with an approved sentence to a dishonorable or bad conduct discharge, who are confined in a foreign penal institution, either before, during, or after trial by a foreign tribunal, will not be discharged until returned to the United States. In a specific individual case, if the commander considers that discharge in an oversea area is desired, he may forward a request for approval of such discharge to HQDA (DAAG-PSS-S), WASH DC 20314. A report containing essentially the information outlined in paragraph 3-3*b* will be forwarded with the request. The separation in foreign countries of persons so confined will be subject to the conditions set forth in paragraph 3-8*a*.

11-4. Expulsion from the Army. Dishonorable and bad conduct discharges result in expulsion from the Army. For exceptions affecting court-martial jurisdiction, see 10 USC 802(7) and 803: Articles 2(7) and 3, UCMJ; and paragraph 11, MCM, 1969.

11-5. Reason and authority for discharge. The reason and authority for discharge will be entered in item 11*c*, DD Form 214, as shown in AR 635-5.

11-6. Discharge in absentia. An individual who was placed on excess leave without pay pending completion of appellate review (para 5-2*d*(3), AR 630-5) will be discharged without returning to a military installation when the sentence is affirmed.

a. As much of the preprocessing set forth in AR 635-10 as is appropriate, including partial completion of the DD Form 214 and other discharge documents, will be accomplished prior to departure of the individual. In addition, prior to departure, the individual will be given a type "A" medical examination as prescribed in chapter 10, and appendix IX, AR 40-501.

b. When appellate review is completed and the affirmed sentence ordered executed, the appropriate discharge documents will be completed and mailed via registered mail to the address furnished by the individual for that purpose.

c. The return address will be shown as Commander, Reserve Components Personnel and Administration Center, 9700 Page Boulevard, St. Louis, MO 63132. In the event the documents are returned unclaimed or undeliverable, they will be placed in the OMPF.

CHAPTER 12

RETIREMENT FOR LENGTH OF SERVICE

Section I. GENERAL

12-1. Purpose. This chapter establishes policies and procedures for implementing laws governing voluntary retirement of enlisted personnel of the Regular Army by reason of length of service.

12-2. Scope. *a.* The provisions of this chapter govern the retirement of Regular Army enlisted personnel male or female, who are retiring in their Regular Army enlisted status. Chapter 4, AR 635-100, governs the retirement of eligible Regular Army enlisted personnel in commissioned or warrant officer grades.

★*b.* Prior service enlisted personnel serving on active duty as officers, who are not qualified for retirement in their commissioned or warrant officer status, may qualify for retirement under this chapter. For procedures, see section VII, chapter 3, AR 635-100.

★**12-3. Retirement approval authority.** Authority to approve or disapprove requests for voluntary retirement under this chapter is hereby vested in the following:

a. Commanders specified in paragraph 2-17*a*. This authority will *not* be further delegated.

b. The Commanding General, US Army Military Personnel Center ((MILPERCEN), DAPC-PAS-RS, 200 Stovall St., Alexandria, VA 22332) for all units, activities, or organizations which do not come under the jurisdiction of a commander specified in paragraph 2-17*a*.

★*c.* Hereinafter the above commanders are referred to as "retirement approval authority" or "commander having retirement approval authority".

Section II. STATUTORY AUTHORITY

12-4. General provisions of laws governing retirement. *a.* In general, laws governing retirement of enlisted members of the Regular Army provide that—

(1) The individual must be an enlisted member of the Regular Army or active duty at the time of retirement (10 USC 3914 and 3917).

(2) Retirement will be in the active duty active Federal service in the Armed Forces of ment (10 USC 3961). (*See para 12-15* for instructions pertaining to former Command Sergeants Major, E-9 who are serving as Sergeants Major, E-9 at the time of retirement.)

(3) Years of service for retirement are computed by adding all active service in the Armed Forces and service computed under 10 USC 3683 (10 USC 3925).

(4) The date of retirement is uniformly the first day of the month following the month in which the individual is released from active duty (5 USC 8301).

b. See chapter 3, AR 37-104-1 concerning retired pay.

12-5. 20-year retirement law (10 USC 3914). *a.* An enlisted member of the Regular Army who has completed 20, but less than 30 years of active Federal service inthe Armed Forces of the United States and who has completed all required service obligations at the time of retirement may, upon his request and at the discretion of the Secretary of the Army, be retired. He then becomes a member of the United States Army Reserve (Retired) and remains in that status until his active service prior to retirement and the period served in the US Army Reserve (Retired) after retirement equals 30 years. He will perform such active duty as may be prescribed by law.

★*b.* An enlisted member who holds a current commission in the US Army Reserve will be transferred to the Retired Reserve in the status he elects. Dual status in the US Army Reserve as a commissioned officer and as an enlisted member is not authorized and once retirement is accomplished pursuant to an election of the member, election may not be changed. Transfer to the Retired Reserve to complete obligated service in an enlisted status vacates commissioned status in the US Army Reserve.

★*c.* An individual who has been awarded the Medal of Honor, Distinguished Service Cross, or Navy Cross for extraordinary heroism will, upon retirement under 10 USC 3914, have his retired pay increased 10 percent, providing his total retired pay (including the increase) does not exceed 75 percent of the basic pay upon which computed. In addition, an enlisted member who has been awarded the Distinguished Flying Cross the Soldier's Medal or equivalent Navy decoration may be credited by the Secretary of the Army with extraordinary heroism if it is determined that the heroism displayed was equivalent to that required for award of the Distinguished Service Cross. Each case appearing to warrant Secretarial determination of extraordinary heroism will be submitted to HQDA (DAPC-PAP-B), 200 Stovall St., Alexandria, VA 22332 for determination of such entitlement. A copy of the citation accompanying the award will be included with the information submitted to MILPERCEN, if available. (*See para 3-5b, AR 37-104-1; para 19e, AR 672-5-1;* and *10 USC 3991.*)

12-6. 30-year retirement law (10 USC 3917). An enlisted member of the Regular Army who has completed at least 30 years of active Federal service in the Armed Forces of the United States will, upon his request, be placed on the retired list.

★**12-7. Advancement on the retired list (10 USC 3964).** *a.* "Active duty," as used in this paragraph, means full time duty in the active military service of the United States, other than active duty for training.

b. Members retired with less than 30 years active Federal service are considered for advancement on the retired list to the grade equal to the highest grade (permanent or temporary) in which they served satisfactorily on active duty, as determined by the Secretary of the Army, for the period of time specified in (1) *or* (2) below, as applicable, when active service prior to retirement plus service on the retired list totals 30 years. Upon completion of 30 years' service, the military personnel records of each member who held a higher grade than that in which retired are reviewed to determine whether his service in the higher grade was satisfactory. Members advanced to a higher grade will be notified of such advancement by the Commander, US Army Reserve Components Personnel and Administration Center, St. Louis, MO 63132.

(1) For advancement to a *commissioned officer* grade, member must have served on active duty in such grade for at least *185* days.

(2) For advancement to a *warrant officer* grade, member must have served on active duty in such grade for at least *31* days.

c. Members retired after completion of 30 years' active Federal service are advanced on the retired list, concurrent with retirement, to the highest grade in which they served satisfactorily on active duty for the period of time specified in *b*(1) *or* (2), *as* applicable, as determined by the Secretary of the Army.

d. Service in the highest grade will be deemed to have been satisfactory for this purpose except when (1) *through* (3) below apply. All service may be considered to be continuous, or each period of service may be considered sepa-

★CHAPTER 13
SEPARATION FOR UNFITNESS OR UNSUITABILITY

Section I. General

13-1. Purpose. This chapter establishes policy and provides procedures and guidance for eliminating enlisted personnel who are found to be unfit or unsuitable for further military service.

13-2. Policy. *a.* Action will be taken to separate an individual for unfitness when it is clearly established that—

(1) Despite attempts to rehabilitate or develop him as a satisfactory soldier, further effort is unlikely to succeed; or

(2) Rehabilitation is impracticable or he is not amenable to rehabilitation measures (as indicated by the medical and/or personal history record); or

(3) An unfit medical condition (AR 40-501) is not the direct or substantial contributing cause of his unfitness (para 13-11*b*).

b. Action will be taken to separate an individual for unsuitability when it is clearly established that—

(1) It is unlikely that he will develop sufficiently to participate in further military training and/or become a satisfactory soldier, *and*

(2) He meets retention medical standards (AR 40-501) (para 13-11*a*).

c. Action will be taken only when an individual is under military control, except that an individual confined by civil authorities may be processed for discharge when his military record indicates that he should be processed for separation by reason of unfitness or unsuitability.

d. Commanders will not take action under this chapter in lieu of disciplinary action solely to spare an individual who may have committed serious misconduct the harsher penalties which may be imposed under the Uniform Code of Military Justice.

13-3. Assignment action for personnel en route to an oversea area. *a.* When action has been initiated under paragraph 13-5*a*(2) or (3) against an individual assigned to an oversea replacement station, he will be transferred to the Army garrison at that or another installation to await final action on his case.

b. If the convening authority disapproves the recommendation for separation, the individual will again be assigned to the oversea replacement station for compliance with his original orders.

13-4. Authority. *a.* HQDA approval is required before individuals who have completed 18 or more years of active Federal service may be discharged.

b. Commanders exercising general court-martial jurisdiction are authorized to convene boards of officers for unfitness and unsuitability and to order separation, except that they may not order discharge of personnel referred to in *a* above. This authority may be delegated to a general in command who has a judge advocate on his staff for cases arising in that command. Every action taken pursuant to such a delegation will state the authority therefor. All references to commanders exercising general court-martial jurisdiction, general court-martial convening authority, and general court-martial authority in this chapter include this delegation authority.

c. Commanders exercising special court-martial jurisdiction are authorized to convene boards of officers for unsuitability and to order separation, except that they may not order discharge of personnel referred to in *a* above.

13-5. Applicability. An individual is subject to separation under this chapter when one or more of the following conditions exist:

a. Unfitness.

(1) Frequent incidents of a discreditable nature with civil or military authorities.

(2) Sexual perversion, including but not limited to—

(*a*) Lewd and lascivious acts.

(*b*) Indecent exposure.

(*c*) Indecent acts with or assault upon a child.

(*d*) Other indecent acts or offenses.

(3) Drug abuse, defined as—

(*a*) Drug dependence, or the unauthorized use, sale, possession, or transfer of any controlled substance as defined in AR 600-50, or the intro-

duction of such controlled substance onto any Army installation or other Government property under Army jurisdiction.

(*b*) Use or possession for one's own use of controlled substances, or dependence thereon, elicited as a result of an individual's volunteering for treatment or being identified by programed biochemical testing, if the sole basis for separation. In such cases, separation will be under honorable conditions as specified in paragraph 13–31*a*.

(4) An established pattern for shirking.

(5) An established pattern showing dishonorable failure to pay just debts.

(6) An established pattern showing dishonorable failure to contribute adequate support to dependents or failure to comply with orders, decrees, or judgments of a civil court concerning support of dependents.

(7) Homosexual acts. Homosexual act means bodily contact between persons of the same sex, actively undertaken or passively permitted by either or both, with the intent of obtaining or giving sexual gratification, or any proposal, solicitation, or attempt to perform such an act. Individuals who have been involved in homosexual acts in an apparently isolated episode, stemming solely from immaturity, curiosity, or intoxication normally will not be processed for discharge because of homosexual acts. If other conduct is involved, individuals may be considered for discharge for other reasons set forth in this chapter. This applies to those cases in which personnel have engaged in one or more homosexual acts during military service and—

(*a*) Trial by court-martial is not considered as the course of action to be taken; or

(*b*) The individual has been referred to trial, but has not been tried by court-martial within the meaning of article 44(c), UCMJ; or

(*c*) The individual has been tried by court-martial within the meaning of article 44(c), UCMJ, subject to the limitations on administrative action set forth in paragraph 1–13.

b. Unsuitability.

(1) *Inaptitude.* Applicable to those persons who are best described as inept, due to lack of general adaptability, want of readiness of skill, unhandiness, or inability to learn.

(2) *Character and behavior disorders.* As determined by medical authority, character and behavior disorders and disorders of intelligence as suggested by various symptoms as enuresis or somnambulism, listed in TB MED 15, except for combat exhaustion (3263) and other acute situational maladjustments (3264), when such disorders are chronic and recalcitrant to attempts at rehabilitation, and interfere with the serviceman's ability to adequately perform his duties.

(3) *Apathy (lack of appropriate interest), defective attitudes, and inability to expend effort constructively.* While lack of appropriate interest or other defective attitudes may be manifested in conjunction with physical defects or mental or organic diseases, including psychoneurosis, these traits are not necessarily produced by the physical or disease process. On the other hand, individuals considered for elimination may attempt to excuse immature, inadequate, and undisciplined behavior on the basis of minor or nondisabling illnesses. The presence of a physical or mental disease or defect-producing impairment of function insufficient to warrant separation under the provisions of AR 635–40 and related regulations is no bar to discharge for unsuitability.

(4) *Alcoholism.* Unsuitability by reason of chronic alcoholism may develop in persons who have previously rendered many years of adequate service. It is a fully treatable condition. Rehabilitation of an individual with this condition often requires patient and repetitive effort. Its success is enhanced by early recognition. When it becomes apparent that an individual has become chronically ineffective and has not responded to rehabilitative measures within a reasonable time, or is not motivated to take advantage of available therapeutic measures, elimination may be indicated. Personnel will be separated for unsuitability only if the major reason for separation is noneffective duty performance due to failure to cooperate with or succeed in an alcohol rehabilitation program. These conditions should not be confused with occasional drunken episodes during which an individual commits antisocial acts. In determining whether separation will be for unfitness or unsuitability, the neuropsychiatric report, record of prior service, and other reasons for separation under *a*

above should be considered and, if determined to be overriding, may be used as a basis for separation for unfitness.

(5) *Homosexuality (homosexual tendencies, desires, or interest but without overt homosexual acts).* Applicable to personnel who have not engaged in a homosexual act during military service, but who have a verified record of preservice homosexual acts. It is also applicable to other cases which do not fall within the purview of *a*(7) above.

Section II. COUNSELING AND REHABILITATING REQUIREMENTS

13-6. General. Commanders will insure that before taking separation action against an individual under this chapter, adequate counseling and rehabilitation measures have been taken. Reassignments accomplished in connection with rehabilitation attempts will normally be made without expending permanent change of station or military personnel Army (PCS-MPA) funds. See paragraph 13-8*c* for exceptions to this policy.

13-7. Counseling. *a.* When an individual's behavior has been such that continued behavior of a similar nature may warrant action against him, the individual will be counseled by a responsible person or persons. Each counseling session will be recorded (to include date and by whom counseled).

b. Counseling will include but will not be limited to the following:

(1) Reasons for counseling.

(2) The fact that continued behavior of a similar nature may result in initiating elimination actions.

(3) The type of discharge that may be issued and the effect of each type, if such action is taken and separation accomplished. The counseling regarding types and effects of various discharges will be conducted in accordance with procedures of paragraph 3, AR 350-21, and will be equally comprehensive, to include the showing of the film, "Take the Smart Way Out—It's Honorable," if practicable.

13-8. Rehabilitation. As a minimum, one of the following measures will be taken:

a. Replacement stream personnel. Individuals will be recycled (reassigned between training companies) at least once.

b. Other than replacement stream personnel. Individuals will be reassigned at least once, with a minimum of 2 months of duty in each unit. Reassignment should be between special court-martial jurisdictions when this is possible, without a permanent change of station. If this is not possible and if reassignment between article 15 jurisdictions is not considered desirable because of the circumstances involved in a case, the procedure prescribed in *c* below will apply.

c. Permanent change of station transfer. When a permanent change of station is considered essential to provide a change in commanders, associates, and living or working conditions as a means of rehabilitating an individual, the commander exercising general court-martial jurisdiction over the individual may authorize such reassignment within the same command (or may request the Office of Personnel Operations to accomplish assignment to another command) provided—

(1) The individual involved is in grade E-4, or below, with less than 4 years of service. Individuals in grade E-4 with over 2 years of active service and total obligated active service of 6 years and all other personnel who are eligible by virtue of grade and service for transportation of dependents and shipment of household goods are not eligible for reassignment under provisions of this paragraph.

(2) A transfer to another station would not be detrimental to the individual or to the Army (e.g., cases involving indebtedness, personnel undergoing special counseling or other rehabilitative type mental hygiene treatment programs, or maladjusted or apathetic personnel who could not be expected to respond to disciplinary controls or to benefit from change of associates, regardless of assignment locale).

13-9. Waivers. Counseling and rehabilitation may be waived as follows:

a. Counseling required in paragraph 13-7 and rehabilitation required in paragraph 13-8 may be waived by the convening authority when separation is being considered under the provisions of paragraph 13-5*a*(2) or 13-5*a*(7), or under the provisions of 13-5*b*(5).

b. The general court-martial convening authority may waive the requirements of paragraphs 13-7 and 13-8 when he determines that further duty of the individual will, in his best judgment, create

serious disciplinary problems or a hazard to the military mission or to the individual.

c. The general court-martial convening authority may waive the requirements of paragraphs 13-7 and 13-8 when he determines that the individual is obviously resisting all attempts to be rehabilitated or that rehabilitation will not produce the quality soldier acceptable in the baseline force.

Section III. MEDICAL PROCESSING

13-10. Medical evaluation. When an individual is to be processed for separation, the unit commander must insure that an appropriate medical evaluation and mental status evaluation are obtained. Sufficiently detailed information about the reasons for considering the individual unfit or unsuitable should be furnished to allow the medical examiners a thorough understanding of the contemplated action.

a. When the individual is under military control.

(1) The medical treatment facility providing dispensary care will accomplish the final type physical examination and mental status evaluation. The individual will not be referred to a psychiatrist for a psychiatric evaluation except when:

(*a*) Specifically requested by the individual subject to separation action.

(*b*) Specifically requested by the commanding officer recommending separation action.

(*c*) Deemed necessary and appropriate by the medical examiner performing the requested evaluation.

(*d*) Requested by the board considering separation action.

(*e*) Individual is being considered for discharge under the provisions of paragraph 13-5*a* (7) or *b*(5).

(2) In all other cases, the physician performing the physical examination will accomplish the mental status evaluation. In the exceptional cases detailed in (1)(*a*) through (*d*) above, reasons for specifically requesting a psychiatric evaluation will be provided to the psychiatrist.

(3) When an individual is being considered for discharge under the provisions of paragraph 13-5*a*(7) or *b*(5), the psychiatrist doing the psychiatric portion of the medical evaluation will be furnished a copy of the documents which detail the behavior upon which the suspicion of homosexuality rests. In addition to the SF 88 (Report of Medical Examination) and the SF 93 (Report of Medical History), the medical treatment facility will prepare a report of mental status evaluation (fig. 14-2). The medical evaluation and the psychiatric study of the individual will include the personal history, an opinion regarding the existence of homosexuality, and an opinion as to whether the individual should be eliminated from the service under paragraph 13-5*a*(7) or *b*(5), or retained in the service. If retention is recommended and if considered appropriate, a statement of procedures likely to be of value in the individual's rehabilitation may be included.

b. When individual is in civil confinement. When a member is confined by civil authorities, the unit commander may recommend elimination action to the commander exercising general or special court-martial authority, as appropriate. If the commander approves initiation of elimination action, a type A medical examination will be scheduled. The examination will be accomplished at the nearest Armed Forces medical treatment facility, if feasible, or by fee-basis physicians employed for this purpose. If the medical examination is accomplished by a civilian physician, the reports (SF 88, SF 93, consultation reports, and mental status evaluation) will be reviewed by a military physician prior to separation action. Physical examination and mental status evaluation will be accomplished and reported as provided in *a* above.

13-11. Disposition through medical channels. *a.* When the medical treatment facility commander determines that an individual being considered for elimination for unsuitability does not meet retention medical standards (AR 40-501), he will process the individual in accordance with AR 40-3. The individual's unit commander will be notified of this action, and the elimination action will be closed.

b. If it appears to the examining medical officer that an individual being considered for elimination for unfitness does not meet the retention medical standards, he will refer the individual to a medical board or, if there is no medical board at the

examining facility, to the nearest medical treatment facility that does have a medical board. The medical treatment facility commander will furnish a copy of the approved board proceedings to the commander exercising general court-martial jurisdiction over the individual concerned and a copy will be furnished to the unit commander. The commander exercising general court-martial jurisdiction will direct the individual to be processed through disability channels in accordance with AR 635-40 when it is determined that—

(1) The disability is the cause or substantial contributing cause of the unfitness; or

(2) When circumstances warrant disability processing in lieu of administrative processing.

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

Section IV. PROCEDURES

13-12. Action by commanding officer when member is under military control. The unit commander of the individual will recommend whether action under this chapter, or disciplinary action should be initiated. The unit commander may—

a. Afford the individual the opportunity to waive his right of a hearing before a board of officers. In such cases—

(1) The commander will advise the individual in writing of the basis for the proposed discharge action and advise him that he has the following rights:

(*a*) To present his case before a board of officers.

(*b*) To submit statements in his own behalf.

(*c*) To be represented by counsel.

(*d*) To waive the above rights in writing.

(*e*) To withdraw his waiver of his rights in (*a*), (*b*), and (*c*) above any time prior to the date the discharge authority directs or approves his discharge and requests that his case be presented before a board of officers.

(2) An enlisted member will be given a reasonable time (not less than 48 hours) to consider waiver of board proceedings and shall have an opportunity to consult with counsel prior to waiving his rights. An enlisted person serving on an unspecified enlistment may tender his resignation in lieu of board action pursuant to chapter 9.

(3) The individual will submit a signed statement (fig. 13-1), indicating that he has been advised of the basis for the contemplated separation and its effect and of the rights listed in (1) above. The statement will include a request or a waiver by the individual of each right. The counsel will sign the statement and the statement will be included in the unit commander's report forwarded in compliance with paragraph 13-15. If the individual refuses to sign the statement it will be considered that the individual has not waived the rights listed in (1) above.

(4) Waivers of board hearings will not be accepted in the cases of members who have completed 18 or more years of active Federal service. Such members appearing before a board of officers convened under this chapter must be represented by counsel. They may not waive this requirement.

(5) An individual who holds a Reserve status as a commissioned or warrant officer will include in his statement whether a waiver of board hearing applies to his Reserve status.

b. Forward the case with a recommendation that elimination proceedings pursuant to this chapter be initiated (para 13-15). No recommendation will be made as to the type of discharge to be awarded an individual.

c. Forward the case with a recommendation that the individual be processed through medical channels. Such disposition is required if the individual has an incapacitating physical or mental illness which was the direct or substantial contributing cause of the conduct for which action under this chapter is being considered, and action under the Uniform Code of Military Justice is not initiated.

d. Initiate action under the Uniform Code of Military Justice.

e. Take the following action for personnel being considered for discharge under paragraph 13-5*a* (7) or *b*(5):

(1) Inquire thoroughly and comprehensively into the matter and ascertain all the facts in the case, bearing in mind the peculiar susceptibility of such cases to possible malicious charges. Any investigation required normally should be referred to the local provost marshal for investigation and recording on DA Form 2800 (CID Report of Investigation (Military Police)). The facts and circumstances of each case will govern the commander's decision as to the appropriate agency of investigation. Suspension of favorable action will be initiated in accordance with AR 600-31 unless the appropriate commander determines the allegation is baseless.

(2) If the information available is of sufficient stature to warrant investigation, take necessary action to protect the security of his command, including suspension of security clearance, if any, and denial of access to classified defense information pending completion of actions on the case. When the report of investigation substantiates such allegations, the commanding officer will refer the individual for medical evaluation, revoke his security clearance, if any, and prepare a memorandum for the record outlining action taken and forward it with the subject's revoked Certificate of Clearance and/or Security Determination under EO 10450 (DA Form 873) to the Commander, US Army Investigative Records Repository, Fort Holabird, MD 21219. Revocation of security clearance will be in accordance with AR 604-5.

(3) In all cases, the report will include a statement of the individual's date and place of birth; the amount of active service of the individual concerned; the date and period of the individual's current period of service; statements of witnesses; a detailed signed statement from the individual concerned relative to his tendencies (para 13-5*b*(5)) and any past homosexual actions (UCMJ, art. 31), or his statement to the effect that he does not desire to make a statement.

13-13. Action by commanding officer when individual is confined. *a.* An individual unable to appear in person before a board of officers by reason of confinement will be advised by registered mail of the proposed discharge action, the type of discharge certificate that may be issued, and the fact that action has been suspended to give him the opportunity to exercise the following:

(1) To request appointment of military counsel to represent him and, in the individual's absence, present his case before a board of officers.

(2) To submit statements in his own behalf.

(3) To waive the foregoing rights in writing or by declining to reply to the letter of notification within 30 days.

b. The individual will be requested to expedite his reply and will be advised that if reply is not received within 30 days of the date of receipt of the letter of notification, the recommendation for his discharge, if approved by the discharge authority, may be accomplished with the type of discharge certificate as determined to be appropriate. If the individual does not reply within the prescribed time, discharge may be finalized, as indicated. When warranted by the distances involved or other circumstances, a period in excess of 30 days may be allowed for the enlisted person to reply.

13-14. Flagging action. When flagging action under AR 600-31 has been initiated solely because an individual is being considered for elimination under this chapter and he is to be processed for separation under medical jurisdiction (para 13-10), his unit commander will remove the flagging action in order that disposition through medical channels will not be delayed.

13-15. Commanding officer's report. *a. Elimination by reason of unfitness.* When the immediate comander determines that the best interest of the service will be met by elimination action because of unfitness, he will report the fact, in letter form, to the general court-martial convening authority, through the appropriate intermediate commander, if applicable, furnishing the following:

(1) Name, grade, SSN, age, date of enlistment or induction, length of term for which enlisted (if applicable), and prior service. (Reduction in grade is not a prerequisite to board action.)

(2) Statement indicating whether the individual has a Reserve commission or a warrant. (If so, show grade, and date of appointment.)

(3) Reason for action recommended. General, nondescriptive terms will not be used.

(4) Armed Forces Qualification Test (AFQT) score, Aptitude Area scores, and duty military occupational specialty (MOS).

(5) Results of MOS evaluation testing, to include MOS in which evaluated and evaluation score.

(6) Record of counseling.

(7) Description of rehabilitation attempts. (List assignments and duties under different officers and noncommissioned officers, in each organization or unit. Include duration of each assignment (see II, this chap.).)

(8) Statement indicating why he does not consider it feasible or appropriate to recommend elimination for unsuitability or to accomplish other disposition.

(9) Conduct and efficiency ratings (chap. 5, AR 600-200).

(10) Record of trials by court-martial.

(11) Record of other disciplinary action. (Include record of nonjudicial punishment.)

(12) Report of mental status evaluation (fig. 14-2) or psychiatric report, if applicable. Include probable effectiveness of further rehabilitative efforts.)

(13) A statement by the individual indicating that he has been advised of his rights (para 13-12).

(14) Any other information pertinent to the case.

b. Elimination by reason of unsuitability. When the immediate commander determines that the best interest of the service will be met by elimination action for unsuitability, he will forward his recommendation in letter form to the officer exercising special court-martial jurisdiction. He will furnish information outlined in *a* above, except that *a*(8) will state why he does not consider it feasible or appropriate to effect other disposition.

13-16. Action by intermediate commander. Intermediate commander may take the following action:

a. Unfitness cases.

(1) Disapprove the recommendation and direct reassignment of the individual to another organization or direct disposition by other means. In case of reassignment, the commanding officer's report will be forwarded to the new organization commander for information.

(2) Approve the commanding officer's recommendation and forward the report to the commander exercising general courts-martial jurisdiction. Disposition through medical channels is required if the individual has an incapacitating physical or mental illness which was the direct or substantial contributing cause of the conduct for which action under this regulation is being considered, and action under the Uniform Code of Military Justice is not initiated.

(3) Recommend separation for unsuitability. Commanders exercising special court-martial jurisdiction may disapprove the recommendation relating to unfitness and take further action under paragraph 13-18.

b. Unsuitability cases.

(1) Disapprove the recommendation and direct reassignment of the individual to another organization or direct disposition by another means. In case of reassignment, the commanding officer's report will be forwarded to the new organization commander for information.

(2) Approve the commanding officer's recommendations and forward the report to the commander exercising special courts-martial jurisdiction, unless he exercises such jurisdiction. Disposition through medical channels is required if the individual has an incapacitating physical or mental illness which was the direct or substantial contributing cause of the conduct for which action under this chapter is being considered, and action under the Uniform Code of Military Justice is not initiated.

13-17. Action by commander exercising general court-martial jurisdiction. On receiving a recommendation for separation for unfitness, the commander exercising general court-martial jurisdiction may—

a. Disapprove the recommendation and direct reassignment of the individual to another organization, in which case the commanding officer's report will be forwarded to the new organization commander for information; or

b. Disapprove the recommendation and return the case to the orginator for disposition by other means; or

c. Disapprove the recommendation relating to unfitness and convene a board of officers, or refer the case to the commander exercising special court-martial jurisdiction to convene a board of officers, to determine whether the individual should be separated for unsuitability; or

d. Convene a board of officers to determine whether the individual should be separated for un-

fitness. When such action is taken, or if the case is referred to a board for separation by reason of unsuitability, the termination or transfer status of each witness will be ascertained promptly in order to assure the availability of essential military witnesses at the board proceedings. No witness will be transferred or separated from the Service prior to the beginning of a board hearing except when an enlistment or period of service fixed by law expires. In such cases, an attempt will be made to obtain the individual's consent to retention. If the individual does not consent, a deposition or affidavit will be obtained as appropriate; or

e. When the board hearing has been properly and effectively waived, direct separation of the individual for unfitness or unsuitability (para 13-31); or

f. When the board hearing has been properly effectively waived, approve separation of the individual for unfitness or unsuitability and suspend execution of the separation (para 13-27); or

g. Direct that the case be processed through medical channels, if appropriate. Such disposition is required if the individual has an incapacitating physical or mental illness which was the direct or substantial contributing cause of the conduct for which action under this chapter is being considered, and action under the Uniform Code of Military Justice is not initiated. A copy of the signed decision of the general court-martial authority will be included with the records. Authority to determine that a case will be referred for disability processing in lieu of other administrative processing will not be delegated; or

h. Disapprove recommendation relating to unfitness and direct action under section VI, AR 635-206.

13-18. Action by commander exercising special court-martial jurisdiction. On receiving a recommendation for separation for unsuitability, the commander exercising special court-martial jurisdiction may—

a. Disapprove the recommendation and direct reassignment of the individual to another organization, in which case the commanding officer's report will be forwarded to the new organization commander for information; or

b. Disapprove the recommendation and return the case to the originator for disposition by other means; or

c. Convene a board of officers to determine whether the individual should be separated for unsuitability. When such action is taken, the termination or transfer status of each witness will be ascertained promptly in order to assure the availability of essential military witnesses at the board proceedings. No witness will be transferred or separated from the service prior to the beginning of a board hearing except when an enlistment or period of service fixed by law expires. In such cases, an attempt will be made to obtain the individual's consent to retention. If the individual does not consent, a deposition or affidavit will be obtained as appropriate; or

d. When the board hearing has been properly and effectively waived, direct separation of the individual for unsuitability (para 13-31); or

e. When the board hearing has been properly and effectively waived, approve separation for unsuitability and suspend execution of the separation (para 13-27); or

f. Disapprove recommendation relating to unsuitability and direct action under section VI, AR 635-206.

13-19. Appointment of counsel. *a. Counsel for personnel being considered for discharge because of unfitness.* Appointed counsel will be a lawyer within the meaning of article 27(b) (1) of the Uniform Code of Military Justice, unless general court-martial authority certifies in the permanent record the nonavailability of a lawyer so qualified and sets forth the qualifications of the substituted nonlawyer counsel. The original of the certification of nonavailability of qualified counsel must be appended as an exhibit to the report of proceedings. (See exhibit C, appendix C for example.)

b. Counsel for personnel being considered for discharge because of unsuitability. If appointed counsel is not a lawyer, a commissioned officer in the grade of first lieutenant or higher will be appointed as counsel. Counsel appointed will be an officer who is fully aware of his responsibility to prepare and present the respondent's case.

c. General court-martial authority. When the commander exercising general court-martial jurisdiction takes action under paragraph 13-17*d*, he will appoint a counsel; appoint a military counsel of the individual's choice, provided the requested counsel is reasonably available; or permit the in-

dividual to be represented by civilian counsel at his own expense, as indicated by the individual's signed statement (fig. 13-1).

d. Special court-martial authority. When the commander exercising special court-martial jurisdiction takes action under paragraph 13-18*c*, he will appoint a counsel; appoint a military counsel of the individual's choice, provided the requested counsel is reasonably available; or permit the individual to be represented by civilian counsel at his own expense, as indicated by the individual's signed statement (fig. 13-1).

Section V. BOARD OF OFFICERS

13-20. Organization. *a.* Boards of officers convened to determine whether an individual should be discharged under the provisions of this chapter will consist of not less than three commissioned officers, at least one of whom is in the grade of major or higher, and a nonvoting recorder.

b. Care will be exercised to insure that—

(1) The board is composed of experienced officers of mature judgment.

(2) The board is composed of unbiased officers fully cognizant of applicable regulations and policies pertaining to cases of the nature for which the board is convened.

(3) In the case of an enlisted member of the Women's Army Corps, the board will include an officer of the Women's Army Corps.

(4) In the case of an individual who has a Reserve enlisted status, the membership of the board will include a majority of Reserve officers if reasonably available. When a Reserve majority is not available, the board will include at least one Reserve component officer.

(5) In the case of an enlisted member of the Army who holds a Reserve commission or warrant, the board will be composed of an uneven number of commissioned officers. The officers will be senior in permanent grade to the Reserve grade held by the enlisted member. One member of the board will be a Regular Army officer and the remainder Reserve officers of the Army who are serving on active duty. If the enlisted member also is an ARNGUS officer, at least one member of the board will be an ARNGUS officer if reasonably available.

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

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

13-21. Effective processing procedures. The following procedures have proved useful in effective processing by boards:

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

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

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

d. As an exception to paragraph 13*b*, AR 15-6, expert medical and psychiatric testimony may be presented in the form of an affidavit. However, if the respondent desires to present such evidence, he is entitled to have the witness appear in person, if they are reasonably available.

13-22. Board procedures. *a.* A minimum of 15 days' written notice before date of hearing will be given an individual who is to appear before a board of officers so that he or his counsel may prepare his case. The individual will be notified of the names and addresses of witnesses expected to be called at the board hearing and that the recorder of the board will, upon request of the individual, endeavor to arrange for the presence of any available witness he desires to call. A copy of all affidavits and depositions of witnesses unable to appear at the board hearing will be furnished to the individual. When, for overriding reasons, the minimum of 15 days cannot be granted, the president of the board will insure that the reason for acting before that time is fully explained and recorded in the proceedings of the board. Requests for additional delays (normally not to exceed a

total of 30 days after notice) will be granted if, in the judgment of the convening authority or the president of the board, delay is warranted to insure that the respondent receives a full and fair hearing.

b. An enlisted person who has not waived a hearing before a board of officers, who is not in civil confinement, and whose case is presented to such a board has the following rights, which will be explained to the individual by the president of the board:

(1) He may appear in person, with or without counsel, at all open proceedings of the board. He may have military counsel of his own choice, provided proper authority determines the counsel requested is reasonably available. He may employ civilian counsel at his own expense. When an enlisted person appears before a board of officers without counsel, the record will show that the president of the board counseled the respondent as to type of discharge that he may receive as a result of the board action, the effects of such discharge in later life, and that he may request counsel. The record will reflect the respondent's response.

(2) He may challenge any voting member of the board for cause only.

(3) He may request the appearance before the board of any witness whose testimony he believes to be pertinent to his case. He will specify in his request the type of information the witness can provide. The board will secure the attendance of a witness if it considers that he is reasonably available and that his testimony can add materially to the case. The attendance of military witnesses under the control of the convening authority will be ordered if reasonably available. The attendance of other military witnesses will be requested through command channels. However, witnesses not on active duty must appear voluntarily and at no expense to the Government.

(4) He may at any time before the board convenes or during the proceedings submit any answer, deposition, sworn or unsworn statement, affidavit, certificate, or stipulation. This includes but is not limited to depositions of witnesses not deemed to be reasonably available or witnesses unwilling to appear voluntarily.

(5) He may or may not submit to examination by the board. The provisions of Article 31, Uniform Code of Military Justice will apply.

(6) He and his counsel may question any witness who appears before the board.

(7) Failure of the individual to invoke any of the above rights, after he has been apprised of same, cannot be considered as a bar to the board proceedings, findings, and recommendations.

c. In the case of an enlisted member holding a Reserve commission or warrant, the board will notify the individual that the action involves his Reserve status and may result in the termination of such status.

d. For rules of procedure and evidence and swearing of witnesses, see AR 15-6.

e. The president of the board will insure that sufficient testimony is presented to enable the board to fairly evaluate the usefulness of the individual. The testimony will be specific as to circumstances, events, times, dates, and other facts.

f. The proceedings of the board will be as complete as possible and will contain a verbatim record of the findings and recommendations.

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

13-23. Recommendations. *a.* The board convened to determine whether an individual should be separated for unfitness will recommend that he be—

(1) Separated because of unfitness (indicating type of discharge certificate—honorable, general, undesirable—to be furnished), or

(2) Separated because of unsuitability (indicating type of discharge certificate—honorable or general—to be furnished), or

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

b. The board convened to determine whether an individual should be separated for unsuitability will recommend that he be—

(1) Separated because of unsuitability (indicating type of discharge certificate—honorable or general—to be furnished), or

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

c. In the case of an enlisted member holding a Reserve commission or warrant, the board will make separate recommendations concerning Reserve status, including type of discharge certificate to be issued. The recommendations should be compatible with enlisted status recommendations. Normally, facts warranting separation from an active enlisted status under this chapter will also warrant termination of a Reserve commission or warrant. Under certain circumstances, it may be reasonable to recommend retention in an active enlisted status but termination of a Reserve commission or warrant.

13–24. Forwarding report of proceedings. The completed report of proceedings will be forwarded to the commander exercising general or special court-martial jurisdiction, as appropriate, for final determination and disposition (See appendix C for sample report of proceedings.) When board action is completed on an individual referred to in paragraph 13–4*a*, the findings and recommendations of the board with complete documentation and the recommendation of the convening authority will be forwarded to HQDA (DAAG-PSS-S), WASH DC 20314, for final determination when the convening authority recommends discharge.

13–25. Limitations on administrative discharges and board hearings. See paragraph 1–13 for limitations on administrative discharges and board hearings and rehearings.

Section VI. ACTIONS AFTER BOARD HEARINGS

13–26. Convening authority action. *a.* When a case has been referred to and action completed by the board, the board proceedings will be reviewed by a qualified officer fully cognizant of applicable regulations and policies to determine whether it meets the requirements of the administrative discharge proceedings. When the board recommends that an undesirable discharge be issued, the proceedings will be reviewed by a member of the Judge Advocate General Corps. Upon completion of the review, the commander may—

(1) When the board has recommended separation for unfitness—

(*a*) Direct separation of the individual for unfitness (except for individuals referred to in para 13–4*a*) (see para 13–24); or

(*b*) Direct separation of the individual for unsuitability (except for individuals referred to in para 13–4*a*) (see para 13–24); or

(*c*) Disapprove the recommendation and direct retention of the individual; or

(*d*) Approve separation for unfitness and suspend execution of the separation (para 13–27).

(2) When the board has recommended separation for unsuitability—

(*a*) Direct separation of the individual for unsuitability (except for individual referred to in para 13–4*a*) (see para 13–24); or

(*b*) Disapprove the recommendation and direct retention of the individual; or

(*c*) Approve separation for unsuitability and suspend execution of the separation (para 13–27).

b. The convening authority's deputy or other officer within his headquarters may be delegated the authority (including the authority contained in para 13–17 *e* and *f*) to approve, disapprove, or otherwise appropriately dispose of cases, except to direct an undesirable discharge. The convening authority is required to personally sign any action directing an undesirable discharge of an enlisted member under his command. He may direct other appropriate disposition of the case. When the officer exercising special court-martial jurisdiction is the convening authority, authority to approve, disapprove or otherwise appropriately dispose of a case will not be delegated.

c. The convening authority will not direct a discharge for unfitness when the board of officers has recommended discharge because of unsuitability; nor will he direct discharge when the board of officers has recommended retention.

d. When a board recommends that an individual be retained and the convening authority believes that separation is warranted and in the Army's best interests, the convening authority may for-

ward the case to HQDA (DAAG-PSS-S), WASH DC 20314, with supporting reasons, requesting that separation be authorized (para 1-13c.1).

e. The convening authority will not direct the issuance of a discharge of a lesser character than that recommended by the board (i.e., honorable to general or general to undesirable). He may direct issuance of a discharge of a higher character than that recommended by the board (i.e., general to honorable or undesirable to general or honorable).

f. An individual who has completed 19½ or more years of active service creditable toward retirement for whom elimination is recommended to HQDA will be afforded the opportunity of applying for retirement to be effective immediately or on completion of 20 years' Active Federal service. He will, however, be advised that authority to submit the application does not carry assurance that the application will be approved. DA Form 2339 (Application for Voluntary Retirement) will be appended when the case is forwarded to HQDA. SF 88, as prescribed in chapter 12, will be appended to the application for retirement.

g. When a member of the Reserve components is to be eliminated under this chapter, the convening authority will determine specifically from board findings whether the member concerned is being eliminated because of moral or professional dereliction.

13-27. Suspension of execution of approved discharge. In order to afford a highly deserving member a probationary period to demonstrate successful rehabilitation prior to expiration of his enlistment or period of obligated service, the convening authority may suspend execution of an approved discharge for a period not to exceed 6 months. (See paragraph 1-15 for procedures.)

13-28. *Reduction in grade.* When an individual is to be discharged as unfit with an undesirable discharge, the convening authority will direct his immediate reduction to the lowest enlisted grade under the provisions of section VII, chapter 7, AR 600-200.

Section VII. RECORDS AND DISCHARGE

13-29. Disposition of proceedings. *a.* When separation is ordered, the approved proceedings will be forwarded to the commander having custody of the individual's records for the purpose of transfer processing in accordance with AR 635-10. The original copy of the proceedings will be filed as permanent material in the "Field 201 file section" of the individual's DA Form 201.

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

c. An individual who is to be separated will be furnished a copy of the board proceedings, minus such written medical testimony and reports as would prove injurious to his physical or mental health.

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

(2) If the individual or his counsel does not desire a copy of the board proceedings, or if for any other reason a copy is not furnished, a notation will be made on the individual's copy to accompany the original. Release of this copy thereafter may be made only by The Adjutant General.

d. When the convening authority approves a recommendation that an enlisted member may be discharged from a Reserve commission or warrant, he will forward a copy of the approved proceedings to the Commander, US Army Reserve Components Personnel and Administration Center, ATTN: AGUZ-PAD-S, St. Louis, MO 63132, for appropriate action under the provisions of AR 135-175. Action under AR 135-175 will be taken after member's separation from enlisted status.

13-30. Reason and authority for separation. When an individual is discharged, released from active duty for training, or discharged from status as "a Reserve of the Army" pursuant to this chapter, the specific reason and authority for discharge

(item 11c, DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge)) will be entered as shown in appendix A, AR 635-5.

13-31. Types of separations. *a.* An individual separated by reason of unfitness will be furnished an undesirable discharge certificate (DD Form 258A), except that an honorable (DD Form 256A) or general (DD Form 257A) discharge certificate may be awarded if the individual has been awarded a personal decoration or if warranted by the particular circumstances in a given case. When the sole reason for separation is drug abuse as specified in paragraph 13-5*a*(3)(*b*), the individual will be furnished an honorable or general discharge certificate as warranted by the particular circumstances in a given case. The type of discharge will be directed by the convening authority.

b. An individual separated by reason of unsuitability will be furnished an honorable (DD Form 256A) or general (DD Form 257A) discharge certificate as warranted by his military record. The type of discharge will be directed by the convening authority.

13-32. Separation of ARNGUS and USAR trainees. *a.* ARNGUS trainees will be released from active duty for training and returned to the control of the appropriate State National Guard authorities for discharge. A copy of the approved proceedings will be forwarded to the adjutant general of the State.

b. USAR trainees will be discharged from their status as "a Reserve of the Army".

13-33. Errors and discrepancies noted before accomplishing discharge. The type of discharge directed by the convening authority may be changed only by HQDA. If material errors or discrepancies in approved board proceedings are found by other headquarters processing the case (i.e., transfer activities), the case will be referred for review before discharge to HQDA (DAAG-PSS-S), WASH DC 20314.

13-34. Reentry into Army. *a.* To preclude reentry into the Army unless authorized by appropriate authority, the DD Form 214 of individuals, with the exception of all enlisted women and those enlisted men referred to in paragraph 13-4*a* who are discharged under this chapter, will be coded "RE-3" and "tables 2-4 and 2-5, AR 601-210, or tables 2-2 and 2-3, AR 601-280, apply" will be entered in item 30.

b. All enlisted women and those enlisted men referred to in paragraph 13-4*a* who are discharged under this chapter, are not eligible for reenlistment. The DD Form 214 will be coded "RE-4," and "tables 2-6 and 2-7, AR 601-210, or table 2-4, AR 601-280, applies" will be entered in item 30.

(Date individual and counsel sign statement)

SUBJECT: Separation under Chapter 13, AR 635-200

TO: (Unit commander)

1. I have been advised by counsel of the basis for the contemplated action to accomplish my separation for (unfitness) (unsuitability) under chapter 13, AR 635-200.

2. I (request) (waive) consideration of my case by a board of officers. *(This waiver (does) (does not) apply to my Reserve officer status.)

3. I (request) (waive) personal appearance before a board of officers.

4. Statements in my own behalf (are) (are not) submitted herewith (incl _____).

5. I (request) (waive) representation by (my appointed counsel) (_____ as military counsel) (civilian counsel at my own expense).

6. I understand that I may expect to encounter substantial prejudice in civilian life in the event a general discharge under honorable conditions is issued to me. **(I further understand that, as the result of issuance of an undesirable discharge under conditions other than honorable, I may be ineligible for many or all benefits as a veteran under both Federal and State laws and that I may expect to encounter substantial prejudice in civilian life.)

7. I understand that I may, up until the date the discharge authority directs or approves my discharge, withdraw this waiver and request that a board of officers hear my case.

8. I have retained a copy of this statement.

_____ (Signature of individual)
(Typed name, SSN, grade)

Having been advised by me of the basis for his contemplated separation and its effects and the rights available to him, (Name of individual), who appeared of sound mind, personally and knowingly made the choices indicated in the foregoing statement.

_____ (Signature of counsel)
(Typed name, SSN, grade, branch)

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

**To be used if the individual has been recommended for discharge for unfitness.

Figure 13-1. Individual's statement

★CHAPTER 14
FRAUDULENT ENTRY

Section I. GENERAL

14-1. Purpose. This chapter establishes policy and prescribes procedures for the processing of fraudulent entry cases and provides for the administrative disposition of enlisted personnel for misconduct by reason of fraudulent entry into the service.

14-2. Scope. The provisions of this chapter apply equally to persons enlisted, inducted, or ordered to active duty, and to Reserve component personnel participating in active duty for training (ADT) under the Reserve Enlistment Program of 1963 (REP).

14-3. Authority. Commanders exercising general court-martial jurisdiction are authorized to—

a. Convene a board of officers and to approve discharge of an enlisted person for fraudulent entry.

b. Void a fraudulent entry (other than by a minor enlisted member covered by paragraph 7-5) by issuing special orders releasing the individual from Army control by reason of fraudulent entry when such individual is AWOL or in desertion.

14-4. Trial by courts-martial. It is not the intent of this chapter to preclude trial by court-martial for violations of Article 83, UCMJ, when such action is in the best interest of the service. If trial by court-martial is not considered appropriate, elimination action will be taken. Inductees will not be tried by court-martial for fraudulent entry.

14-5. Incident of fraudulent entry. Fraudulent entry is the procurement of an enlistment, induction, or period of active service through any deliberate material misrepresentation, omission, or concealement which, if known, might have resulted in rejection. Any incident which meets the foregoing definition may be cause for discharge for fradulent entry. Some examples of incidents of fraudulent entry are—

a. Concealment of prior service. The establishment of the identity of Army personnel and verification of prior service in any of the US Armed Forces normally requires only comparison of fingerprints and examination of records. Accordingly, commanders will not request field investigations in order to establish evidence of prior military service. When additional evidence, such as a statement of service or certificate of service from The Adjutant General is required to establish prior service, an inquiry will be forwarded to the Commanding Officer, US Army Enlisted Personnel Support Center, ATTN: AGPE, Fort Benjamin Harrison, IN 46249, to include the name(s), SSN, and all available information concerning the alleged period of service.

(1) To support an administrative action, a statement of service, as distinguished from a certificate of service, furnished by The Adjutant General is sufficient evidence.

(2) If trial by court-martial is contemplated (para 162, MCM 1969) a certificate of service furnished by The Adjutant General is required.

b. Concealment of true citizenship status.

(1) When information is received from the Immigration and Naturalization Service that a warrant for the individual's arrest has been issued by immigration officials, or that deportation proceedings are currently pending upon completion of military service, the individual will not be considered for retention.

(2) The nearest office of the Immigration and Naturalization Service will be informed when an individual will be discharged so that arrangements may be made if desired, to take him into custody upon discharge.

(3) A report of the facts, together with a report of action taken, will be submitted to HQDA (DAMI), WASH, DC 20310, through intelligence channels.

c. Concealment of conviction by civil court. An individual who concealed his conviction by civil court of a felonious offense normally will not be considered for retention. If information concerning the existence of a civil criminal record is required from the Federal Bureau of Investigation, the contact with the FBI must be made by Headquarters, Department of the Army. Accordingly, the inquiry will be addressed to HQDA (DAAG-PSS-S), WASH, DC 20314. However, specific details of circumstances in a case may be obtained by direct communication with the appropriate civil

law enforcement agency, other than the FBI, by the commander concerned. When information is required from both sources, the inquiries will be dispatched concurrently.

d. Concealment of record as a juvenile offender.

(1) An individual who concealed his adjudication as a juvenile offender for a felonious offense will normally not be considered for retention.

(2) The evidence must clearly show that the individual gave a negative answer to a specific question as to whether he had a record of being a juvenile offender, or denied that civil custody, as a result of such record, existed at time of entry into the service.

e. Concealment of medical defects. Concealment of a medical defect or disability is not considered fraudulent entry within the purview of this chapter, unless it is established that such concealment was for the purpose of obtaining veteran's benefits, hospitalization, disability retirement, or monetary benefits to which the individual was not entitled.

f. Concealment of absence without leave or desertion from prior service.

(1) *From other branches of the US Armed Forces.* When a member of the Army is discovered to be a deserter from another branch of the services, the commanding officer will report the circumstances to HQDA (DAAG-PSS-S), WASH DC 20314, and request disposition instructions. After determining if the appropriate service desires custody of the individual, The Adjutant General will direct that the member be—

(*a*) Released from control of the Army without a discharge certificate or DD Form 214, or

(*b*) Considered for discharge in accordance with procedures outlined in section II.

(2) *From the US Army.*

(*a*) If trial is not barred by the statute of limitations (Art. 43, UCMJ), the individual will be dropped from the current service and held to his first unterminated service. When this action is taken an entry will be made on the DA Form 20 (Enlisted Qualification Record) showing the reason for the drop and the period of service to which held. No discharge certificate will be furnished. Appropriate disposition will be made of the desertion charges for the unterminated period of service.

(*b*) If trial is barred by the statute of limitations, the individual will be discharged from the prior service in accordance with section VII, AR 635-206, and considered for discharge from the current service in accordance with procedures outlined in section II. In accomplishing the discharge from a prior period of service, the individual will not be sent to the transfer activity.

(3) *Procedure when DA Form 3835 has been circulated.* When the member was the subject of DA Form 3835 (Notice of Unauthorized Absence from US Army) a report of action taken will be furnished the US Army Deserter Information Point (USADIP) Fort Benjamin Harrison, IN 46249.

(*a*) Custody reverts to another branch of service.

(*b*) Released from control of the US Army.

(*c*) Discharged from the US Army from prior or current service.

g. Concealment of other disqualifications. Concealment of any other disqualifications, including assuming the identity of another individual through the use of a birth certificate, discharge certificate, or any other record belonging to another will be considered cause for consideration for discharge under this chapter. Exceptions to this policy are the concealment of minority (see chap. 7) and concealment of true name. However, if true name is concealed for the purpose of concealing a disqualification as outlined in this paragraph, it will be considered fraudulent entry.

Section II. ADMINISTRATIVE PROCEDURES

14-6. Responsibilities. *a.* The unit commander will—

(1) Initiate action to obtain the substantiating evidence as required.

(2) Advise the suspected fraudulent enlistee of his rights.

(3) Request a medical evaluation.

b. The officer exercising general court-martial jurisdiction will—

(1) Determine if the incident of fraudulent entry is substantiated.

(2) Insure that the rights of the suspected fraudulent enlistee are protected.

(3) Direct disposition in accordance with paragraph 14-12.

14-7. Medical evaluation. *a.* When a unit commander determines that an individual under military control will be recommended for discharge under this chapter, he will refer the individual to the Army medical treatment facility providing dispensary care for a medical and mental status evaluation. The reason for considering the individual for separation will be furnished the medical treatment facility. The individual will not be referred to a psychiatrist for a psychiatric evaluation except when—

(1) Specifically requested by the individual subject to separation action.

(2) Specifically requested by the commanding officer recommending separation action.

(3) Deemed necessary and appropriate by the medical examiner performing the requested evaluation.

(4) Requested by the board considering separation action.

b. In all other cases the physician performing the medical examination will accomplish the mental status evaluation. In the exceptional cases detailed in *a* above, reasons for specifically requesting a psychiatric evaluation will be provided to the psychiatrist. Under no circumstances will medical personnel be used as an investigative agency to determine facts relative to the individual's behavior.

c. In addition to the SF 88 (Report of Medical Examination) and the SF 93 (Report of Medical History), the medical treatment facility will prepare DA Form 3822-R (Report of Mental Status Evaluation), figure 14-2, in duplicate.

d. The medical treatment facility commander will forward the original of the evaluation report to the unit commander. A copy will be filed in the individual's health record.

e. DA Form 3822-R will be reproduced locally on 8- x 10½-inch paper.

14-8. Disposition through medical channels. If it appears that the individual being considered for elimination does not meet retention medical standards, he will be referred to a medical board, or if there is no board at the examining facility, to the nearest facility having a medical board. The facility commander will furnish a copy of the approved medical board proceedings to the individual's unit commander.

a. When the medical board proceedings indicate that an incapacitating medical condition is the direct or substantially contributing cause of the individual's misconduct, he will be retained under medical jurisdiction for appropriate treatment and disposition in accordance with AR 40-3.

b. When the medical board proceedings indicate that the individual does not meet retention standards and the incapacitating medical condition is not the direct or substantial contributing cause of the individual's misconduct, the unit commander will forward the proceedings to the general court-martial authority, who will determine whether physical disability or administrative processing will be followed. If the member is also eligible for retirement, his case will be referred to HQDA (DAAG-PSS-S), WASH DC 20314, for a decision.

14-9. *Rights of individuals.* The individual will be notified in writing of the basis for the proposed discharge action, its effect, and if being recommended for an undesirable discharge, will be advised of his rights as set forth in paragraph 1-10.

14-10. Suspension of favorable personnel action. When suspension of favorable personnel action under AR 600-31 has been initiated solely because an individual is being considered for elimination under this chapter, and he is to be processed for separation under medical jurisdiction, the individual's unit commander will expedite action to complete the case and remove the suspension action to preclude delay in disposition of the case through medical channels.

14-11. *Action by unit commander.* *a.* When the evidence to support a deliberate misrepresentation, omission, or concealment of facts which might have resulted in rejection, has been obtained, the unit commander will forward a military letter to the commander exercising general court-martial jurisdiction. The unit commander will inclose a statement by the individual concerning his rights (para 1-10 and fig. 14-1) and include the following:

(1) Name, grade, SSN, age, date and term of enlistment, and prior service.

(2) Statement whether the individual holds Reserve status as a commissioned or warrant officer. If affirmative, show grade and date of appointment.

medical board or, if there is no board at the examining facility, to the nearest facility having a medical board. The facility commander will furnish a copy of the approved medical board proceedings to the individual's unit commander.

a. When the medical board proceedings indicate that an incapacitating medical condition is the direct or substantially contributing cause of the individual's misconduct, he will be retained under medical jurisdiction for appropriate treatment and disposition in accordance with AR 40-3.

★*b.* When the medical board proceedings indicate that the individual does not meet retention standards and the incapacitating medical condition is not the direct or substantially contributing cause of the individual's misconduct, the unit commander will forward the proceedings to the general court-martial authority, who will determine whether physical disability or administrative processing will be followed. If the general court-martial authority determines that the member will be processed for discharge under the provisions of this chapter and the member is also eligible for retirement under the provisions of chapter 12, the case will be referred to HQDA (DAPC-PAS-S), 200 Stovall Street, Alexandria, VA 22332 for decision.

★**14-9. Rights of individuals.** The appointed counsel for consultation will advise the member of the basis for the proposed discharge action, the types of discharges which may be awarded, the effects of the discharges, and if member is being considered for an undesirable discharge, of his rights as set forth in paragraph 1-10. He also may advise the individual regarding the merits of the contemplated action and assist him in preparing any statements or other evidence for consideration by the general court-martial convening authority (para 1-5*c*).

14-10. Suspension of favorable personnel action. When suspension of favorable personnel action under the provisions of AR 600-31 has been initiated solely because an individual is being considered for elimination under the provisions of this chapter and he is to be processed for separation under medical jurisdiction, the individual's unit commander will expedite action to complete the case and remove the suspension action to preclude delay in disposition of the case through medical channels.

14-11. Action by unit commander. ★*a.* When the evidence to support a deliberate misrepresentation, omission, or concealment of facts which might have resulted in rejection, has been obtained, the unit commander will forward a military letter to the commander exercising general court-martial jurisdiction. The unit commander will inclose a statement by the individual concerning his rights (para 1-10 and fig. 14-1), any other statements or evidence submitted by the individual, and include the following:

(1) Name, grade, SSN, age, date and term of enlistment, and prior service.

(2) Statement whether the individual holds Reserve status as a commissioned or warrant officer. If affirmative, show grade and date of appointment.

(3) Conduct and efficiency ratings. Include primary MOS evaluation score, if available.

(4) Record of trials by court-martial.

(5) Record of other disciplinary action, including nonjudicial punishment.

(6) Recommendation for discharge or retention if it is determined that fraudulent entry did occur. The unit commander will not recommend the type of discharge certificate to be awarded.

(7) Report of medical evaluation when discharge is recommended.

b. When the character of service rendered by the individual supports the issuance of an honorable or general discharge certificate (para 1-9), the unit commander will forward the letter described in *a* above, except for the individual's statement (fig. 14-1), to the commander exercising general court-martial jurisdiction, with the least practicable delay. In these cases the individual need not be afforded the opportunity of a hearing by a board of

officers in accordance with paragraph 1-10, unless the general court-martial authority considers that an undesirable discharge is appropriate.

14-12. Action by general court-martial authority prior to board proceedings. Upon receipt of the recommended action, the commander exercising general court-martial jurisdiction will determine whether the fact of fraudulent entry has been completely verified and proven. If further substantiating facts and evidence are required, they will be obtained, or confirmed as unobtainable, and final determination made. If the fraudulent entry is verified, action will be taken to suspend the individual's pay and allowances in accordance with Part One, chapter 4, DOD Military Pay and Allowances Entitlements Manual. If the fraudulent entry is verified, the general court-martial authority will also take one of the following actions as appropriate:

a. Direct discharge and issuance of an honorable or general discharge certificate.

b. Direct discharge and issuance of an undesirable discharge certificate provided the individual has waived his rights to present his case before a board of officers (para 1-10).

c. Return the case to the unit commander for compliance with paragraph 1-10.

d. Direct that a board of officers be convened to determine whether the individual should be discharged.

e. Direct retention, provided the individual entered the Service with a waivable disqualification as specified in table 2-5, AR 601-210; paragraph 3-9, AR 601-270; or table 2-2, AR 601-280, and the incident of fraudulent entry was for some reason other than concealment of a felony conviction by civil court (para 14-5*c*) or adjudication as a juvenile offender for a felonious offense (para 14-5*d*).

★*f.* Forward the proceedings, with recommendations, to HQDA (DAPC-PAS-S), 200 Stovall Street, Alexandria, VA 22332, when he believes that exceptional circumstances in a case warrants retention even though the individual entered the Service with a nonwaivable disqualification, or the incident of fraudulent entry was concealment of a felony conviction by civil court or adjudication as a juvenile offender for a felonious offense.

★*g.* Direct that the fraudulent entry be voided when the individual is in a status of unauthorized absence or desertion, or absent in the hands of civil authorities. The orders issuing authority will issue special orders releasing the individual from custody and control of the Army (TC 302, AR 310-10).

(1) A copy of the special orders will be forwarded to the individual's last known address.

(2) When the member was the subject of DA Form 3835 a report of action taken will be furnished the US Army Deserter Information Point (USADIP) Fort Benjamin Harrison, IN 46249.

Section III. BOARD OF OFFICERS

14-13. Composition of board. Boards of officers convened to determine whether an individual should be discharged by reason of fraudulent entry will be comprised of at least three commissioned officers, at least one in the grade of major or higher, and a nonvoting recorder. Care will be exercised to insure that—

a. The board is composed of experienced, unbiased officers of mature judgment who are fully cognizant of applicable regulations and policies pertaining to cases of this nature.

b. If the individual is an enlisted member of the Women's Army Corps, the board membership will include an officer of the Women's Army Corps.

c. If the individual has a Reserve enlisted status, the membership of the board will include a majority of Reserve officers, if reasonably available. When a Reserve majority is not available, the board membership will include at least one Reserve component officer.

d. If the individual is an enlisted member who holds Reserve status as a commissioned or warrant officer, the board will be composed of

an uneven number of commissioned officers, but not less than three. The officers will be senior in permanent grade to the Reserve grade held by the respondent. One member of the board will be Regular Army. The remainder will be Reserve officers of the Army who are serving on AD. If the convening authority determines that a Regular Army officer is not available, a Reserve officer serving on AD may be substituted for the Regular Army officer. If the individual is an enlisted member who is also an ARNGUS officer, at least one member of the board will be an ARNGUS officer, if reasonably available.

e. The board is provided a competent reporter or stenographer.

14-14. Witnesses. The expiration of term of service date or transfer status of each expected witness will be ascertained to insure that essential military witnesses will be available at the board proceedings. No witness will be transferred or separated prior to the beginning of a board hearing except when an enlistment or period of service fixed by law expires; in such cases, an attempt will be made to obtain the individual's consent to retention. If he does not consent, a deposition or affidavit will be obtained, as appropriate.

14-15. Board procedures. ★*a.* An individual under military control will be notified in writing of the date of the board hearing. He will be notified at least 15 days before the date of hearing so that he and his appointed counsel for representation (para 1-3*d*) may prepare his case. He will also be notified of the names and addresses of witnesses expected to be called at the board hearing and that the recorder of the board will, upon request of the individual, endeavor to arrange for the presence of any available witness he desires to call. A copy of all affidavits and depositions of witnesses unable to appear in person at the board hearing will be furnished to the individual. When, for overriding reasons, the minimum of 15 days cannot be granted, the president of the board will insure that the reason for acting prior to that time is fully explained and recorded in the proceedings of the board. Requests for an additional delay, normally not to exceed a total of 30 days after initial notice, will be granted if in the judgment of the convening authority or the president of the board such delay is warranted to insure that the respondent receives a full and fair hearing.

★*b.* The individual may appear in person, with or without representing counsel, or, in his absence, he may be represented by counsel at all open proceedings of the board. When the individual appears before a board without representing counsel, the record will show that the president of the board counseled the individual as to type of discharge he may receive as a result of the board action and the effects of such a discharge in later life, and that he may request representing counsel. The record will reflect the individual's response.

c. The individual may request the appearance before the board of any witness whose testimony he believes to be pertinent to his case. He will specify in his request the type of information the witness can provide. The board will secure the attendance of a witness if it considers that he is reasonably available and that his testimony can add materially to the case. Military witnesses under the control of the convening authority will be ordered to attend if reasonably available. The attendance of other military witnesses will be requested through command channels. Witnesses not on active duty must appear voluntarily and at no expense to the Government.

d. The individual may, at any time before the board convenes or during the proceedings, submit any answer, deposition sworn or unsworn statement, affidavit, certificate, or stipulation. This includes, but is not limited to, depositions of witnesses not deemed to be reasonably available or witnesses who are unwilling to appear voluntarily.

e. He may or may not submit to examination by the board. The provisions of Article 31, Uniform Code of Military Justice will apply.

f. The individual and his counsel may question any witness who appears before the board.

g. If the individual holds Reserve status as a commissioned or warrant officer, the board will notify him that the action also involves

his Reserve status and could terminate such status.

h. The individual may challenge any voting member of the board for cause only.

i. Failure of the individual to invoke any of the above rights after he has been apprised of same will not have an effect upon the validity of the elimination proceedings.

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

k. Except as modified herein, the board will conform to the provisions of AR 15-6. As an exception to paragraph 13*b*, AR 15-6, expert medical and psychiatric testimony may be presented in the form of affidavits. However, if the individual desires to present such evidence, he is entitled to have the witnesses appear in person, if they are reasonably available.

l. The proceedings of the board will include a verbatim record of the findings and recommendations (fig. 14-3).

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

14-16. Recommendations of the board. The board will recommend that the individual be—

a. Retained in the Service; or

b. Discharged. If discharge is recommended, the type of discharge certificate to be issued will be specified. If the individual holds Reserve status as a commissioned or warrant officer, the board will include a recommendation whether such status should be terminated and the type of discharge to be issued.

14-17. Action by convening authority (commander exercising general court-martial jurisdiction) on board proceedings. *a.* The convening authority will not discharge an individual if a board recommends retention, nor will he authorize the issuance of a discharge of a less favorable character than that recommended by the board. When a case has been referred to, and action completed by a board of officers, the convening authority will take one of the following actions:

★(1) When a board recommends that an individual be retained and the convening authority believes that separation is warranted and in the Army's best interest, or the individual entered the service with a nonwaivable disqualification, or the incident of fraudulent entry was concealment of a felony conviction by a civil court or adjudication as a juvenile offender for a felonious offense, the convening authority will forward the case to HQDA (DAPC-PAS-S), 200 Stovall Street, Alexandria, VA 22332, with supporting reasons, for final decision.

(2) Approve a recommendation for discharge and direct issuance of the type of discharge certificate recommended by the board. The convening authority may direct issuance of a superior type certificate, but will not direct issuance of a lesser type certificate.

(3) Approve recommendation for retention if the member entered the Service with a waivable disqualification and the incident of fraudulent entry was not concealment of a felony conviction by a civil court or adjudication as a juvenile offender for a felonious offense.

(4) Disapprove a recommendation for discharge and direct retention, if the member entered the Service with a waivable disqualification and the incident of fraudulent entry was not concealment of a felony conviction by a civil court or adjudication as a juvenile offender for a felonious offense.

b. If, in his review of a case in which separation has been recommended by the board, the convening authority notes a defect in the proceedings, which he deems to be harmless, he will take appropriate final action subject to

a above. With respect to substantial defects, he may take one of the following actions:

(1) Direct retention.

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

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

c. Boards may be reconvened or a new board convened only in accordance with the provisions of chapter 1.

d. The convening authority may delegate to his deputy or other officer within his headquarters the authority to approve, disapprove, or make other appropriate disposition of cases, except to direct an undesirable discharge. The convening authority is required to personally sign any action directing undesirable discharge of an enlisted member under his command. He may direct other appropriate disposition of the case.

14-18. Disposition of proceedings. *a.* When discharge of an enlisted person has been accomplished by appropriate authority under the provisions of this chapter, the complete file of the case will be filed in accordance with AR 640-10.

★*b.* When retention is directed, the retention constitutes a waiver of the fraudulent entry. The following statement will be entered in item 42, DA Form 20: "Discharge action based on fraudulent entry is waived and retention authorized on _____." The original copy of the approved document will be forwarded to the Commander, US Army Enlisted Records Center, Fort Benjamin Harrison, IN 46249, for inclusion in the member's official personnel record.

c. When the convening authority approves a recommendation that an enlisted member be discharged from Reserve status as a commissioned or warrant officer, he will forward a copy of the approved proceedings to the Commander, RCPAC, for appropriate action under the provisions of AR 135-175.

d. When an ARNGUS trainee is released from ADT under the provisions of this chapter, a copy of the approved proceedings will be forwarded to the adjutant general of the State concerned.

14-19. Type of discharge. An individual discharged under the provisions of this chapter will be furnished DD Form 256A (Honorable Discharge Certificate), DD Form 257A (General Discharge Certificate), or DD Form 258A (Undesirable Discharge Certificate). In addition to section III, chapter 1, the following factors will be considered in determining the type of discharge certificate to be issued:

a. The character of service will be based on in-service records and activities.

b. False pre-enlistment or pre-induction records will not be used as a basis for characterizing a period of service.

c. The offense of fraudulent enlistment (10 USC 883; Art. 83, UCMJ) occurs when the member accepts pay or allowances following enlistment procured by willful and deliberate false representation or concealment of his qualifications. Thus, upon receipt of pay and allowances, it becomes an in-service activity by the member and may be considered in characterizing his period of service, even though he is not tried for the offense.

d. A fraudulent induction is not an offense under the Uniform Code of Military Justice. (See Art. 83, UCMJ; 10 USC 883; US *vs* Jenkins, 7 USCMA 251, 22 CMR 51 (1956).) Since a fraudulent induction is accomplished by pre-induction activities on the part of the inductee, it cannot be used as a basis for characterizing a period of service.

★**14-20. Entries on DD Form 214.** *a.* When an individual is discharged for fraudulent entry, the entry on DD Form 214 will be "Chapter 14, AR 635-200." The SPD will be entered in accordance with AR 635-5-1.

b. When an individual is discharged for de-

VERBATIM FINDINGS AND RECOMMENDATIONS

FINDINGS: In the board proceedings concerning Private (E-2) John A. Doe, 000-00-0000, the board carefully considered the evidence before it and finds:

1. Private Doe is undesirable for further retention in the military service because of habits and traits of character manifested by repeated commission of petty offenses.

2. Private Doe is undesirable for further retention in the military service because of habitual shirking.

3. His rehabilitation is not deemed possible.

RECOMMENDATION:

In view of the findings, the board recommends that Private Doe be discharged from the Service because of unfitness with issuance of an Undesirable Discharge Certificate (DD Form 258A).

President

Member

Member

Recorder

CERTIFICATE

DATE_____

HQ, 118th Infantry Division, Fort Jackson, South Carolina

Counsel within the meaning of paragraph 13-18, AR 635-200, is unavailable to represent Private (E-2) John A. Doe, 000-00-0000, of this command, whose case has been referred to a Board of Officers convened under AR 635-200.

Captain James R. Cronkhite, 000-00-0000, Infantry, is appointed counsel for the above named individual. Captain Cronkhite has performed 10 years of active service, during which time he has acted as recorder and as counsel for respondents before administrative discharge boards. He also has served as a summary court and as a trial and defense counsel in special court-martial. (State other qualifications.) The mature judgment which this officer possesses, in addition to his knowledge of administrative board procedures, qualifies him to act as appointed counsel in this case.

_____
Commanding

EXHIBIT C

S/S C41
25 July 1973

22 December 1967 *C 3, AR 635-200

ARMY REGULATION No. 635-200

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, D.C., *15 July 1966*

PERSONNEL SEPARATIONS

ENLISTED PERSONNEL

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o/s July 73

CHAPTER 1

GENERAL PROVISIONS

Section I. GENERAL

1-1. Purpose. This regulation provides—

a. The authority for separation of enlisted personnel upon expiration of term of service.

b. The authority and general provisions governing the separation of enlisted personnel prior to expiration of term of service.

★*c.* The procedures for implementation of laws and policies governing voluntary retirement of enlisted personnel of the Regular Army by reason of length of service.

d. The criteria governing the issuance of Honorable, General, and Undesirable Discharge Certificates.

1-2. Scope. *a.* This regulation is applicable to all Active Army enlisted personnel and Reserve component personnel ordered to active duty including active duty for training under the Reserve Enlistment Program of 1963, unless specifically excluded. Unless specifically provided for, the provisions of this regulation, as well as all regulations in the 635-series dealing with the discharge of enlisted personnel, are binding upon field commanders but not upon Headquarters, Department of the Army.

★*b.* The provisions of chapter 12 govern the retirement of Regular Army enlisted personnel, male or female, who are retiring in their Regular Army enlisted status.

1-3. Definitions. For the purpose of this regulation the following definitions will apply:

a. Member, enlisted person, and individual. An enlisted man or an enlisted woman of the Army and includes all persons enlisted or inducted in any component of the Army in active Federal service unless otherwise indicated or obviously inappropriate.

b. Discharge. Discharge is complete severance from all military status.

c. Release from active duty. Release from active duty is termination of active duty status and transfer or reversion to a Reserve component not on active duty. Personnel enlisted or inducted who have a reserve obligation under Title 10, United States Code, the Universal Military Training and Service Act, or any other provision of law, are transferred to the Army Reserve. Members of the National Guard of the United States and Army Reserve revert from an active duty status to their respective components to complete unexpired enlistments and/or unfulfilled obligations.

★*d. Separation.* Separation is a general term which includes release from active duty, release from military control of persons without a military status, discharge and retirement.

e. Military record. Military record comprises a member's behavior while in military service, including general comportment and performance of duty.

f. Military behavior. The term "military behavior," as used herein, refers to the conduct of the individual while a member of the Army.

g. Administrative separation. Discharge or release from active duty upon expiration of enlistment or required period of service, or prior thereto, in the manner prescribed by the Department of Army or by law, but specifically excluding separation by sentence of a general or special court-martial.

h. Administrative Discharge Board. Administrative Discharge Board, as used herein, is a board of officers appointed to render findings based on facts obtaining or believed to obtain in a case and to recommend retention in the service or discharge and reason therefor, and the type of separation or discharge certificate to be furnished.

i. Appointed counsel.

(1) An appointed counsel for an individual being processed for separation which could result in issuance of an Undesirable Discharge under AR

635-89, AR 635-206, and AR 635-212, or an individual being processed as a class III case under AR 635-89, is a lawyer within the meaning of Article 27(b)(1) of the Uniform Code of Military Justice, unless appropriate authority certifies in the permanent record the nonavailability of a lawyer so qualified and sets forth the qualifications of the substituted nonlawyer counsel.

(2) An appointed counsel for an individual being processed for separation by reason of unsuitability is a commissioned officer in the grade of first lieutenant or higher; he need not meet the qualifications described in (1) above.

j. Discharge authority. The officer authorized by Army regulations to take final action with respect to specified types of discharge.

k. Convening authority. The officer authorized by Army regulations to convene an administrative discharge board and take final action with respect to a specified type of discharge.

Section II. SEPARATION CERTIFICATES

1-4. Statutory authority. Title 10, United States Code, section 3811, provides that a discharge certificate shall be given to each lawfully inducted or enlisted member of the Army upon his discharge.

1-5. Discharge certificates. Discharge certificates are furnished all enlisted and inducted personnel when they are discharged. Instructions for the completion of the various types of discharge certificates are in AR 635-5. The issuance of discharge certificates is governed by this regulation. The five types of discharge certificates are as follows:

DD Form No.	*Type of discharge*	*Character of discharge or separation*	*Given by--*
256A	Honorable	Honorable	Administrative action
257A	General	Under honorable conditions	Administrative action
258A	Undesirable	Under conditions other than honorable	Administrative action
259A	Bad Conduct	Under conditions other than honorable	Sentence of special or general courts-martial.
260A	Dishonorable	Dishonorable	Sentence of general courts-martial.

1-6. Armed Forces of the United States Report of Transfer or Discharge (DD Form 214). Individuals who are discharged or released from active duty or active duty for training will be furnished a factual record of military service rendered, the character and duration thereof, and the type of separation on DD Form 214. Instructions for the completion and distribution of DD Form 214 are contained in AR 635-5.

Section III. FACTORS GOVERNING ISSUANCE OF HONORABLE, GENERAL, AND UNDESIRABLE DISCHARGE CERTIFICATES

1-7. General considerations. Because the type of separation may significantly influence the individual's civilian rights and eligibility for benefits provided by law, eligibility for reentry into service, and acceptability for employment in civilian industry, it is essential that all pertinent factors be considered so that the type of separation will accurately reflect the nature of the service rendered. The type and character of separation issued upon administrative separation from current enlistment or period of service will be determined solely by the mem-

fined awaiting trial will, if acquitted subsequent to expiration of term of service date, be discharged or released from active duty within 5 days after date of announcement of acquittal, and will be regarded as having been retained in service for the convenience of the Government.

★*b*. An individual who is confined awaiting trial will, if convicted and sentenced to either confinement only, or confinement and forfeiture only, be discharged on the adjusted expiration date of term of service. The adjusted ETS date will be computed by adding to the date of release from confinement or completion of the court-martial case, as applicable, all time lost prior to and including the original ETS date.

c. An individual who is retained under the provisions of paragraph 2-4, with a view to trial by court-martial and court-martial charges are not preferred or are disposed of without trial, will be separated within 5 days after the decision is made and will be regarded as having been retained in service for the convenience of the Government.

2-16. Absent without leave or in hands of civil authorities. *a*. Discharge of individuals absent without leave or who have been convicted by the civil authorities is governed by AR 635-206 except for those individuals who have been sentenced by court-martial to dishonorable or bad conduct discharges.

★*b*. When an individual who is being processed for discharge under the provisions of chapter 10, 13 or 14 of this regulation, or AR 635-206, absents himself without leave or is absent in the hands of civil authorities while in the continental United States, Alaska, Hawaii, a US territory or possession or his area of residence, his discharge may be executed notwithstanding such absence, provided the recommendation for discharge is approved by the commander exercising general or special court-martial jurisdiction, as appropriate, and provided the absence occurred subsequent to the date—

(1) The completed board proceedings (when the board has recommended discharge) are forwarded through channels to the commander exercising general or special court-martial jurisdiction, as appropriate, or

(2) When a board hearing is not required or has been waived, the case is forwarded through channels to the commander exercising general or special court-martial jurisdiction, as appropriate, recommending discharge.

★*c*. An individual in a duty status who is delivered to civil authorities, in accordance with AR 600-40 prior to expiration of his term of service, will be credited with the period of time in the hands of civil authorities in the computation of his expiration of term of service date unless he is finally convicted prior to expiration of term of service. When his term of service expires, he will be separated in absentia by reason of expiration of term of service. A type A medical examination as prescribed in chapter 10 and appendix IX, AR 40-501, will be administered prior to separation. The commander exercising general or special court-martial authority, as appropriate, will schedule such examination to be accomplished at the nearest Armed Forces medical treatment facility, if feasible, or by civilian physicians on the staff of a civilian facility, or by fee-basis physicians employed for this purpose. The fees prescribed by AR 40-330 will apply for medical examinations, and consultations accomplished by civilian physicians. If the medical examination is accomplished by a civilian physician the report (SF 88, SF 93, and consultation reports) will be reviewed by a military physician prior to separation action.

★*d*. Discharge Certificate, Armed Forces of the United States Report of Transfer or Discharge (DD Form 214) and orders will be dispatched by certified mail, with return receipt requested, to the individual at the address provided for that purpose. If the forms are returned unclaimed, or for any other reason prove undeliverable, they will be forwarded, along with report of action, to the National Personnel Records Center (Military Personnel Records), GSA, 9700 Page Boulevard, St. Louis, MO 63132, for file with the individual's records. Distribution of DD Form 214 will be made in accordance with AR 635-5.

★*e*. Except as provided in *a*, *b* and *c* above, or when directed by Headquarters, Department of the Army, an individual in the hands of civil authorities will not be separated from military service. Morning report entries for individuals in the hands of civil authorities will be made in accordance with table 3-8, AR 680-1. An individual in the hands of civil authorities does not accrue service creditable for completion of his period of enlistment, induction, or order to active duty except for any period in which he was on an authorized leave status. Upon return to military control, an individual's expiration of term of

service date will be computed. When an individual's term of service has expired, his separation will be accomplished within 5 days of his return to military control and he will be regarded as having been retained in service for the convenience of the Government. For pay and allowances, see DODPM.

★*f*. The discharges in absentia authorized by this paragraph will be accomplished by the individual's unit of assignment from which he is AWOL or absent in the hands of civil authorities. Such individuals will *not* be reassigned to transfer activities for this purpose.

Section VI. AUTHORITY TO ORDER SEPARATION AND ACCOMPLISH SEPARATION

★**2-17. Authority to order discharge or release from active duty prior to expiration of period of service.** Subject to the limitation imposed by subparagraph 2-2*k*, authority is granted to the following commanders to order discharge or release from active duty of enlisted personnel prior to expiration of their enlistment, induction, or period for which ordered to active duty. Except as authorized herein, these commanders are not authorized to delegate this authority to subordinate commanders without prior approval of the Secretary of the Army.

a. Discharge or release from active duty, except as provided in paragraphs *b* through *d*, below:

(1) Commanders of all units and installations (including class II installations) which are commanded by, or are under the normal command of a general officer.

(2) Commanders of units or installations having general court-martial jurisdiction.

(3) Commanders of Army hospitals under the command jurisdiction of The Surgeon General, Department of the Army.

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

b. Commanders exercising general court-martial jurisdiction are authorized to order discharge under AR 635-206 and chapters 10, 11, 13, and 14 of this regulation. This authority may be delegated, except for chapter 11, to a general officer in command who has a judge advocate on his staff for cases arising in that command. Every action taken pursuant to such a delegation will state the authority therefor.

c. Commanders exercising special court-martial jurisdiction are authorized to order discharge for unsuitability under chapter 13.

d. Commanders of all units and installations which are commanded by or are under the normal command of general officers and colonels are authorized to order discharge for pregnancy under section III, chapter 8.

e. In the absence of prior instructions, major commanders and commanders of CONUS armies and the US Army Military District of Washington are authorized to order discharge or release from active duty of enlisted personnel assigned to class II installations and activities located within their geographic areas which do not come under the command jurisdiction of a commander specified in *a* through *d* above, as applicable.

2-18. Expiration of term of service. Separation will be accomplished by the transfer facility processing the member for separation (see AR 635-10), pursuant to the discharge order issued by the appropriate commander.

2-19. Reason and authority for separation. The specific reason and authority for separation entered in item 11c, DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) will be entered as shown in AR 635-5.

2-20. Action by commanders having discharge authority. Commanders having discharge authority directing discharge or release from active duty of an enlisted person will comply with the provisions of AR 635-10.

Immigration and Naturalization Service. Upon receipt of information that these individuals are subject to deportation proceedings at this time, that their custody is desired by the immigration officials, or upon release from military control, they will be reported through channels to HQDA (DAAG-PSS-S) WASH DC 20314. Upon direction of Headquarters, Department of the Army, an individual will be released from custody of the Army by virtue of an erroneous induction by Special Orders. DD Form 214 will be issued and completed in accordance with AR 635-5 except for items 11a, 11c, 13a, 15, and 16. The entry in the foregoing items will be as follows:

(1) Item 11a. Released from military control.

(2) Item 11c. AR 635-200, SPN 311.

(3) Item 13a. Character of service will be honorable or under honorable conditions as indicated in section II, chapter 1.

(4) Item 15. NA.

(5) Item 16. NA.

For pay and allowances, see table 1-4-1, Department of Defense Military Pay and Allowances Entitlements Manual (DODPM). Commanders responsible for issuing Special Orders will notify immigration officials of the release or discharge action so that they may take the individual into custody, if they so desire.

5-7. Discharge of members of the Reserve components on active duty. Commanders specified in paragraph 2-17*a* are authorized to order discharge of those members of the Reserve components on active duty who are precluded from attaining eligibility for retirement with pay as provided by title 10, USC 1331. Commanders will examine the facts of the applicants' ability to complete the service required for retirement under cited law. In those cases in which personnel cannot complete the required service before further enlistment in the Reserve component is barred because of age, either under Federal or State law, discharge, if requested by the individual, will be directed. Authority (AR 635-200) and SPN 312 will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

5-8. Discharge of individuals serving in unspecified enlistments. *a.* Enlisted personnel referred to in (1) and (2) below who do not submit an application for retirement will be discharged after serving 6 years in an unspecified enlistment. Commanders specified in paragraph 2-17*a* are authorized to order the discharge of these individuals.

(1) Those who have completed 30 years' active Federal service. Authority (AR 635-200) and SPN 418 will be included in directives or orders directing individual to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

(2) Those who have completed 20 or more years active Federal service and are 55 years of age. Authority (AR 635-200) and SPN 419 will be included in directives or orders directing individual to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

b. Commanders specified in paragraph 2-17*a* may recommend discharge of enlisted personnel who are under 55 years of age and who have served 6 years in an unspecified enlistment, when—

(1) Such individuals have completed 20 years' active Federal service

(2) It would be in the best interest of the service that such individuals be discharged.

c. Recommendation for discharge under *b* above will be forwarded to HQDA (DAAG-PSS-S), WASH DC 20314.

d. Authority (AR 635-200) and SPN 41D will be included in directives or orders directing the individual to report to the transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

★5-9. Discharge of personnel who did not meet procurement medical fitness standards. *a.* Individuals who were not medically qualified under procurement medical fitness standards when accepted for induction or initial enlistment will be discharged when a medical board, regardless of the date completed, establishes that a medical condition was identified by appropriate military medical authority within 4 months of the member's initial entrance on active duty or active duty for training under the Reserve Enlistment Program of 1963 which—

(1) Would have permanently disqualified him for entry into the military service had it been detected at that time; and

(2) Does not disqualify him for retention in the military service under the provisions of chapter 3, AR 40-501.

b. As an exception, an individual who is found to meet the requirements of *a* above, but who elects to complete the period of service for which inducted or enlisted, will *not* be discharged under this paragraph. Such member will be required to sign a statement electing to complete his period of service, notwithstanding his eligibility for discharge under this paragraph.

c. Commanders specified in paragraph 2-17*a* are authorized to order discharge under this paragraph. Separation will be accomplished within 72 hours following approval by the discharge authority. Authority for discharge (para 5-9, AR 635-200) and SPN 375 will be included in directives or orders directing the individual to report to the appropriate transfer activity.

d. Members who do not meet the medical fitness standards for retention will be processed under the provisions of AR 635-40.

e. This paragraph is not to be used as a substitute for unsuitability separations in cases of character or behavior disorders, which will continue to be processed under the provisions of chapter 13.

5-9.1. Discharge for failure after enlistment to qualify medically for flight training. Individuals who enlist on or after 1 March 1971 under the provisions of table 5-24, AR 601-210, for the Warrant Officer Flight Training (WOFT) option and who, subsequent to enlistment, fail to qualify medically for flight training may be discharged from the Army under the following conditions:

a. Eligibility for discharge will be governed by a determination made by The Surgeon General, Department of the Army (see para 3-5*e* and *f*, AR 612-201) that—

(1) The medical condition would permanently disqualify the individual for flight training, and

(2) The condition does not disqualify the individual for retention in the military service under the provisions of chapter 3, AR 40-501.

b. To be eligible for discharge under this paragraph the member must submit a written request for discharge (fig. 5-1) to his unit commander within 30 days of the date he is found by The Surgeon General to be medically disqualified for flying.

c. Commanders specified in paragraph 2-17*a* are authorized to order discharge under this paragraph. Applications for discharge will be processed promptly and separation will be accomplished within 72 hours following approval by the discharge authority. Authority for discharge (para 5-9.1, AR 635-200) and SPN 429 will be included in directives or orders directing the individuals to report to the appropriate transfer activity for separation.

d. WOFT candidates will not be separated under these provisions after commencement of the flight phase of the WOFT course.

e. Members who do not meet retention medical fitness standards will be processed under the provisions of AR 635-40.

f. This paragraph is not to be used as a substitute for unsuitability separations in cases of character or behavior disorders, which will continue to be processed under the provision of chapter 13.

g. An individual found to meet the requirements of *a* above who elects to complete the period of service for which enlisted will be required to submit a written request to be retained on active duty (fig. 5-2) to his unit commander within 30 days of the date he is

found by The Surgeon General to be medically disqualified for flying.

h. The determination made by The Surgeon General, the member's request for discharge (fig. 5-1) or retention (fig. 5-2) and other pertinent papers will be filed in the member's DA Form 201 (Military Personnel Records Jacket (US Army)) as permanent material.

★5-10. Discharge for the purpose of immediate enlistment or reenlistment. Enlisted personnel who are accepted for enlistment/reenlistment as set forth below will be discharged for the convenience of the Government. Individuals so discharged will be enlisted/reenlisted on the day following discharge. The discharge certificate will not be delivered to the individual until after enlistment/reenlistment is accomplished.

a. Unit commanders are authorized to order discharge for reenlistment under the provisions of AR 601-280. The following authority for separation and SPN will be included in directives or orders directing separation—

(1) To enlist/reenlist for the purpose of attending Army Officer Candidate School—paragraph 5-10*a*(1), AR 635-200; SPN 427.

(2) To enlist/reenlist for all other purposes under AR 601-280—paragraph 5-10*a*(2), AR 635-200; SPN 313.

b. Commanders responsible for US Army reception station processing are authorized to discharge inductees for the following reasons. The authority for separation and SPN indicated will be included in directives or orders directing separation—

(1) To enlist under the provisions of paragraph 2-4, AR 601-210, Special Procurement Program at US Army Reception Stations: paragraph 5-10*b*(1), AR 635-200; SPN 426.

(2) To enlist for warrant officer flight training: paragraph 5-10*b*(2), AR 635-200; SPN 425.

5-10.1. Separation for failure to complete Army Officer Candidate School. ★*a.* Enlisted personnel who were formerly inductees and who enlisted in the Regular Army under the provisions of paragraph 2-15, AR 351-5 and who, for any reason, withdraw, fail to satisfactorily complete Army Officer Candidate training, or are not commissioned, may apply for separation not earlier than 60 days prior to and to be effective upon completion of 3 years' total active Federal service.

★*b.* Commanders specified in paragraph 2-17*a* are authorized to order the separation for the convenience of the Government of such personnel.

c. Authority (para 5-10.1, AR 635-200) and SPN 428 will be included in directives or orders directing separation.

Section IV. NATIONAL HEALTH, SAFETY, OR INTEREST

5-11. National health, safety, or interest. Enlisted personnel may apply for separation from active military service on the basis of importance to national health, safety, or interest. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 are not eligible for separation under this section.

a. General. This policy is applicable to situations where the critical need for the services of an individual in a civilian capacity from the viewpoint of health, safety, or general welfare outweighs the need of the Nation for the individual in an active military status. Normally, favorable action on requests for separation under the provisions of this policy will be made only when it is clearly determined that—

(1) Application is motivated by critical national or community interest and not for the personal benefit of the applicant.

_____
(Date)

SUBJECT: Request for Discharge

TO: (Discharge Authority)

(Name)

1. I, _____, enlisted for Warrant Officer Flight Training under the provisions of table 5-24, AR 601-210. Having been found by The Surgeon General, Department of the Army, to be medically disqualified for Class 1A flying, I request discharge under the provisions of paragraph 5-9.1, AR 635-200.

2. I have been counseled concerning an alternate training course. I do not desire to serve in the US Army. I understand that, under the provisions of the Military Selective Service Act of 1967, if I am discharged I will be subject to being drafted unless otherwise deferred.

(Signature of individual)

_____
(Typed Name, SSN, and grade)

Figure 5-1.

_____
(Date)

SUBJECT: Request to Remain on Active Duty

TO: (Unit Commander)

1. I, _____ (Name) _____, enlisted for Warrant Officer Flight Training under the provisions of table 5-24, AR 601-210. Having been found by The Surgeon General, Department of the Army, to be medically disqualified for Class 1A flying, I understand that I have the option of being retained on active duty for the remainder of my enlistment.

2. Being medically qualified for military service under the provisions of chapter 3, AR 40-501, I hereby request retention on active duty in an enlisted status. I have been counseled concerning an alternate training course and understand that I may select a training course for which qualified and for which a quota exists.

(Signature of individual)

_____
(Typed Name, SSN, and grade)

★*Figure 5-2.*

Section XV. INVOLUNTARY SEPARATION

5-35. General. Enlisted personnel may be discharged or released from active duty, as appropriate, prior to the expiration of their terms of service or periods for which ordered to active duty (10 U.S.C. 1169).

5-36. Reduction in authorized strength. When bugetary or authorization limitations require a reduction in enlisted strength, such reduction may be accomplished by an official order issued pursuant to instructions of The Adjutant General, HQDA, applicable to an individual or to all members of a class of personnel so specified in such order.

a. Personnel to be separated under this paragraph will be notified through channels by commanders of major commands, CONUS armies, and MWD based upon information and instructions furnished by The Adjutant General, HQDA.

b. Personnel designated for separation under this paragraph will be discharged or relieved from active duty, as appropriate, not later than 3 months after receipt of notification. A date will be established for separation within this period which will work the least hardship on the individual. If the member to be separated becomes a disciplinary problem following his receipt of notification of separation under this paragraph, the commander exercising general courts-martial jurisdiction may order his immediate separation.

c. Individuals who are within 2 years of qualifying for retirement under chapter 12 of this regulation on the scheduled separation date will not be processed under this paragraph unless such action is directed by the Secretary of the Army.

d. The commanders specified in *a* above are responsible for effecting the timely separation of enlisted personnel notified of involuntary separation under this paragraph.

e. Individuals separated under this paragraph will be given an honorable or general discharge, depending upon their character of service.

f. Authority for separation (para 5-36, AR 635-200) and SPN 431 will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel office designated to accomplish separation processing.

★**5-37.** To be published.

★**5-38. Concealment of arrest record.** *a. Policy.* Enlisted personnel who concealed an arrest record which did not result in civil court conviction at the time of enlistment or induction may be discharged. This policy permits the elemination of personnel who represent a potential undesirable element and will be used only in cases where it is clearly apparent that an individual has concealed a serious arrest record. In applying this policy, the following should be considered:

(1) The arrest concealed must be for a felony offense. AR 601-270 contains a partial listing of felony offenses.

(2) A pattern of arrests is suggestive of undesirable character traits. The pattern may include misdemeanors and lesser offenses in addition to a felony.

(3) The age of the individual when arrested and the period of time which has elapsed since the arrests.

(4) The preservice background of the individual, e.g., education, employment record, community activities, etc.

(5) The nature of, and the circumstances surrounding the arrests.

b. Discharge authority. The officer exercising general court-martial jurisdiction is authorized to direct discharge or retention of the enlisted member. When retention is authorized, the DA Form 20 will be annotated to reflect that concealment of the arrest has been waived. After waiver, no further cognizance of, or action with respect to, the concealment of arrest will be taken.

c. Procedures. When evidence to support the concealment of an arrest record has been obtained, the unit commander will forward it to the appropriate discharge authority. The correspondence will include:

(1) Conduct and efficiency ratings.

(2) A specific recommendation for retention or discharge, and the reasons therefor.

d. Evidence. To support the existence of an arrest record as required by this paragraph, bona fide evidence must be obtained from the appropriate law enforcement agency. A typical example of bona fide evidence includes:

(1) A completed DD Form 1584 (DOD National Agency Check Request) (ENTNAC),

with accompanying "rap sheet" listing incidents of arrest; further contact with agencies or departments which made the arrest may be necessary. An ENTNAC is completed on each individual shortly after entrance into the Army, and should be examined by unit commanders.

(2) A completed DA Form 3286 (Statements for Enlistment) or other evidence which shows clearly that the individual concealed an arrest record.

e. Type of discharge. Individuals discharged under this paragraph will be given an honorable or general discharge in accordance with paragraph 1-9.

f. Separation orders. Directives or orders directing individuals to report to the appropriate transfer activity or unit personnel office designated to accomplish separation processing will cite paragraph 5-38, AR 635-200, and SPN 440 as authority.

S/Sch 41
July 23

★CHAPTER 12
RETIREMENT FOR LENGTH OF SERVICE

Section I. GENERAL

12-1. Purpose. This chapter establishes procedures for implementation of laws and policies governing voluntary retirement of enlisted personnel of the Regular Army by reason of length of service.

12-2. Scope. *a.* The provisions of this chapter govern the retirement of Regular Army enlisted personnel, male or female, who are retiring in their Regular Army enlisted status. Chapter 4, AR 635-100, governs the retirement of eligible Regular Army enlisted personnel in commissioned or warrant officer grades.

b. Prior service enlisted personnel serving on active duty as officers, who are not qualified for retirement in their commissioned status, may qualify for retirement under this chapter. For procedures, see section VII, chapter 3, AR 635-100.

12-3. Retirement approval authority. Authority to approve or disapprove requests for voluntary retirement under this chapter is hereby vested in the following:

a. Commanders of CONUS Armies; Military District of Washington; United States Army, Alaska; United States Army, Europe; United States Army, Pacific; United States Army Forces Southern Command; United States Army, Hawaii; United States Army, Japan; Eighth United States Army; United States Army, Ryukyu Islands; United States Army Support, Thailand; U.S. Army Materiel Command; Combat Developments Command; Strategic Communications Command; Army Intelligence Command; Military Traffic Management and Terminal Service; Army Security Agency; United States Army Air Defense Command; and United States Army Recruiting Command.

b. The Adjutant General, Department of the Army, ATTN: AGPO-R, Washington, DC 20314, for all units, activities or organizations which do not come under the jurisdiction of one of the commanders in *a* above.

c. Hereinafter, the above commanders and The Adjutant General are referred to as "retirement approval authority" or "commanders having retirement approval authority."

d. This authority will not be further delegated.

Section II. STATUTORY AUTHORITY

12-4. General provisions of laws governing retirement. *a.* In general, laws governing retirement of enlisted members of the Regular Army provide that—

(1) The individual must be an enlisted member of the Regular Army on active duty at the time of retirement (10 U.S.C. 3914 and 3917).

(2) Retirement will be in the active duty grade in which serving at the time of retirement (10 U.S.C. 3961). (See para 12-14 for instructions pertaining to former Command Sergeants Major, E-9 who are serving as Sergeants Major, E-9 at the time of retirement.)

(3) Years of service for retirement are computed by adding all active service in the Armed Forces and service computed under

Title 10, United States Code, section 3683 (10 U.S.C. 3925).

(4) The date of retirement is uniformly the first day of the month following the month in which the individual is released from active duty (5 U.S.C. 8301).

b. See chapter 3, AR 37-104-1 concerning retired pay.

12-5. 20-year retirement law (10 U.S.C. 3914).

a. An enlisted member of the Regular Army who has completed 20, but less than 30 years of active Federal service in the Armed Forces of the United States and who has completed all required service obligations at the time of retirement may, upon his request and at the discretion of the Secretary of the Army, be retired. He then becomes a member of the United States Army Reserve (Retired) and remains in that status until his active service prior to retirement and the period served in the U.S. Army Reserve (Retired) after retirement equals 30 years. He will perform such active duty as may be prescribed by law.

b. An enlisted member who holds a current commission in the U.S. Army Reserve will be transferred to the Retired Reserve in the status he elects. Dual status in the U.S. Army Reserve is not authorized and once retirement is accomplished pursuant to an election of the member, election may not be changed. Transfer to the Retired Reserve to complete obligated service in an enlisted status vacates commissioned status in the U.S. Army Reserve.

c. An individual who has been awarded the Medal of Honor, Distinguished Service Cross, or Navy Cross for extraordinary heroism will, upon retirement under 10 U.S.C. 3914, have his retired pay increased 10 percent, providing his total retired pay (including the increase) does not exceed 75 percent of the basic pay upon which computed. In addition, an enlisted member who has been awarded the Distinguished Flying Cross, the Soldier's Medal or equivalent Navy decoration may be credited by the Secretary of the Army with extraordinary heroism if it is determined that the heroism displayed was equivalent to that required for award of the Distinguished Service Cross. Each case appearing to warrant Secretarial determination of extraordinary heroism will be submitted to The Adjutant General, ATTN: AGPB-A, Washington, DC 20314, for determination of such entitlement. A copy of the citation accompanying the award will be included with the information submitted to The Adjutant General, if available. (See para 3-5*b*, AR 37-104-1; para 19*b*, AR 672-5-1; and 10 U.S.C. 3991.)

12-6. 30-year retirement law (10 U.S.C. 3917). An enlisted member of the Regular Army who has completed at least 30 years of active Federal service in the Armed Forces of the United States will, upon his request, be placed on the retired list.

12-7. Advancement on the retired list (10 U.S.C. 3964). *a.* Members retired with less than 30 years active Federal service are considered for advancement on the retired list to the grade equal to the highest permanent grade in which the member served satisfactorily on active duty for 6 months or more or the highest temporary grade in which the member served satisfactorily on active duty, as determined by the Secretary of the Army, when active service prior to retirement plus service on the retired list totals 30 years. Upon completion of 30 years' service, the military personnel records of each member who held a higher grade than that in which retired are reviewed to determine whether his service in the higher grade was satisfactory. Members advanced to a higher grade will be notified of such advancement by the Commanding General, U.S. Army Administration Center, St. Louis, MO 63132.

b. Members retired after completion of 30 years' active Federal service are advanced on the retired list, concurrent with retirement, to the highest permanent grade in which the member served satisfactorily on active duty 6 months or more or the highest temporary grade in which the member served satisfactorily on active duty, as determined by the Secretary of the Army. Service in the highest grade will be deemed to have been satisfactory

for this purpose except when (1) through (4) below apply. All service may be considered to be continuous, or each period of service may be considered separately, whichever is to the member's benefit. The criteria set forth in (1) through (4) do not preclude an individual from being considered to have served satisfactorily in any lower grade or rank previously held. When the member served in a grade two or more grades higher than the grade held at time of retirement and a determination is made that he did not serve satisfactorily in the highest grade, it will be determined that he served satisfactorily in the next lower grade unless his service in that lower grade comes within the purview of one or more of the following subparagraphs.

(1) When service in the highest grade was performed under any circumstances other than during the course of extended active duty.

(2) When reversion to a lower grade was expressly for prejudicial cause or inefficiency due to the member's misconduct. When individuals were reduced without prejudice to a lower grade because of inefficiency, such reduction in itself does not preclude favorable consideration of service in the highest grade in computing retirement pay.

(3) When there is information pertaining to his service in the highest grade which clearly warrants a conclusion that he did not serve satisfactorily in that grade. This includes the grade in which member is currently serving.

(4) When the highest satisfactory grade in which the member served in a permanent grade but he has not served on extended active duty in that grade for 6 months or more.

c. Cases of enlisted members who appear to be eligible for advancement on the retired list concurrent with retirement will be forwarded for determination, with all information pertinent to the higher grade, to The Adjutant General, ATTN: AGPO-R, Department of the Army, not later than 75 days prior to the requested retirement date. This will include:

(1) Cases covered in *b* above.

(2) Cases of members who are to retire in an enlisted status who have served on active duty in any Armed Force in an enlisted grade higher than that in which they are currently serving.

d. Members advanced to a higher commissioned grade may apply to the Secretary of the Army within 3 months of advancement for restoration on the retired list to their former enlisted status (10 U.S.C. 3965).

e. Members may, for personal reasons, desire to defer advancement to a higher grade. Accordingly, prior to such advancement a member may apply for a specified period of deferment and for placement or retention on the retired list in his current status. The application for deferment of advancement will include the following statement, over the personal signature of the member:

> I understand that subsequent advancement will not be retroactive and that increased pay or other entitlements accruing therefrom will be based on the actual date of advancement.

(1) Members who are retiring after completion of 30 years' active Federal service who are eligible for concurrent advancement on the retired list to a higher grade and who desire to defer such advancement may submit a request for deferment through channels to the retirement approval authority. The request must be received by that commander not later than 30 days prior to the requested retirement date.

(2) Retired members may apply to the Commanding General, U.S. Army Administration Center, ATTN: AGUZ-RPOD-PPO, St. Louis, MO 63132. The application must be received by that Center not later than 30 days prior to the date the member completes 30 years' service (active Federal service plus service on the retired list).

f. See paragraph 12-14 concerning the eligibility of former Command Sergeants Major, E-9 for placement on the retired list in that grade title. The difference between Sergeant Major, E-9 and Command Sergeant Major, E-9 is one of grade title only, and not a difference in grade. The provisions of this paragraph do not apply to such cases.

Section III. REQUIREMENTS AND PROCEDURES

12-8. Eligibility. Members who have completed 19 years and 6 months or more of active Federal service may apply for retirement not earlier than 6 months prior to their desired retirement date, provided all applicable service obligations (para 12-9) will have been completed by the retirement date specified. Applications submitted less than 8 months prior to the requested retirement date will include reason(s) for the delay on an explanation of the emergency or hardship which precluded earlier submission.

12-9. Service obligations. *a.* This paragraph applies to members retiring under 10 U.S.C. 3914, only (i.e., those who have completed 20, but less than 30, years of active Federal service).

b. A member will be required to serve at least 1 year in his current assignment or, if his dependents traveled at Government expense, 1 year from the date of their arrival at his new duty station. As an exception, this requirement is waived for personnel who have returned from oversea assignments to assignments in CONUS or area of residence.

c. An individual selected by Department of the Army for a permanent change of station or alerted for assignment to a deploying unit may not submit an application for retirement until arrival at the new duty station.

(1) The provisions of paragraph 12-12*b* (3) will be complied with before a retirement application is forwarded through channels to the retirement approval authority. For the purpose of determining eligibility for submission of application, the date shown on a DA message alert, DA assignment instruction or DA orders, whichever is earlier, is considered the date of alert or receipt of orders.

(2) Retirement applications may not be submitted by members of units scheduled for relocation after the formal date of alert notification, as established by the unit commander. Applications received from individuals in alerted units will contain information as to the date members of the unit were notified of the unit alert. An individual assigned to a unit deploying from an oversea area to CONUS who has submitted or who has an approved application for retirement will move with the unit providing his retirement will not be delayed. Notwithstanding the provisions of *b* above, such individuals will be retired on the date originally requested.

(3) An individual submitting an application for retirement after arrival at his new duty station may request retirement on or after completion of 12 months in the new duty assignment or, if his dependents traveled at Government expense, 12 months after their arrival at his new duty station.

d. An individual who has attended a military or civilian course of instruction must complete any service obligation voluntarily incurred as a result of such instruction.

e. An individual incurring a 2-year service obligation upon promotion to pay grade E-7, E-8, or E-9 in accordance with AR 600-200 must complete the obligated service, except as provided in (1) and (2) below. An individual accepting a promotion to such pay grade subsequent to submitting an application for retirement is not eligible for retirement and acceptance of such promotion constitutes withdrawal of the application for retirement. When an individual accepts promotion to such pay grade and an application for retirement has been forwarded to the commander having retirement approval authority, that commander and OPO, ATTN: EPCMS, will be notified by message or other appropriate expeditious means.

(1) An individual who will have completed 30 or more years' active Federal service on the requested retirement date.

(2) An individual who is already eligible, through prior service, for a higher grade at time of retirement.

12-10. Waivers. *a.* Exceptions to service obligations may be granted when the best interests of the service are involved and/or when substantial hardship exists or would otherwise

result if the member is not retired. ETS in itself is not justification for an exception. Requests for exception to service obligations must be fully defined and documented.

b. For the purpose of this chapter, substantial hardship is defined as a situation or circumstance which imposes undue privation or suffering on the member or his immediate family. Potential loss of extremely favorable employment because of an employer's reporting deadline, or attendance at an institution of higher learning (as defined in para 5-20 *a*), may constitute a hardship.

c. Requests for waivers or exceptions to service obligations will be forwarded to The Adjutant General, ATTN: AGPO-R, Department of the Army, Washington, DC 20314, for action.

12-11. Applying for retirement. Requests for retirement will be submitted on DA Form 2339 (Application for Voluntary Retirement). See paragraph 12-12 for preparation instructions.

a. Personnel officers will require each member who desires to apply for retirement to read this chapter. Prior to applying for retirement, the member should carefully weigh all considerations and make certain that his decision to retire on a specified date is firm (para 12-13).

b. Personnel officers will make certain that all applicants for retirement who have not been counseled previously concerning Project REFERRAL are counseled on that program (see DA Cir 608-32, 31 March 1970, and para 3-8, AR 608-25). He will also furnish each applicant who has not previously received one a copy of DA Pamphlet 600-5 (Handbook on Retirement Services). As an exception to this subparagraph, The Adjutant General, Department of the Army, will continue to forward REFERRAL registration kits to retirement applicants stationed in Vietnam, as specified in paragraph 9, DA Cir 608-32.

c. Retirement applications will be forwarded to the retirement approval authority, direct or through channels prescribed by that commander, for approval or disapproval. Applications required by paragraph 12-3*b* to be forwarded to The Adjutant General, Department of the Army, will be forwarded through channels to that office.

12-12. Preparation of DA Form 2339. *a.* Each member requesting retirement will, with the assistance of the personnel officer, complete Section I, DA Form 2339, including date and signature. Each item will be completed in full. The words "not applicable (N/A)" or "none" will be entered where appropriate. When an exception to a service obligation is requested, complete justification will be included as an inclosure to DA Form 2339.

b. The officer having custody of the applicant's personnel records will—

(1) Assist the member in preparing his application. Special attention will be given to items 4, 6, 16, and 21.

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

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

(*c*) *Item 16.* Insure that all service claimed is correct. A member must have at least 20 years of creditable active Federal service to be eligible for retirement (see section IV—Computation of Service).

(*d*) *Item 21.* If member elects to be processed for retirement at a CONUS location of choice transfer activity (see para 2-18, AR 635-10), enter the complete designation and location of such transfer activity. *For example:* U.S. Army Transfer Point, Fort Sheridan, IL 60037. Member must check the appropriate election and sign his name.

(2) Complete Section II, DA Form 2339. Each item will be completed in full.

(*a*) *Item 23.* Enter in this item the complete designation and location of the authorized transfer activity where the member is required to be processed for retirement (chap 2 and app A, AR 635-10). *For example:* U.S. Army Transfer Station, Fort Lewis, WA 98433.

(*b*) *Item 32.* If member currently is serving in the grade of Sergeant Major, E-9 but formerly served as a Command Sergeant Major, E-9, enter whichever of the following statements is applicable (para 12-14).

1. SGM, E-9 ..... (name) served satisfactory as a CSM, E-9 from ..... (date) to ..... (date). He was released from CSM program solely because of an assignment limiting physical condition incurred in LD.

2. SGM, E-9 ..... (name) served as a CSM, E-9 from ..... (date) to ..... (date). He was released from CSM program due to inadequate performance of duty.

(3) Notify the Chief of Personnel Operations by message the name, SSN, grade, PMOS and date of retirement application of members who apply for retirement, as follows: ATTN: EPCMS, of members in grades E-7 through E-9 and those in grades E-6 and below identified in table 1-1, AR 614-200; ATTN: EPCMR, of members in grades E-6 and below (other than those identified in table 1-1, AR 614-200). An application will not be forwarded until a message or letter has been received from the Chief of Personnel Operations indicating that assignment instructions had not been issued prior to the date of the retirement application. A copy of the OPO message or letter will be attached to the retirement application when forwarded to the retirement approval authority. Applications received by that commander without the copy of the OPO message or letter attached will be returned without action. As an exception, notification is not required for individuals who:

(*a*) Are assigned to a unit scheduled for deployment. However, such applications will include the date the members of the unit were notified of the unit alert (Items 32, DA Form 2339) and will be forwarded to the retirement approval authority only if the notification was after the date of the retirement application. If a member withdraws his application prior to receipt of the clearance from the Chief of Personnel Operations, that office will be notified by message of such withdrawal. (In the event of Condition MINIMIZE, the notifications required by this paragraph will be dispatched via air mail.)

(*b*) Have received official notice of denial of reenlistment as a result of a Qualitative Management screening board action (chap. 4, AR 600-200). This notification should be received 6-12 months prior to scheduled ETS.

(*c*) Are within 12 months of scheduled ETS and, because of a combination of years of service and grade attained, are not eligible for reenlistment.

(4) Obtain verification of service (para 12-25).

(5) Schedule the member for medical examination (sec V). This examination is to be accomplished not earlier than 6 months prior to the requested retirement date. Consultations for and treatment of known medical and dental defects and conditions should be accomplished at an early date.

(6) Insure that the member's enlistment does not expire prior to the requested retirement date. If his enlistment will expire prior to the requested date of, or eligibility for voluntary retirement, his enlistment may be extended in monthly increments to the date of retirement, but not more than 11 months, under the provisions of paragraph 4-3, AR 601-280. These requests will be approved and oaths of extension accomplished before retirement applications are submitted. When the individual is not eligible for extension under AR 601-280, applications for exception will be forwarded to the Commanding Officer, Enlistment Eligibility Activity, 9700 Page Boulevard, St. Louis, MO 63132, for final action.

(7) Forward the complete application to the retirement approval authority, direct or through channels prescribed by that commander. A completed report of medical examination, or medical board proceedings not referred to a physical evaluation board, must accompany the application for retirement. Applications received by the retirement approval authority or an intermediate command without the report of medical examination or medical board proceedings will be returned without action.

Verification of service will also be included. In those cases where the applicant requests waiver of service obligation(s), commanders must comment on the justification submitted and include a statement concerning the essentiality of the member to the mission of the command.

(8) Furnish any additional information requested by the retirement approval authority, the appropriate Staff Surgeon (para 12-26), the Chief of Personnel Operations, The Adjutant General, and The Surgeon General.

(9) Forward one copy of the application, less the report of medical examination, to Chief of Personnel Operations, ATTN: EPCMS, on members in grades E-7 through E-9 and those in grades E-6 and below identified in table 1-1, AR 614-200, at the same time the original is forwarded through channels to the retirement approval authority.

(10) If, after retirement orders are issued, there is any change in the member's status or physical condition which precluded retirement, notify the retirement approval authority and the Chief of Personnel Operations, ATTN: EPD, immediately and obtain the decision of the retirement approval authority either to revoke the orders or to let them stand. Notify the service member of the decision prior to the effective date of retirement.

12-13. Request for withdrawal of application or change in retirement date. *a.* An application from an eligible member who is medically qualified for retirement may *not* be withdrawn after receipt of clearance from the Chief of Personnel Operations (para 12-12*b*(3)), except for those cases where it can be definitely established that the retention of the member on active duty is for the convenience of the Government or to preclude an extreme hardship to the member or his immediate family (latter applicable only to those cases where hardship was unforeseen at the time of application). Application for retirement may *not* be withdrawn if travel has been performed in connection with retirement.

b. A request for change in the retirement date will *not* be approved unless extenuating circumstances arise after submission of the application which clearly justify an exception to policy. The effective date of retirement may *not* be changed to a date which is more than 6 months after the date of the retirement medical examination.

c. Requests for withdrawal of applications or change in retirement date must be fully documented and will be forwarded through channels to reach the retirement approval authority not later than 30 days prior to the previously requested retirement date. The retirement approval authority may disapprove those requests which *clearly do not meet* established criteria or which *are not fully documented.* Those requests on which the retirement approval authority recommends approval will be forwarded to reach The Adjutant General, ATTN: AGPO-R, Washington, DC 20314, not later than 20 days prior to the previously requested retirement date. The retirement approval authority will inform the unit commander of this referral. When approval or disapproval action has not been received by the unit commander by the third day prior to whichever of the following dates applies, he will query the retirement approval authority or The Adjutant General, as applicable, by telephone (even when Condition MINIMIZE is in effect) to ascertain the action to be taken:

(1) Date member is to depart oversea command for return to CONUS or area of residence.

(2) Date member is to depart his duty station for authorized or location of choice transfer activity, as applicable.

(3) Previously requested retirement date when the retirement approval authority has approved a request for retirement in the oversea command.

12-14. Grade title on retired list of former Command Sergeants Major. *a.* Noncommissioned officers holding the grade of Sergeant Major, E-9 at time of retirement who were released from the Command Sergeants Major program on or after 13 July 1967 solely because of an assignment limiting physical condition which was incurred in line of duty and

who served satisfactorily as Command Sergeants Major, including those who voluntarily requested release from the program for such reason, will be placed on the retired list in the grade title "Command Sergeant Major."

b. Members whose release from the Command Sergeants Major program was due to inadequate performance of duty, and personnel holding the grade of E-8 or below on the date of their retirement, *are not eligible* to have their names placed on the retired list in the grade title of Command Sergeant Major. When there is insufficient information in field records on which to determine the member's eligibility for the grade title "Command Sergeant Major" on the retired list, inquiry will be made to Chief of Personnel Operations, ATTN: Command Sergeants Major Office, Department of the Army.

c. Retirement orders on eligible members will reflect relief from active duty as SGM, E-9 and placement on the retired list as CSM, E-9.

d. See paragraph 12-12*b*(2)(*b*) for entries to be made on DA Form 2339 (Application for Voluntary Retirement).

12-15. Retirement orders. *a.* These orders may be issued by either the retirement approval authority or the agency which normally issues separation orders on personnel of the member's unit of assignment, as specified by the retirement approval authority. In those cases in which The Adjutant General, Department of the Army, is the retirement approval authority, retirement orders will be issued by the normal orders issuing agency for the member's unit of assignment. The following standard orders formats contained in appendix A, AR 310-10, will be used to retire enlisted members for length of service.

(1) *TC 365:* to announce the retirement under 10 U.S.C. 3917 of enlisted personnel with 30 or more years' active Federal service. The orders will include the SPN shown in appendix A, AR 635-5, for retirement under 10 U.S.C. 3917.

(2) *TC 366:* to announce the retirement under 10 U.S.C. 3914 of enlisted personnel with 20 or more, but less than 30 years' active Federal service. The orders will include the appropriate SPN shown in appendix A, AR 635-5, for retirement under 10 U.S.C. 3914.

b. Retirement orders direct relief from active duty on the last day of the month and placement on the retired list on the first day of the following month. In the cases of members retired under 10 U.S.C. 3914, retirement orders also announce the transfer of the member, concurrent with his retirement, to the USAR (Retired). Relief from active duty and retirement are automatically accomplished on the dates specified in the orders unless the orders are amended or revoked by proper authority prior to 2400 hours (local time) on the date of relief from active duty specified therein. Except as indicated in *c* below, amendments to or revocations of retirement orders may be issued only by the authority which issued them. (See paragraph 9-64b, AR 600-200, concerning the submission of DA Form 2876 (Report of Change to DA Form 20).)

c. Once an order has been issued, it will *not* be amended or revoked except for extreme compassionate reasons or for the definitely established convenience of the Government (para 12-13*a*), or when a change in the member's status precludes retirement on the specified date. *Orders may not be modified, amended or revoked on or after the effective date of retirement in the absence of fraud, manifest error, mathematical miscalculation or substantial new evidence affecting the member's basic eligibility for retirement.* The following cases will be forwarded by the most expeditious means to The Adjutant General, ATTN: AGPO-R, with full substantiating information:

(1) When circumstances arise which require that retirement orders be amended or revoked prior to the effective date of retirement and the member has been reassigned outside the jurisdiction of the authority which issued such orders.

(2) When it appears that retirement orders require modification, amendment or revocation on or after the effective date of retirement.

d. One copy of the retirement orders (including any amendments or revocations) will be placed in the Military Personnel Records Jacket, together with the following essential papers:

(1) The original DA Form 2339 (Application for Voluntary Retirement).

(2) The complete medical examination report (para 12-27), showing medical review authority approval (para 12-26).

(3) Verification(s) of service, if any obtained (para 12-25).

(4) Determinations of extraordinary heroism (para 12-5*c*).

(5) Grade determinations for concurrent advancement on the retired list (para 12-7*c*).

(6) Approved or disapproved requests for waiver of or exception to service obligations (para 12-10).

(7) Approval or disapproval action on requests for withdrawal of application or change in retirement date (para 12-13).

(8) OPO clearance for submission of application (para 12-12*b*(3)).

(9) Determinations concerning grade title of former Command Sergeants Major (para 12-14).

(10) Other essential papers reflecting actions and reasons for actions taken.

12-16. Date of retirement. Members retiring for service may be placed on the retired list only on the first of a month, with release from active duty on the last day of the preceding month. A member will be retired on the date requested, or on the first day of the month thereafter, provided he is medically and otherwise qualified for retirement.

12-17. Place of retirement. *a.* Except as provided in *b* and *c* below and paragraph 3-2*a*, enlisted personnel, regardless of where stationed, are required to be processed for retirement at the authorized and directed transfer activity specified in paragraph 2-17, AR 635-10.

b. The provisions of paragraphs 2-18 and 2-19, AR 635-10 apply. If a member who has elected to be retired at a CONUS location of choice transfer activity subsequently desires to be retired at the authorized and directed place of retirement, he will, prior to his departure from the unit of assignment, submit adequate justification for this change to his commanding officer. If retirement orders have already been issued and if the member's commanding officer approves his request, that commander will immediately advise the transfer activity commanders at both the CONUS location of choice and the authorized and directed transfer activity of this change. In this situation, the retirement orders need not be amended and TC 207 and 208 *will not* be utilized. The only change the member who had elected to be processed for retirement at a CONUS location of choice may later make is from the location of choice transfer activity to the authorized and directed transfer activity. A change from one CONUS location of personal choice to another CONUS location of choice is *not* authorized.

c. For absence from home station in a leave status on date of retirement, see AR 630-5.

d. An individual serving on foreign service who desires retirement in his oversea area of assignment (subject to approval of oversea commander) should indicate this in his application for retirement. If required, a passport should be secured by the retiree from the nearest United States Consulate.

12-18. Certificates. The following certificates will be prepared and issued to each member upon retirement by the transfer activity at which the member's retirement processing is accomplished. These certificates are sensitive items and will be transmitted, stored, and destroyed in a manner that will prevent their unauthorized use. The certificates are available through normal publications supply channels from the USAAGPC, Baltimore, Md. Requisitions will be honored only from transfer activities listed in AR 635-10 and from approving authorities listed in paragraph 12-3*a*.

a. DD Form 363A (Certificate of Retirement).

b. DA Form 3563 (Certificate of Appreciation). The retirement approval authority may

direct that this certificate *not* be presented if he determines that the character of service of the individual is such that presentation is not warranted.

12-19. Notification of eligibility for advancement on retired list. The officer having custody of the member's personnel records will furnish the following information to the Commanding General, U.S. Army Administration Center, ATTN: AGUS-RPOD-PPO, St. Louis, MO 63132, in each case of a member who is retired with 20 or more, but less than 30, years' active Federal service and who has served on active duty in a grade (in any branch of the Armed Forces) higher than the grade in which he is being retired. This information will be forwarded at the time of issuance of retirement orders or immediately thereafter.

a. Member's full name, SSN, retired grade and date of retirement.

b. The higher grade, the branch of the Armed Forces in which member served on active duty in such grade, and the service number, or SSN, applicable to that grade.

c. Date member will complete 30 years' service.

12-20. Data for retired pay (DA Form 3713). DA Form 3713 (Date for Retired Pay) will be prepared by the officer having custody of the member's personnel records on each member for whom retirement orders are issued, including those members for whom the retirement orders are issued by The Adjutant General, Department of the Army.

a. This form contains information essential to the Retired Pay Division, Finance Center, U.S. Army, in establishing the member's retired pay account and essential data recorded on the Retired Personnel Master Tape Record maintained in Headquarters, Department of the Army, on each retired member of the Army. *Each item on the form must be completed fully and accurately*, with the exception of the following items which are not applicable to enlisted personnel retiring for length of service: items 5, 9, 23, 24, 25, 26, 27, 28, the right-hand portion of item 29, 30, and 33.

(1) *Item 3.* Enter member's active duty grade (para 12-4*a*(2)) or the grade to which advanced on the retired list concurrent with retirement (para 12-7*b*), as applicable.

(2) *Item 8.* Enter the highest grade (permanent or temporary) in which the member has served on active duty in any branch of the Armed Forces.

(3) *Item 10.* Enter the grade entered in Item 3.

(4) *Item 11.* Enter the full designation and address of the headquarters issuing the retirement orders.

(5) *Item 16.* For *all* retirements under this chapter—

(*a*) The *type of retirement* is "Non-Disability."

(*b*) The *Finance Allotment Code* is "2."

(6) *Item 17.* Enter the date member enters into a retired status (para 12-15*b*).

(7) *Item 18.* Enter "RA."

(8) *Item 20.* Enter "10 U.S.C. 3914" or "10 U.S.C. 3917", as applicable.

(9) *Item 21.* Enter "10 U.S.C. 3961." In cases of retirement under 10 U.S.C. 3917 with concurrent advancement to a higher grade on the retired list, enter "10 U.S.C. 3961 and 3964."

(10) *Item 22.* Enter the total service creditable for retirement as provided in 10 U.S.C. 3925 (para 12-23).

b. DA Form 3713 will be distributed as follows at the time retirement orders are issued. In no event will this form be distributed later than the second workday following the issuance of such orders. Distribution will be made via air mail in all cases in which retirement orders are issued during the member's last duty month.

(1) Copy 1 (original): to Commanding General, Finance Center, U.S. Army, ATTN: Chief, Retired Pay Division, Fort Benjamin Harrison, IN 46249, with one copy of the retirement or amendment orders.

(2) Copy 2: to Commanding Officer, U.S. Army Personnel Information Systems Command (USAPERSINSCOM), ATTN: DPS-OD, Washington, DC 20310.

(3) Copy 3: place in the Military Person-

nel Records Jacket with the retirement orders and papers specified in paragraph 12-15*d*.

(4) Copy 4: to The Adjutant General, ATTN: AGPO-R, Department of the Army, Washington, DC 20314.

c. When items of information on DA Form 3713 must be corrected after the form has been distributed, a new DA Form 3713 will be prepared and distributed as indicated in *b* above. The item numbers being changed will be shown on the line for that purpose (upper left corner of the form) and items 1, 2, 3, 4, 11, 12, 13 (or 14), and 15, plus the items being changed, will be completed in each case. All other items will be left blank.

d. When retirement orders are revoked following the distribution of DA Form 3713, a copy of the revocation order will be distributed as indicated in *b* above. These orders will be forwarded to the addressees with the normal distribution of DA Forms 3713.

12-21. DD Form 1688 (Election of Options for Retired Serviceman's Family Protection Plan). The original DD Form 1688 and/or DA Form 1041 (Election of Options under the Uniformed Services Contingency Option Act of 1953) executed by enlisted personnel who have made an election of options under the plan is maintained in the member's Official Military Personnel File at the U.S. Army Enlisted Personnel Support Center, Fort Benjamin Harrison, Indiana. The Commanding Officer of that Center will furnish these forms expeditiously to the Chief, Retired Pay Division, Finance Center, U.S. Army, Fort Benjamin Harrison, Indiana, upon request.

12-22. References. Additional information concerning retirement is contained in the following publications:

Decorations and awards	AR 672-5-1
Identification and dependents' privilege cards	AR 606-5
Preparation of DD Form 214	AR 635-5
Preretirement leave	AR 630-5
Records disposition	AR 635-10 and AR 640-10
Retirement ceremony	AR 600-25
Retirement processing	AR 635-10
Selection of home	Paragraph M4158, JTR
Shipment of household goods	Paragraph M8260, JTR
Transportation of dependents	Paragraph M7010, JTR

Section IV. COMPUTATION OF SERVICE

12-23. Service creditable for retirement. In general, years of service creditable for retirement are computed by adding all active service in the Armed Forces of the United States and service computed under 10 U.S.C. 3683 (10 U.S.C. 3925). All service shown below is creditable for retirement under this chapter and is creditable for basic pay purposes. For other service creditable for basic pay, see Chapter 1, Part 1, Department of Defense Military Pay and Allowances Entitlements Manual. Whenever "active Federal service" is specified, it includes active duty for training and other fulltime training duty (37 U.S.C. 101(18)). Service below is creditable for retirement if performed as a commissioned officer, commissioned warrant officer, warrant officer, Army field clerk, flight officer, or enlisted member unless otherwise specified.

a. *Army*.

(1) U.S. Army (Regular).

(2) Women's Army Corps.

(3) Active Federal service in the—

(*a*) Regular Army Reserve.

(*b*) Army of the United States.

(*c*) U.S. Army Reserve.

(*d*) Organized Reserve Corps.

(*e*) Officers Reserve Corps.

(*f*) Enlisted Reserve Corps.

(*g*) Army National Guard.

(*h*) Army National Guard of the United States.

(*i*) Army Nurse Corps as it existed at any time before 16 April 1947.

(4) All active service performed under an appointment under the act of 22 December 1942 (ch. 805, 56 Stat. 1072) or the act of 22 June 1944 (ch. 272, 58 Stat. 324).

(5) All active full-time service, except as a student or apprentice, with the Medical Department of the Army as a civilian employee—

(*a*) In the dietetic or physical therapy categories, if the service was performed after 6 April 1917 and before 1 April 1943, or

(*b*) In the occupational therapy category, if the service was performed before appointment in the Army Nurse Corps or the Women's Medical Specialist Corps and before 1 January 1949.

(6) Cadet, U.S. Military Academy.

(7) Women's Army Auxiliary Corps (active service performed after 13 May 1942 and before 30 September 1943).

(8) Philippine Scouts.

(9) Officer Training Camp as an enlisted member.

(10) Fraudulent enlistment, if enlistment was not voided.

(11) Civilian Conservation Corps (active duty as commissioned officer).

b. Navy.

(1) U.S. Navy (Regular).

(2) Active Federal service in the—

(*a*) U.S. Naval Reserve.

(*b*) Naval Militia.

(*c*) Naval Reserve Force.

(*d*) Navy Nurse Corps as it existed at any time before 6 April 1947.

(3) V-12 Program of World War II (service in dual status as enlisted member on active duty as midshipman in the program).

(4) Midshipman, U.S. Naval Academy.

c. Air Force.

(1) U.S. Air Force (Regular).

(2) Active Federal service in the—

(*a*) Air Force of the United States.

(*b*) U.S. Air Force Reserve.

(*c*) Air National Guard.

(*d*) Air National Guard of the United States.

(3) Aviation Cadet.

(4) Cadet, U.S. Air Force Academy.

d. Marine Corps.

(1) U.S. Marine Corps (Regular).

(2) Active Federal service in the—

(*a*) U.S. Marine Corps Reserve.

(*b*) Marine Corps Reserve Force.

e. Coast Guard.

(1) U.S. Coast Guard (Regular).

(2) Active Federal service in the U.S. Coast Guard Reserve.

(3) Midshipman, U.S. Coast Guard Academy.

f. Public Health Service. Active Federal service as a commissioned officer in the Reserve Corps of the Public Health Service.

g. Minority service. All service performed under an enlistment or induction entered into before attaining the age prescribed by law for that enlistment or induction when such service is otherwise creditable.

12-24. Periods not creditable for retirement. None of the following periods are creditable for retirement under this chapter:

a. All time required to be made up (10 U.S.C. 972). See paragraph 2-3.

b. Periods of service voided by the Government other than those voided by reason of minority.

c. Time in a nonpay (noncasualty) status under 37 U.S.C. 552(C).

d. Service in a Reserve component not on—

(1) Active duty.

(2) Active duty for training.

(3) Other full-time training duty.

12-25. Verification of service. *a.* Each enlisted member of the Regular Army will be interviewed by the officer having custody of his personnel records when the member completes 18 years' service for basic pay to determine if he has had service (active Federal service or inactive service in any branch of the Armed Forces) in addition to that shown in his Military Personnel Records Jacket (DA Form 201). Further verification is not required in the cases of members whose only claimed service is Army service which is clearly substantiated in their MPRJ.

b. Army service claimed by the member which is not clearly substantiated in his MPRJ will be verified with the following, as appropriate:

(1) Claimed National Guard service will be verified with the Adjutant General of the State or territory (see appendix for list of addresses).

(2) When the applicant has had breaks in Army service or periods of prior Army service which have not been previously veri-

fied, one copy of DA Form 2339 (Application for Voluntary Retirement) will be submitted to the Commanding Officer, U.S. Army Enlisted Personnel Support Center, ATTN: AGPE-VC, Fort Benjamin Harrison, IN 46249, requesting verification. It is important that inclusive dates for all service claimed, both active Federal service and inactive service, be furnished.

c. Verification of other than Army service claimed by the applicant will consist of certified statements of service and other official statements furnished from the applicable addressee(s) below. Statements will contain all dates of active duty, active duty for training or other full-time training duty, and all time lost. The original or certified copies will be attached as inclosure(s) to an application for retirement.

(1) *Navy.* Military Personnel Records Center, GSA (Navy), 9700 Page Boulevard, St. Louis, MO 63132.

(2) *Air Force.* Military Personnel Records Center, GSA (Air Force), 9700 Page Boulevard, St. Louis, MO 63132.

(3) *Marine Corps.* Military Personnel Records Center, GSA (Marine Corps), 9700 Page Boulevard, St. Louis, MO 63132.

(4) *Coast Guard.* Commandant, U.S. Coast Guard, Washington, DC 20226.

(5) *National Guard.* Adjutant General of the State concerned.

d. The signature of the unit commander or personnel officer at the close of Section II, DA Form 2339 certifies that the service claimed by the member in items 16 through 20, DA Form 2339, is correct, except as otherwise indicated in items 27 and/or 32.

Section V. REPORT OF MEDICAL EXAMINATION

12-26. General. *a.* The purpose of the retirement medical examination is to identify conditions which may require attention and to record as accurately as possible the state of health of the individual as a means of protecting the interests of the individual and the Government. Medical examinations will be accomplished not earlier than 6 months nor later than 3 months prior to the member's retirement date. No member will be retired unless he undergoes the prescribed medical examination.

b. A medical examination of the scope prescribed in chapter 10 and appendix IX, AR 40-501 will serve as a basis for determining whether a member is medically fit for retirement, requires medical care, or referral to medical or physical evaluation boards for further processing under the provisions of AR 40-3 and AR 635-40.

c. All reports of such medical examination, or medical board proceedings not referred to a physical evaluation board, must be reviewed and approved in the office of the authorized Staff Surgeon, or The Surgeon General, Department of the Army, as indicated below, prior to retirement. The Staff Surgeons at the following headquarters are authorized to review and approve such reports of medical examination or medical board proceedings, as applicable, prior to retirement: CONUS numbered Army Areas; U.S. Army, Alaska; U.S. Army, Europe; U.S. Army, Pacific; U.S. Army Forces Southern Command; Eighth U.S. Army; U.S. Army Hawaii; U.S. Army, Japan; U.S. Army, Ryukyu Islands; U.S. Army Support, Thailand; U.S. Army Materiel Command; U.S. Army Air Defense Command; U.S. Army Strategic Communications Command; and U.S. Army Recruiting Command. This authority will not be further delegated.

(1) In all cases, other than those coming under (2) and (3) below, in which the commander having retirement approval authority (para 12-3) does not have a Staff Surgeon to whom medical review and approval authority has been delegated, the medical review and approval will be accomplished by the Staff Surgeon of the numbered CONUS Army Area Headquarters or oversea command in which the member's unit of assignment is geographically located. The member's personnel officer will forward the report of medical examination or medical board proceedings to such Staff Surgeon *prior to* forwarding the complete retirement application to the retirement approval authority for action.

(2) Reports of medical examination or medical board proceedings on personnel assigned to units under the jurisdiction of the Commanding General, Military District of Washington, will be forwarded by that commander to The Surgeon General, ATTN: MEDPS-SD, Department of the Army, Washington, DC 20314, for medical review and approval.

(3) Reports of medical examination or medical board proceedings on personnel assigned to units located within the geographic area of the Military District of Washington which are under the jurisdiction of a retirement approval authority (other than the CG, MDW) whose headquarters is located within that geographic area, and who does not have a Staff Surgeon to whom medical review and approval authority has been delegated, will be forwarded by the retirement approval authority to The Surgeon General, ATTN: MEDPS-SD, Department of the Army, Washington, DC 20314, for medical review and approval.

(4) The report of medical examination will accompany those retirement applications which are required to be forwarded to The Adjutant General, Department of the Army, for approval (para 12-3*b*). The Adjutant General will refer the report of examination to The Surgeon General for medical review.

d. The report of medical examination or medical board proceedings *must* accompany the retirement application (para 12-12*b*(7)).

12-27. Medical examination reports. *a.* A medical examination report for retirement will consist of the originals of the following:

(1) Report of Medical Examination (Standard Form 88) and

(2) Report of Medical History (Standard Form 89) and

(3) Electrocardiogram properly mounted and identified on Clinical Record—Electrocardiographic Record (Standard Form 520) and

(4) Report of any consultation(s) accomplished, or

(5) Complete report of medical board proceedings accomplished under the provisions of AR 40-3, Medical Board Proceedings (DA Form 8-118) Clinical Record—Narrative Summary (Standard Form 502), Report of Medical Examination (Standard Form 88).

b. One copy of the complete report of medical examination or medical board proceedings will be filed in Health Records Jacket (DD Form 722). Additional copies will be placed in the Health Record Jacket for distribution by the transfer activity in accordance with AR 635-10.

c. Any additional consultations or examinations deemed necessary by the medical review authority will be accomplished with the least possible delay and the reports will be forwarded expeditiously.

12-28. Members hospitalized. *a.* If the member is hospitalized *after* the retirement application has been forwarded to the retirement approval authority, the unit commander will obtain and furnish the following information to the retirement approval authority and the Chief of Personnel Operations, ATTN: EPCMS, as soon as possible after member is admitted to the hospital:

(1) Date of hospitalization.

(2) Name of the medical facility.

(3) Diagnosis and prognosis.

(4) Probable date of disposition.

(5) Probability or fact that referral to a physical evaluation board is or is not required (AR 635-40).

b. If the member is hospitalized, or hospitalization is imminent, *prior to* the retirement application being forwarded to the retirement approval authority, the commander having custody of the member's personnel records will—

(1) If the hospitalization is for corrective surgery or treatment which will *not* result in the member's appearance before a physical evaluation board, forward the application, at the time it would otherwise be forwarded, to the retirement approval authority. The member's retirement will *not* be delayed beyond the requested retirement date specified in the application in such cases.

(2) If the hospitalization is for reasons

other than (1) above, retain the application until the member's medical fitness for retirement for length of service is determined.

c. When maximum hospital benefit is attained and the member is referred to a physical evaluation board by a medical board, he will be processed in accordance with AR 635-40. The member's unit commander will report such referral to the retirement approval authority and to the Chief of Personnel Operations, ATTN: EPCMS.

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CHAPTER 2

SEPARATION OF ENLISTED PERSONNEL

Section I. ELIGIBILITY FOR SEPARATION

2-1. Statutory authority. Title 10, United States Code, section 1169, provides that no enlisted member of the Army may be discharged before his term expires except—

a. As prescribed by the Secretary of the Army.

b. By sentence of a general or special court-martial.

c. As otherwise provided by law.

2-2. Discharge or release from the Active Army upon termination of enlistment, period of induction, and other periods of active duty or active duty for training. *a.* The periods of military service required of all members of the Army will be in accordance with applicable laws. Periods for which enlistment is authorized are set forth in NGR 25-1, AR 140-111, and AR 601-210. Periods for which individuals are inducted or ordered to active duty are prescribed by law.

b. The following aliens will not be separated prior to the full period for which enlisted or inducted purely as a matter of convenience, except as provided in paragraph 5-2:

(1) Aliens who enlisted in the Regular Army for a period of 3 years (see section 328, Act of 27 June 1952 (66 Stat. 249; 8 U.S.C. 1439) for requirements as to naturalization).

(2) Aliens who were enlisted or inducted in the Army for a period of 24 months active duty and who were in the United States at the time of enlistment or induction (see section 4, Act of 24 October 1962 (76 Stat. 1247; 8 U.S.C. 1254)).

If performance or conduct does not justify their retention, they will be processed for separation under appropriate regulations.

c. Personnel who are physically unfit for retention (chap. 3, AR 40-501) but who were accepted for, or continued in, military service under the provisions of AR 635-40 or similar directives, will not be separated by reason of expiration of term of service unless processing for separation by reason of physical disability is waived.

★*d.* Subject to the provisions of section V of this chapter an individual enlisted, inducted, or ordered to active duty normally will be discharged, or released from active duty on the date upon which he completes the period for which enlisted, inducted, or ordered to active duty. However, an individual other than those listed in *b* above, whose term of service expires or who otherwise becomes eligible for discharge or release from active duty on a Saturday, Sunday, or legal holiday may, with his consent, be discharged or released to or transferred to the United States Army Reserve on the last working day prior to normal date of discharge or release. An individual listed in *b* above, whose term of service expires or who otherwise becomes eligible for separation on a Saturday, Sunday or legal holiday, may, with his consent, be released from active duty and be transferred to the United States Army Reserve on the last working day prior to his normal date of discharge or release, if otherwise appropriate, *but may not be discharged* on such date. Individuals whose rate of pay is subject to change on a Saturday, Sunday, or legal holiday upon which they would be separated will not be discharged until their normal separation date unless they request otherwise. The actual date of release or discharge will be recorded in item 11d, DD Form 214. Personnel released from active duty and transferred to the United States Army Reserve upon completion of the term of service for which inducted or ordered into active Federal service, or released to their Reserve component upon completion of active duty, will not be discharged until completion of their Reserve obligation.

e. AR 135-90 and AR 135-91 define the various service obligations incurred by military personnel upon initial entry into military service and prescribe the methods of fulfillment. Enlisted personnel who will not continue or reenter on active duty in another status will be released by separation orders to the Army National Guard of the United States or to the United States Army Reserve as set forth in paragraph E-1, AR 635-10 (Under Separation orders, pages E-5 and E-6).

f. A noncitizen who incurred a Reserve obligation upon induction into military service but who at time of release from active duty fails or refuses to give a mailing address within the United States, Puerto Rico, the Virgin Islands, Guam, or the Canal Zone, but gives only an address in a foreign country as a permanent mailing address (item 33, DD Form 214, Armed Forces of the United States Report of Transfer or Discharge), thus showing his intention to reside permanently outside the United States, is not eligible for transfer to the United States Army Reserve. He will be discharged upon and by reason of having completed the period of service for which inducted, but will be advised prior to such discharge that it may permanently bar him from United States citizenship.

g. Members of the Army National Guard of the United States and the United States Army Reserve ordered to active duty for a period in excess of 90 days will, upon release from active duty, revert to control of the appropriate Reserve component.

h. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 will be out-processed in accordance with AR 612-200.

i. Individuals serving as cadets in military academies whose expiration of enlisted term of service occurs while individual is serving in such capacity will be discharged or released, as appropriate.

j. An enlisted person who at the time of entry on active duty held an appointment as a United States Army Reserve commissioned or warrant officer, or who while on active duty accepts appointment and such appointment is still current, will not be transferred to the United States Army Reserve in his enlisted status but will be discharged. Special orders discharging the individual will be prepared as prescribed in AR 310-10 and will indicate that the individual is transferred to the United States Army Reserve in his commissioned or warrant grade. Discharge to enter another military status does not terminate the individual's military service obligation incurred under title 10, United States Code, subsection 651a.

★**2-2.1. Counseling required for certain retirement-eligible personnel.** *a.* Each enlisted member of the Regular Army who, upon expiration of term of service, will have completed 20 or more years of active Federal service will be counseled by his personnel officer regarding his options and their consequences in accordance with the following if he:

(1) Has a service obligation remaining which would require extension of his current enlistment, or reenlistment, to complete.

(2) May be ineligible for immediate or subsequent reenlistment for any reason.

b. Counseling will be accomplished during the sixth month prior to the member's ETS, whether or not he states an intention to submit an application for retirement.

c. The member will be required to sign a statement that he has been counseled and that he fully understands the consequences of being discharged upon ETS rather than extending or reenlisting in order to complete a service obligation (see paragraph 12-12*b*(6), this regulation, and paragraph 4-3, AR 601-280, concerning enlistment extensions), or of retiring if he is ineligible to reenlist. The formats in figures 2-1 and 2-2 will be reproduced locally for this purpose. Figure 2-1 will be used for personnel affected by *a*(1) above and figure 2-2 for personnel affected by *a*(2) above. The statement will be completed in duplicate and both copies will be signed by the member. The original signed statement will be forwarded to the Commanding Officer, US Army Enlisted Personnel Support Center, Fort Benjamin Harrison, IN 46249, for file in the member's OMPF as a permanent document. The signed copy of the statement will be placed in the member's MPRJ as an action-pending document.

d. The following information will be imparted to the service member during his counseling session:

(1) Under 10 USC 3914 an enlisted member must be on active duty at the time he applies for retirement, and retirement must be accomplished while he is on active duty.

(2) A member who elects to be discharged upon ETS rather than reenlist or extend his enlistment, as appropriate, to complete a service obligation (para 12-9) will not be eligible to enlist until 93 days following his discharge. The subsequent reenlistment may be in a grade lower than the grade held at the time of discharge. Thus, retirement during that term of service would also have to be in the lower grade unless the individual

is promoted to a higher grade during such period of service prior to his retirement, or is eligible to retire under 10 USC 3917 (30 or more years of active Federal service).

(3) Retirement cannot be retroactive. Therefore, a member who is discharged, later reenlists, and then retires, cannot be placed in a retired pay status for the period between his discharge and subsequent reenlistment. His retired pay will be based on the grade in which he is retired.

(4) Individuals precluded from reenlistment for any reason (e.g., provisions of the Qualitative Management Program, Chapter 4, AR 600-200) would forfeit their retirement eligibility altogether, since there would be no way for them to regain an active duty status for the purpose of applying for retirement.

e. The failure to counsel an enlisted member under this paragraph will not operate to alter his status or entitlement to any benefits.

Section II. DISCHARGE, RELEASE FROM ACTIVE DUTY, OR RELEASE FROM ACTIVE DUTY FOR TRAINING AFTER EXPIRATION OF PERIOD OF ACTIVE DUTY OR ACTIVE DUTY FOR TRAINING

2-3. Time lost to be made good. Every individual in active Federal service who renders himself unable for more than 1 day to perform duty will be liable, after a return to full duty status, to serve for such period as is necessary to complete his full term of service or obligation, exclusive of such time lost.

a. Lost time in the sense of this regulation refers to periods of more than 1 day during which an individual on active duty is unable to perform duty because of—

(1) Desertion.

(2) Absence without proper authority.

(3) Confinement under sentence.

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

(5) Intemperate use of drugs or alcoholic liquor.

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

b. Time lost during an enlistment or induction period will be made good at the end of the enlistment or induction period, except that when an enlistment or period of induction is extended by law, time lost will be made good at the end of the extension. This requirement may be waived by Headquarters, Department of the Army. Recommendations for waiver of time lost will be submitted to The Adjutant General, ATTN: AGPO-SS, Department of the Army, Washington, DC 20314 when the discharge authority considers that because of unusual or extenuating circumstances waiver of time lost is in the best interest of the individual and the Government.

c. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 (trainees performing

AFFIDAVIT

I, (_____) am being subjected
(Name, grade, SSAN, organization)
to the exercise of criminal jurisdiction of the government of _____
_____. I am presently:

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

I request that I be retained in the service beyond _____, the
(Date)
expiration date of my term of service, until such time as final action on charges against me by the foreign government has been completed.

I have been advised of my rights under Article 31, UCMJ. I have also been informed that since I am subject to the UCMJ it is possible that courts-martial charges may be preferred against me if the foreign government does not proceed with its case. I certify that this request for retention in the service is not the result of coercion, force, or threat of harm, nor have I been promised any benefits by the military authorities of the United States.

_____
(Signature of member)

★*c.* If neither of the provisions of *a* above can be complied with, the case, with full details, will be referred through channels to The Adjutant General, ATTN: AGPO-SS, Department of the Army, Washington, DC 20314, for instructions. Care will be exercised to insure that each case is submitted prior to the date of the individual's expiration of term of service.

Section IV. SEPARATION PRIOR TO EXPIRATION OF TERM OF SERVICE

2-12. Discharge or release from active duty prior to expiration of period of service. *a.* Except as indicated in *b* and *c* below, when separation is to be accomplished prior to expiration of enlistment, period for which inducted, or ordered to active duty or active duty for training of REP 63 trainees, it will be accomplished under whichever of the following chapters of this regulation or other regulations that are appropriate by the commander as specified in section VI:

(1) Conscientious objection....AR 635-20
(2) Physical disability.....AR 635-40
(3) Dishonorable and bad conduct.....Chapter 11
(4) Marriage, pregnancy, or parenthood.....Chapter 8
(5) Minority.....Chapter 7
(6) Dependency or hardship.....Chapter 6
(7) Misconduct (fraudulent entry, conviction by civil court, AWOL, desertion).....AR 635-206
(8) Resignation.....Chapter 9
(9) Unfitness.....AR 635-212
(10) Military Personnel Security Program.....AR 604-10
(11) Homosexuality.....AR 635-212
(12) Convenience of the Government.....Chapter 5
(13) Unsuitability.....AR 635-212
★(14) Discharge and reenlistment in the Army National Guard of the United States while on duty.....AR 601-280
★(15) Separation and reentry of nonregular personnel or extension of active duty.....AR 601-280
(16) Discharge for the good of the service.....Chapter 10
(17) Relief from active duty of *recalled retired enlisted personnel*...AR 601-250

★*b.* When discharge or release from active duty is to be accomplished prior to expiration of enlistment, induction, or period for which ordered to active duty or active duty for training, time lost during such term of service need not be made good, except that in cases where discharge or release for the convenience of the Government is to be accomplished under the provisions of sections VI, VII, VIII, and IX, chapter 5, the expiration of term of required service of an individual with time lost will be adjusted to include such lost time (adjusted ETS). Early discharge for the purpose of immediate reenlistment in the Regular Army under the provisions of paragraph 5-10, where the member concerned has lost time, may be accomplished only upon waiver, where required, of the disqualification for reenlistment created by loss of time as set forth in AR 601-280.

c. Enlisted personnel under sentence to dishonorable or bad conduct discharge will not be discharged or released from active duty prior to completion of appellate review, unless so directed by Headquarters, Department of the Army.

★*d.* When resignation is accepted under the provisions of paragraph 9-5, 9-6, 9-7, 9-8, or 9-9, or when individual is discharged under the provisions of chapter 10 of this regulation or AR 635-206 or AR 635-212, the case file of the individual will be reviewed by the commander having authority to approve discharge to determine whether the reporting requirements set forth in AR 190-10 are applicable. When such conditions exist in an individual's case file, the report required by AR 190-10 will be submitted.

Section V. EFFECTIVE DATE OF DISCHARGE

2-13. Effective date of discharge. *a.* The discharge of an enlisted person for the reasons listed in (1), (2), and (3) below is effective at 2400 hours on the date of notice of discharge, and the enlisted person will be so notified.

(1) Discharge by reason of expiration of term of service.

(2) Discharge for the purpose of continuing on active duty in the same or another status.

(3) Discharge from a Reserve component status under honorable conditions and is entitled to travel time.

b. Release from active duty of an enlisted person is effective at 2400 hours on the date of release when the individual—

(1) Is transferred to the U.S. Army Reserve for the purpose of completing a Reserve obligation incurred under the Universal Military Training and Service Act.

(2) Reverts to the jurisdiction of the U.S. Army Reserve or the State National Guard to complete the unexpired portion of an enlistment contract in such component.

(3) Is transferred to the temporary disability retired list under the provisions of AR 635-40, except that, in terminal cases, retirement orders will designate the specific time of the day (identified by appropriate time zone) at which retirement is effective.

c. Discharge for all reasons, other than those set forth in *a* above, is effective at time of notice to the enlisted person of discharge.

d. Notice of discharge may be either—

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

(2) Constructive, when actual delivery of the discharge certificate cannot be accomplished owing to the absence of the individual to be discharged. For example, such a situation would arise if the individual were on leave or in the hands of civil authorities. Receipt by the individual's organization at his proper station of the order directing his discharge will be deemed sufficient notice. Except when the individual was on leave when discharged, the date of receipt of the order and the reason why actual notice thereof was not given will be entered, by indorsement, on the back of the discharge certificate. If delivery of the discharge certificate cannot be made, it will be forwarded to The Commanding Officer, U.S. Army Administration Center, 9700 Page Boulevard, St. Louis, MO 63132, together with a statement of the reasons therefore.

2-14. Mentally incompetent. The effective date of discharge of a mentally incompetent individual may also be constructive, as when he has been placed in an institution. See AR 635-40.

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2-15. When retained in service awaiting trial or result of trial. When an individual is retained in service as prescribed in paragraph 2-4, the effective date of his discharge or release from active duty depends upon the result of his trial or the disposition made of the case. Examples are given below.

a. An individual who has previously lost no time which he is required to make good under title 10, United States Code, section 972, who is confined awaiting trial will, if acquitted subsequent to expiration of term of service date, be discharged or released from active duty within 5 days after date of announcement of acquittal, and will be regarded as having been retained in service for the convenience of the Government.

b. An individual who is confined awaiting trial will, if convicted and sentenced to either confinement only, or confinement and forfeiture only, be discharged on the adjusted expiration date of term of service. The adjusted ETS date will be computed by adding to the original ETS date all time lost prior to and including the original ETS date.

c. An individual who is retained under the provisions of paragraph 2-4, with a view to trial by court-martial and court-martial charges are not preferred or are disposed of without trial, will be separated within 5 days after the decision is made and will be regarded as having been retained in service for the convenience of the Government.

★2-16. Absent without leave or in hands of civil authorities. *a.* Discharge of individuals absent without leave or who have been convicted by the civil authorities is governed by AR 635-206 except for those individuals who have been sentenced by court-martial to dishonorable or bad conduct discharges.

b. When an individual ordered discharged by competent authority under provisions of AR 635-206, AR 635-212, or chapter 10 of this regulation absents himself without leave or is absent in the hands of civil authorities while in the continental United States or area of residence, his discharge may be executed notwithstanding such absence provided the absence occurred subsequent to the date—

(1) The completed board proceedings (when the board has recommended discharge) are forwarded to the commander exercising general or special court-martial jurisdiction, as appropriate, or

(2) When the board hearing has been waived, the case is forwarded to the commander exercising general or special court-martial jurisdiction, as appropriate. Discharge Certificate, Armed Forces of the United States Report of Transfer or Discharge (DD Form 214) and orders will be dispatched by certified mail, with return receipt requested, to the individual at the address provided for that purpose. If the forms are returned unclaimed, or for any other reason prove undeliverable, they will be forwarded, along with report of action, to the Commanding General, U.S. Army Administration Center, 9700 Page Boulevard, St. Louis, MO 63132, for file with the individual's records. Distribution of DD Form 214 will be made in accordance with AR 635-5.

c. An individual in a duty status who is delivered to civil authorities, in accordance with AR 633-1, prior to expiration of his term of service, will be credited with the period of time in the hands of civil authorities in the computation of his expiration of term of service date unless he is finally convicted prior to expiration of term of service. When his term of service expires, he will be separated in absentia by reason of expiration of term of service. A type A medical examination as prescribed in chapter 10 and appendix IX, AR 40-501, will be administered prior to separation. The commander exercising general or special court-martial authority, as appropriate, will schedule such examination to be accomplished at the nearest Armed Forces medical treatment facility, if feasible, or by civilian physicians on the staff of a civilian facility, or by fee-basis physicians employed for this purpose. The fees prescribed by AR 40-330 will apply for medical examinations, and consultations accomplished by civilian physicians. If the medical examination is accomplished by a civilian physician the report (SF 88, SF 89, and consultation reports) will be reviewed by a military physician prior to separation action. Discharge Certificate (DD Form 214) and orders will be dispatched to the individual by certified mail, with return receipt requested.

d. Except as provided in *a* and *b* above, or when directed by Headquarters, Department of the Army, an individual in the hands of civil authorities will not be separated from military service. Morning report entries for individuals in the

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hands of civil authorities will be made in accordance with table 3-8, AR 680-1. An individual in the hands of civil authorities does not accrue service creditable for completion of his period of enlistment, induction, or order to active duty except for any period in which he was on an authorized leave status. Upon return to military control, an individual's expiration of term of service date will be computed. When an individual's term of service has expired, his separation will be accomplished within 5 days of his return to military control and he will be regarded as having been retained in service for the convenience of the Government. For pay and allowances see DODPM.

Section VI. AUTHORITY TO ORDER SEPARATION AND ACCOMPLISH SEPARATION

2-17. Authority to order discharge or release from active duty prior to expiration period of service. Authority is granted to the following commanders to order discharge or release from active duty of enlisted individuals prior to expiration of enlistment, induction, or period for which ordered to active duty:

a. Discharge or release from active duty not including general court-martial authority. Commanders of all units and installations (including class II installations) which are commanded by, or are under the normal command of a general officer; commanders of Army hospitals under the command jurisdiction of The Surgeon General of the Army; commanders of personnel centers, training centers, oversea replacement depots, transportation terminal commands, and all active installations having an authorized strength of 4,000 or more personnel. The above commanders are not authorized to delegate discharge authority to subordinate commanders without prior approval of the Secretary of the Army.

b. Discharge involving general court-martial authority. Commanders exercising general court-martial jurisdiction are authorized to order discharge under AR 635-206, AR 635-212, and chapters 10 and 11 of this regulation. This authority may be delegated, except for chapter 11 of this regulation, to a general officer in command who has a judge advocate on his staff for cases arising in that command. Every action taken pursuant to such a delegation will state the authority therefor.

c. Authority to order discharge or release from active duty of enlisted personnel at class II installations. In the absence of prior instructions, commanders of class II installations not having transfer activities or authority to issue PCS orders will contact the appropriate field commander or service for issuance of orders in connection with the release from active duty.

d. Discharge involving special court-martial authority. Commanders exercising special court-martial jurisdiction are authorized to order discharge for unsuitability under AR 635-212.

e. Discharge of an enlisted woman for pregnancy. Commanders of all units and installations which are commanded by, or are under the normal command of general officers *and colonels*, and other commanders as specified in paragraph 2-17 are authorized to discharge for pregnancy under section III, chapter 8.

2-18. Expiration of term of service. Separation will be accomplished by the transfer facility processing the member for separation (see AR 635-10), pursuant to the discharge order issued by the appropriate commander.

2-19. Reason and authority for separation. The specific reason and authority for separation entered in item 11c, DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) will be entered as shown in AR 635-5.

2-20. Action by commanders having discharge authority. Commanders having discharge authority directing discharge or release from active duty of an enlisted person will comply with the provisions of AR 635-10.

Immigration and Naturalization Service. Upon receipt of information that these individuals are subject to deportation proceedings at this time, that their custody is desired by the immigration officials, or upon release from military control, they will be reported through channels to The Adjutant General, Department of the Army, ATTN: AGPO-SS, Washington, DC 20314. Upon direction of Headquarters, Department of the Army, an individual will be released from custody of the Army by virtue of an erroneous induction by Special Orders. DD Form 214 will be issued and completed in accordance with AR 635-5 except for items 11a, 11c, 13a, 15, and 16. The entry in the foregoing items will be as follows:

(1) Item 11a. Released from military control.

(2) Item 11c. AR 635-200, SPN 311.

(3) Item 13a. Character of service will be honorable or under honorable conditions as indicated in section II, chapter 1.

(4) Item 15. NA.

(5) Item 16. NA.

For pay and allowances, see table 1-4-1, Department of Defense Military Pay and Allowances Entitlements Manual (DODPM). Commanders responsible for issuing Special Orders will notify immigration officials of the release or discharge action so that they may take the individual into custody, if they so desire.

5-7. Discharge of members of the Reserve components on active duty. Commanders specified in section VI, chapter 2, are authorized to order discharge of those members of the Reserve components on active duty who are precluded from attaining eligibility for retirement with pay as provided by title 10, U.S.C. 1331. Commanders will examine the facts of the applicants' ability to complete the service required for retirement under cited law. In those cases in which personnel cannot complete the required service before further enlistment in the Reserve component is barred because of age, either under Federal or State law, discharge, if requested by the individual, will be directed. Authority (AR 635-200) and SPN 312 will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

5-8. Discharge of individuals serving in unspecified enlistments. *a.* Enlisted personnel referred to in (1) and (2) below who do not submit an application for retirement will be discharged after serving 6 years in an unspecified enlistment. Commanders specified in section VI, chapter 2, are authorized to order the discharge of these individuals.

(1) Those who have completed 30 years' active Federal service. Authority (AR 635-200) and SPN 418 will be included in directives or orders directing individual to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

(2) Those who have completed 20 or more years active Federal service and are 55 years of age. Authority (AR 635-200) and SPN 419 will be included in directives or orders directing individual to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

b. Commanders specified in section VI, chapter 2, may recommend discharge of enlisted personnel who are under 55 years of age and who have served 6 years in an unspecified enlistment, when—

(1) Such individuals have completed 20 years' active Federal service.

(2) It would be in the best interest of the service that such individuals be discharged.

c. Recommendation for discharge will be forwarded to The Adjutant General, Department of the Army, ATTN: AGPO-SS.

d. Authority (AR 635-200) and SPN 41D will be included in directives or orders directing the individual to report to the transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

5-9. Discharge of personnel who did not meet the medical fitness standards. *a.* Commanders specified in section VI, chapter 2, are author-

ized to order discharge of individuals who were not medically qualified under procurement medical fitness standards when accepted for induction or initial enlistment. Eligibility for discharge will be governed by the following:

(1) A medical board finding that the individual has a medical condition which—

(*a*) Would have permanently disqualified him for entry in the military service had it been detected at that time; and

(*b*) Does not disqualify him from retention in the military service under the provisions of chapter 3, AR 40-501.

(2) A request for discharge will be submitted by the individual to his unit commander within 4 months from date of initial entry on active duty or initial entry on active duty for training under the Reserve Enlistment Program of 1963. An individual found to meet the requirements of *a*(1) above, who elects to complete the period of service for which inducted or enlisted will be required to submit a written statement set forth in paragraph 54*e*(3), AR 40-3.

b. Application for discharge will be processed promptly, and separation will be accomplished within 72 hours following approval by the discharge authority.

c. Authority for discharge (AR 635-200) and SPN 375 will be included in directives or orders directing the individuals to report to the appropriate transfer authority.

d. Members who do not meet retention medical fitness standards will be processed under the provisions of AR 635-40.

e. This paragraph is not to be used as a substitute for unsuitability separations in cases of character and behavior disorders, which will continue to be processed under the provisions of AR 635-212.

★**5-9.1. Discharge for failure after enlistment to qualify medically for flight training.** Individuals who enlist on or after 1 March 1971 under the provisions of table 5-24, AR 601-210, for the Warrant Officer Flight Training (WOFT) option and who, subsequent to enlistment, fail to qualify medically for flight training may be discharged from the Army under the following conditions:

a. Eligibility for discharge will be governed by a determination made by The Surgeon General, Department of the Army (see para 2-4*e* and *f*, AR 612-200) that—

(1) The medical condition would permanently disqualify the individual for flight training, and

(2) The condition does not disqualify the individual for retention in the military service under the provisions of chapter 3, AR 40-501.

b. To be eligible for discharge under this paragraph the member must submit a written request for discharge (fig. 5-1) to his unit commander within 30 days of the date he is found by The Surgeon General to be medically disqualified for flying.

c. Commanders specified in paragraph 2-17*a* are authorized to order discharge under this paragraph. Applications for discharge will be processed promptly and separation will be accomplished within 72 hours following approval by the discharge authority. Authority for discharge (para 5-9.1, AR 635-200) and SPN 429 will be included in directives or orders directing the individuals to report to the appropriate transfer activity for separation.

d. WOFT candidates will not be separated under these provisions after commencement of the flight phase of the WOFT course.

e. Members who do not meet retention medical fitness standards will be processed under the provisions of AR 635-40.

f. This paragraph is not to be used as a substitute for unsuitability separations in cases of character and behavior disorders, which will continue to be processed under the provisions of AR 635-212.

g. An individual found to meet the requirements of *a* above who elects to complete the period of service for which enlisted will be required to submit a written request to be retained on active duty (fig. 5-2) to his unit commander within 30 days of the date he is

a. An individual is assigned to a unit scheduled for oversea deployment and is in an otherwise deployable status, or

b. An individual has signed a statement of intent to reenlist, or

c. AR 600-31 applies.

5-30. Separation action. a. Personnel may be separated when they have 3 months or less remaining in their period of service. Personnel accepted for immediate employment will be separated within 72 hours of notice of approval. Other personnel will be separated not earlier than 10 days prior to the effective date of employment.

b. Authority (AR 635-200) and SPN 820 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for separation.

Section XIII. ERRONEOUS ENLISTMENTS

★**5-31. Erroneous enlistment.** a. When it is discovered that an individual was erroneously enlisted because he failed to meet the qualifications for enlistment (AR 601-210) or reenlistment (AR 601-280), the unit commander will initiate action to obtain authority to retain the member or to discharge or release the member from active duty, as appropriate, on the basis of erroneous enlistment. Correspondence containing the following information will be forwarded through channels to the appropriate discharge authority listed in paragraph 2-17a.

(1) Facts relating to and circumstances surrounding the erroneous enlistment.

(2) The desire of the enlisted member regarding retention or separation.

(3) Conduct and efficiency ratings (current and preceding enlistment, if any).

(4) A specific recommendation for retention or separation, and the reasons therefor, by each commander in the chain of command.

b. The commander specified in paragraph 2-17a will take action as follows:

(1) If doubt exists as to whether an enlistment is, in fact, erroneous, or whether the disqualification was waivable under the applicable procurement regulation (AR 601-210 or AR 601-280), forward the case, containing the above information, to the Commanding Officer, United States Army Enlistment Eligibility Activity, 9700 Page Boulevard, St. Louis, MO 63132, requesting such determination(s). Upon receipt of such determination(s) from USAEEA, take the action indicated in (2), (3), or (4) below, as appropriate.

(2) Direct separation in all cases in which the disqualification was nonwaivable. In an exceptionally meritorious case when, in the judgment of the commander having discharge authority, the retention of the member would definitely be in the best interest of the Government, he may forward the case to The Adjutant General, ATTN: AGPO-SS, Department of the Army, recommending retention.

(3) Direct separation in those cases in which the disqualification was waivable but separation is deemed to be in the best interest of the Government.

(4) Direct retention in those cases in which the disqualification was waivable and retention is deemed to be in the best interest of the Government and the individual. In such cases the following statement will be entered in Item 42 of the member's Enlisted Qualification Record (DA Form 20): "Discharge action based on erroneous enlistment is waived and retention authorized on _____ (date) _____." The original copy of the approval document will be forwarded to the Commanding Officer, US Army Enlisted Personnel Support Center, ATTN: AGPE, Fort Benjamin Harrison, IN 46249, for inclusion in the member's official personnel record.

c. In all cases in which separation is directed, the authority (para 5-31, AR 635-200) and SPN 319 will be included in orders

directing the member to report to the activity designated to accomplish transfer processing for separation.

d. If the member is AWOL, in desertion, or absent in the hands of civil authorities upon discovery and establishment that his enlistment was erroneous, the enlistment will be voided by the commander specified in paragraph 2-17*a*. The discharge authority will *not* issue a discharge certificate but will issue an order releasing the member from military control and a DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge). The order will reflect that the member's enlistment is void because of erroneous enlistment and that his release from military control is being accomplished by reason of a void enlistment. A copy of the special orders releasing the member from military control will be filed as a permanent document in his DA Form 201 (Military Personnel Records Jacket, US Army). Pay and allowances entitlements will be as prescribed in table 1-4-1, Department of Defense Military Pay and Allowances Entitlements Manual (DODPM). Distribution of DD Form 214 will be made in accordance with AR 635-5, except that the Number 1 copy will be placed in the MPRJ when the whereabouts of the member is unknown. See table 3-2, AR 190-9, for action to cancel DA Form 3545 (Test), Deserter Wanted by the Armed Forces.

e. If an enlistment is both erroneous under the provisions of this paragraph (i.e., failure to meet basic qualifications for enlistment or reenlistment) *and* the provisions of paragraph 5-32 also apply (i.e., the member did not meet the prerequisites for the enlistment option or the enlistment commitment made cannot be fulfilled), action will be taken *first* under the provisions of this paragraph to determine whether the member will be separated or retained in the Army based on his errroneous enlistment. If retention is authorized under this paragraph, action then will be taken under the provisions of paragraph 5-32.

f. This section is not applicable to—

(1) Members who are eligible for separation under the provisions of paragraphs 5-6, 5-9, 5-32 (except as indicated in *e* above), or chapter 7 of this regulation, and paragraph 7-34*b*, AR 600-200.

(2) Members who do not meet the medical fitness standards for retention (chap. 3, AR 40-501) and who are eligible for processing under AR 635-40.

5-32. Unfulfilled or erroneous enlistment commitments. *a.* Commanders specified in paragraph 2-17*a* are authorized to order separation of personnel for the convenience of the Government when it is determined by Chief of Personnel Operations that—

(1) An enlistment commitment was erroneous because the individual did not meet the prerequisites for the option which must be determined prior to enlistment.

(2) An enlistment commitment was made but cannot be fulfilled.

b. Claims of unfulfilled or erroneous enlistment commitments are processed in accordance with AR 601-210 and AR 601-280. When it is determined by the Chief of Personnel Operations that an enlistment commitment was erroneous and/or cannot be fulfilled, separation may be requested as follows:

(1) Non-prior-service Regular Army personnel serving on their first enlistment may request immediate separation or separation to be effective upon completion of 24 months' active military service. Individuals who were discharged from an AUS status to enlist will be separated when the active service in their prior AUS status and initial enlistment period totals 24 months' active service.

(2) Regular Army personnel serving on a second and subsequent enlistment prior to expiration of term of service for the purpose of reenlistment will be separated when active service in the current and preceding enlistment contracts equals the period stated in the previous enlistment contract.

c. Authority for separation (AR 635-200) and SPN 377 will be included in directives or

orders directing the individuals to report to the appropriate transfer authority designated to accomplish transfer processing for separation.

★Section XIV. EARLY SEPARATION OF PERSONNEL DENIED REENLISTMENT UNDER QUALITATIVE MANAGEMENT PROGRAM

5-33. Early release. *a.* Individuals who will not be eligible to reenlist upon expiration of term of service because of the provisions of chapter 4, AR 600-200, may, upon their request, be separated up to 6 months prior to their ETS, notwithstanding any existing service obligation which will not be fulfilled by such early release date. Oversea tours may be curtailed to the extent necessary to permit early separation under this section. Personnel who will have a continuing Reserve obligation under the Military Selective Service Act of 1967 will be transferred to the United States Army Reserve upon their release from active duty. Other personnel separated under the provisions of this section will be discharged. Personnel released under this section will not be eligible for participation in TRANSITION TRAINING.

b. The member's request for early separation will include the following statement:

"I understand that I am being separated prior to my normal ETS for my own convenience. I understand that recoupment of unearned portions of regular/variable reenlistment bonuses is required and that I will not be eligible for participation in TRANSITION TRAINING. I also understand that once separated I will not be permitted to reenlist at a later date."

5-34. Authority. *a.* Commanders specified in paragraph 2-17*a* are authorized to take final action on requests for separation under this section.

b. Authority for separation (para 5-33, AR 635-200) and SPN 430 will be included in directives or orders directing individuals to report to the appropriate transfer activity for transfer processing.

_____
(Date)

SUBJECT: Request for Discharge

TO: (Discharge Authority)

1. I, _____(Name)_____, enlisted for Warrant Officer Flight Training under the provisions of table 5-24, AR 601-210. Having been found by The Surgeon General, Department of the Army, to be medically disqualified for Class 1A flying, I request discharge under the provisions of paragraph 5-9.1, AR 635-200.

2. I have been counseled concerning an alternate training course. I do not desire to serve in the US Army. I understand that, under the provisions of the Military Selective Service Act of 1967, if I am discharged I will be subject to being drafted unless otherwise deferred.

(Signature of individual)

_____
(Typed Name, SSN, and grade)

★*Figure 5-1.*

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★CHAPTER 11
DISHONORABLE AND BAD CONDUCT DISCHARGE

11-1. DD Form 260A (Dishonorable Discharge). An enlisted person will be given a dishonorable discharge pursuant only to an approved sentence of a general court-martial. See paragraphs 14*b* and 127, MCM, 1969.

11-2. DD Form 259A (Bad Conduct Discharge). An enlisted person will be given a bad conduct discharge pursuant only to an approved sentence of a general or special court-martial. See paragraphs 14*b*, 15*b*, and 127, MCM, 1969.

11-3. Personnel confined in foreign penal institutions. Personnel with an approved sentence to a dishonorable or bad conduct discharge, who are confined in a foreign penal institution, either before, during, or after trial by a foreign tribunal, will not be discharged until returned to the United States. In a specific individual case, if the commander considers that discharge in an oversea area is desired, he may forward a request for approval of such discharge to HQDA (DAAG-PSS-S), Washington, DC 20314. A report containing essentially the information outlined in paragraph 3-3*b* will be forwarded with the request. The separation in foreign countries of persons so confined will be subject to the conditions set forth in paragraph 3-3*a*.

11-4. Expulsion from the Army. Dishonorable and bad conduct discharges result in expulsion from the Army. For exceptions affecting court-martial jurisdiction, see 10 USC 802(7) and 803; Articles 2(7) and 3, *UCMJ*; and paragraph 11, MCM, 1969.

11-5. Reason and authority for discharge. The reason and authority for discharge will be entered in item 11c, DD Form 214, as shown in AR 635-5.

11-6. Discharge in absentia. An individual who was placed on excess leave without pay pending completion of appellate review (para 5-2*d*(3), AR 630-5) will be discharged without returning to a military installation when the sentence is affirmed.

a. As much of the preprocessing set forth in AR 635-10 as is appropriate, including partial completion of the DD Form 214 and other discharge documents, will be accomplished prior to departure of the individual. In addition, prior to departure, the individual will be given a type "A" medical examination as prescribed in chapter 10, and appendix IX, AR 40-501.

b. When appellate review is completed and the affirmed sentence ordered executed, the appropriate discharge documents will be completed and mailed via registered mail to the address furnished by the individual for that purpose.

c. The return address will be shown as Commanding General, Reserve Components Personnel and Administration Center, 9700 Page Boulevard, St. Louis, MO 63132. In the event the documents are returned unclaimed or undeliverable, they will be placed in the OMPF.

CHAPTER 13

(To be published)

See AR 635-212
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has been proper over a reasonable period of time subsequent to the conviction(s), he may be considered for an honorable discharge (*c* and *d* above).

(3) A member's service may be characterized as general by the commanding officer authorized to take such action or higher authority when the member is eligible for or is subject to separation and it has been determined, under the prescribed standards, that such separation is warranted.

f. Undesirable discharge. An undesirable discharge is an administrative separation from the service under conditions other than honorable. It may be issued for unfitness, misconduct, homosexuality, or for security reasons.

(1) *Special considerations.* In any case in which an undesirable discharge is authorized by regulation a member may be awarded an honorable or general discharge, as appropriate, if, during the current or a prior enlistment or period of service or voluntary or involuntary extension of either, he has been awarded a personal decoration, or if warranted by the particular circumstances of a specific case.

(2) *Consideration required.* Commanders and members of boards of officers responsible for recommending discharges to be furnished, and commanders having responsibility for determining finally the type of discharge to be issued, are urged to consider all facets of a particular case involving discharge in order that a fair decision will result.

1-10. Issuance of an undesirable discharge. An undesirable discharge will be directed only by a commander exercising general court-martial jurisdiction, or by higher authority, based upon the approved recommendation of a board of officers, unless the member waives the board or resigns, or requests discharge for the good of the service. Prior to such action, the following procedures and safeguards must be observed:

a. A member who is under military control will be notified in writing that his discharge has been recommended pursuant to a specific regulation, and of the specific allegations on which the proposed action is based, and advised that he has the following rights:

(1) To present his case before an administrative discharge board.

(2) To be represented by appointed counsel (para 1-3*i*); military counsel of his own choice, provided such counsel is reasonably available; or civilian counsel at his own expense.

(3) To submit statements in his own behalf.

(4) To waive the above rights in writing.

The member will be given an opportunity and a reasonable time (not less than 48 hours) to consult with counsel ((2) above) prior to waiving the above rights. If he elects to waive these rights, the member shall personally sign a written waiver. His counsel shall sign as a witness, indicating whether he is qualified under Article 27(b)(1) of the Uniform Code of Military Justice, if he is not a member of the Judge Advocate General's Corps. If the member refuses counsel, his waiver must explicitly state that fact.

b. If a member waives his rights, the discharge authority may disapprove the waiver and refer the case to an administrative discharge board, or direct retention on active duty, or direct discharge by reason of unfitness, misconduct, homosexuality, or security. If discharge is directed, the type of certificate will be specified.

c. A member unable to appear in person before an administrative discharge board by reason of confinement by civil authorities will be advised (by registered mail) of the proposed discharge action, the type of discharge certificate that may be issued, and the fact that action has been suspended to give him the opportunity to exercise the following rights:

(1) To request appointment of a military counsel or employ civilian counsel at his own expense to represent him and, in his absence, present his case before an administrative discharge board.

(2) To submit statements in his own behalf.

(3) To waive the foregoing rights, either in writing or by declining to reply to the letter of notification within 30 days from the date of receipt.

d. A member beyond military control by reason of unauthorized absence may be issued an undesirable discharge in absentia only under the direction of Headquarters, Department of the Army. Notification of the imminent discharge action and the effective date thereof will be sent by registered mail to the record address of the member or the next of kin, as appropriate. Separation of members of the Reserve components will be subject to the limitations of Title 10, U.S.C. 1163.

e. A member who submits a resignation or requests discharge for the good of the service may be issued an undesirable discharge without board action provided he has been afforded the opportunity (not less than 48 hours) to consult with counsel (*a*(2) above), and provided that the member certifies in writing his understanding that he will receive a discharge under other than honorable conditions and that he understands the adverse nature of such a discharge and the possible consequences thereof. The member must personally sign his written resignation or request for discharge. His counsel shall sign as a witness, indicating whether he is qualified under Article 27(b)(1) of the Uniform Code of Military Justice, if he is not a member of the Judge Advocate General's Corps. If the member refuses all counsel (*a*(2) above), his resignation or request for discharge must explicitly state that fact.

1-11. Determination of character of service. *a.* In all cases requiring an administrative discharge board or waiver thereof, the discharge of an enlisted member will be characterized by the officer authorized to approve such a separation or by higher authority. In all other cases, the character of separation will be determined by the immediate commanding officer of the last unit to which the member was assigned or attached prior to his separation processing at the transfer facility, except when otherwise directed by higher authority. The officer characterizing the service will—

(1) Review the individual's military record and determine the character of separation to be awarded in accordance with governing criteria.

(2) Enter in the "Remarks" section of the Enlisted Qualification Record (DA Form 20) the character of separation to be issued upon separation.

b. Commanders of transfer activities will examine each enlisted qualification record of personnel undergoing transfer processing and will issue the type of discharge ordered by the discharge authority (sec. VI, chap. 2) with the characterization determined by the appropriate officer (*a* above).

c. The commanders of transfer activities will change neither the type nor character of separation except in those instances when the member's conduct, subsequent to the determination by the discharge authority and the characterization by the appropriate officer (*a* above), warrants a change in type or character of separation. When no administrative discharge board is convened, the commander of the transfer activity may issue an honorable or general discharge. Appropriate entries will be made in the individual's enlisted qualification record with the reason for the determination or characterization by the commander of the transfer activity.

★1-12. Orientation on the types of discharges. AR 350-21 requires that a comprehensive explanation be given enlisted personnel entering on active duty regarding the types of discharge certificates, the basis for issuance of each type, and their possible effect on reenlistment, civilian employment, veterans' benefits, and related matters. While it is incumbent upon the commanders specified in that regulation to assure that newly enlisted or inducted personnel receive this instruction, all commanders should institute periodic orientation programs to emphasize the importance and benefits of an honorable discharge. Failure of an enlisted member to receive or understand such instruction, however, will in no event be considered a bar to or defense in an administrative or court-martial proceeding.

★Section XV. INVOLUNTARY SEPARATION

5-35. General. Enlisted personnel may be discharge or released from active duty, as appropriate, prior to the expiration of their terms of service or periods for which ordered to active duty (10 U.S.C. 1169).

5-36. Reduction in authorized strength. When budgetary or authorization limitations require a reduction in enlisted strength, such reduction may be accomplished by an official order issued pursuant to instructions of The Adjutant General, HQDA, applicable to an individual or to all members of a class of personnel so specified in such order.

a. Personnel to be separated under this paragraph will be notified through channels by commanders of major commands, CONUS armies, and MDW based upon information and instructions furnished by The Adjutant General, HQDA.

b. Personnel designated for separation under this paragraph will be discharged or relieved from active duty, as appropriate, not later than 3 months after receipt of notification. A date will be established for separation within this period which will work the least hardship on the individual. If the member to be separated becomes a disciplinary problem following his receipt of notification of separation under this paragraph, the commander exercising general courts-martial jurisdiction may order his immediate separation.

c. Individuals who are within 2 years of qualifying for retirement under chapter 12 of this regulation on the scheduled separation date will not be processed under this paragraph unless such action is directed by the Secretary of the Army.

d. The commanders specified in *a* above are responsible for effecting the timely separation of enlisted personnel notified of involuntary separation under this paragraph.

e. Individuals separated under this paragraph will be given an honorable or general discharge, depending upon their character of service.

f. Authority for separation (para 5-36, AR 635-200) and SPN 431 will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel office designated to accomplish separation processing.

U.S. GOVERNMENT PRINTING OFFICE: 1971

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SUBJECT: Request for Discharge for the Good of the Service

TO:

1. Under the provisions of Chapter 10, AR 635-200, I (name of member) hereby request discharge for the good of the service. I have not been subjected to coercion with respect to this request for discharge, and I have been advised of the implications that are attached to it.

2. I understand that, if this request for discharge is accepted, I may be discharged under other than honorable conditions and furnished an Undesirable Discharge Certificate. I understand that, as a result of the issuance of such a discharge, I shall be deprived of many or all Army benefits, that I may be ineligible for many or all benefits administered by the Veterans' Administration, and that I may be deprived of my rights and benefits as a veteran under both Federal and State law. I also understand that I may expect to encounter substantial prejudice in civilian life by reason of an undesirable discharge.

3. I understand that, once this resignation is submitted, it may be withdrawn only as provided in paragraph 10-5, AR 635-200.

4. Statements in my own behalf (are) (are not) submitted herewith (as Inclosure __).

5. Prior to completing this form, I have been afforded the opportunity to consult with appointed counsel, or military counsel of my own choice, if he is reasonably available, or civilian counsel at my own expense. I (have consulted with counsel, _____, who has fully
(name of counsel)
advised me in this matter on _____, (decline the
(date)
opportunity to consult with counsel).

6. I have retained a copy of this request for discharge and of any inclosures I submitted.

Signature of individual member

_____

Typed name, service number, grade, present duty station, and unit to which assigned and/or attached.

★*Figure 2.*

RETURN TO ARMY LIBRARY
ROOM 1 A 518 PENTAGON

Having been advised by me (the basis for his contemplated trial by court-martial under circumstances which could lead to a bad conduct or dishonorable discharge) (the significance of his suspended sentence to a bad conduct or dishonorable discharge), of the effects of this request for discharge, and the rights available to him, (name of individual) personally made the choices indicated in the foregoing request for discharge.

Signature of counsel

_____

Typed name, service number, grade, and branch. (If counsel is not a JAGC officer, he must indicate whether he is qualified under Article 27(b)(1) of the Uniform Code of Military Justice.)

★*Figure 2.*—Continued.

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b. Individuals released from active duty and transferred or returned to a Reserve component (USAR or ARNG) "For Convenience of the Government" will be furnished an Armed Forces of the United States Report of Transfer or Discharge.

c. An individual to be released from military control pursuant to paragraph 5–12 or an administrative determination that he is not currently a member of the Army cannot be legally discharged from the Army. Such individual will, instead, be released from the custody and control of the Army without being furnished a certificate of discharge of any kind or Armed Forces of the United States Report of Transfer or Discharge (DD Form 214).

Section XI. SOLE SURVIVING SONS

5–24. Separation of sole surviving sons. Commanders specified in paragraph 2–17*a* are authorized to order discharge for convenience of the Government of enlisted men because they are sole surviving sons.

a. As used in this regulation, the definition of a sole surviving son is the only remaining son in a family of which, because of hazards incident to service in the Armed Forces of the United States, the father, or one or more sons or daughters—

(1) Have been killed; or

(2) Have died as a result of wounds, accident, or disease; or

(3) Are permanently 100 percent physically disabled (to include 100 percent mental disability) as determined by the Veterans Administration or one of the military services, and are hospitalized on a continuing basis and not gainfully employed by virtue of such disability.

★*a.*1. Neither the acquisition nor the retention of sole surviving son status is dependent upon the existence of any other living family member (Supreme Court Decision, *McKart* v. *US* (May 26, 1969, No. 403—October Term, 1968)).

b. In determining eligibility, the term "because of hazards," as used in *a* above, will be interpreted as meaning "incurred in line of duty," as determined under the provisions of AR 600–10 or comparable regulations of other services.

★*c.* Except as provided in paragraph 5–25, the following enlisted personnel are eligible for discharge:

(1) Individuals who become sole surviving sons subsequent to enlistment, induction, order to active duty or active duty for training under the Reserve Enlistment Program of 1963.

(2) Individuals who qualify as sole surviving sons on the basis of the 100 percent physical disability of a father, brother, or sister as defined in *a*(3) above which occurred either prior or subsequent to induction, enlistment, or order to active duty or active duty for training, provided the service member has completed at least 6 months of active duty. (Six months of active duty prior to discharge is required in order to qualify for a veteran's exemption under the provisions of 50 App. U.S.C. 456(*b*)(3).)

d. All applications submitted will include the following evidence:

(1) Name, grade, MSN or SSN, branch of service (i.e., Army, Navy, Marine Corps, Coast Guard, or Air Force), relationship and date of death or disability of the family member upon which request is based.

(2) Veterans Administration Claim Number, if appropriate.

(3) Name, age, and sex of other family members.

e. See AR 614–75 for offices to contact to obtain verification of status of other family members, when appropriate.

f. An individual whose application meets the criteria in *a* above will be discharged, except that Army National Guard personnel will be released from active duty or active duty for training and returned to the control of the

appropriate State National Guard authorities for discharge. A copy of the approved application for discharge will be furnished to the adjutant general of the State.

g. Authority (AR 635-200) and SPN 229 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty or active duty for training.

★**5-25. When discharge is not authorized.** Discharge for the convenience of the Government based upon being a sole surviving son is not authorized—

a. During a period of war or national emergency hereafter declared by the Congress.

b. When a service member qualifying as a sole surviving son under the provisions of paragraph 5-24 has waived his status under the provisions of paragraph 11-75, AR 614-200.

Section XII. EMPLOYMENT WITH A LEGALLY ESTABLISHED LAW ENFORCEMENT AGENCY. (APPLICABLE TO CONUS, ALASKA, HAWAII, AND THE US TERRITORIES.)

5-26. Separation to accept employment as a public police officer. Commanders specified in paragraph 2-17*a*, are authorized to order separation for the convenience of the Government of enlisted personnel who have 3 months or less remaining in their periods of service, whose services are not essential to the mission of their assigned organizations, and who submit valid application for separation evidencing employment with a legally established law enforcement agency of a city, county, State, or Federal Government, including those of the US Territories. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 and reservists ordered to active duty due to unsatisfactory participation in Reserve assignment are not eligible for separation under this program.

5-27. Definitions. For the purpose of this regulation the following definitions apply:

a. Public police officer. An individual employed by legally established law enforcement agencies of city, county, State, or Federal Government, including those of the US territories. This specifically excludes private or corporate police organizations and elective police positions in local political jurisdictions.

b. Bona fide offer of employment. An employment offer certified by an appropriate official of a city, county, State, or Federal police agency (including that of a US territory) that the applicant meets all requirements for training and/or employment as a police officer. In addition, individuals accepted for employment in nonuniformed positions are eligible for early release provided the position is integral to the police agency and the individual will be a bona fide member thereof.

5-28. Submission of application. Application for separation may be submitted up to 6 months prior to applicant's expiration of term of service. An application for separation will include the following information:

a. A bona fide offer of employment as a public police officer with the date such employment is to commence, and

b. A statement signed by the individual concerned (after having been informed of the provisions of Articles 3(b), and 83, Uniform Code of Military Justice), as follows:

"I understand that if I am separated from the Armed Forces by means of either a knowingly false representation in regard to any of the qualifications or disqualifications prescribed by law, regulation, or orders for such separation, or by deliberate concealment of any disqualification for separation, I shall be subject to courts-martial jurisdiction under the Uniform Code of Military Justice, Article 3(b), for violation of the Uniform Code of Military Justice, Article 83, or prosecution in a U.S. district court for violation of Title 18, United States Code, Section 1001, or other applicable statutes."

5-29. When separation is not authorized. Separation from active military service is not authorized when—

c37

CHAPTER 8

DISCHARGE OF ENLISTED WOMEN—MARRIAGE, PREGNANCY, OR PARENTHOOD

Section I. GENERAL

8-1. Scope. This chapter establishes policy, sets forth procedures, and provides authority for discharge of enlisted women by reasons of marriage, pregnancy, or parenthood.

8-2. Authority to discharge. Commanders specified in paragraph 2-17*a*, are authorized to approve the discharge of enlisted women under this chapter.

Section II. MARRIAGE

8-3. Authority. ★An enlisted woman may request discharge by reason of marriage. Commanders will approve such requests providing the applicant meets the following requirements:

a. Served at least 18 months on her current enlistment.

b. Completed all obligated periods of service incurred through schooling or promotion as required by AR 600-200.

c. Served at least 6 months in the oversea command if application is submitted while serving overseas or subsequent to departure from home station en route to overseas.

8-4. Enlisted or reenlisted on or after 1 July 1965 and prior to 20 June 1966. Rescinded.

8-5. Delay discharge. Rescinded.

8-6. Type of certificate to be furnished and authority for discharge. *a.* An honorable or general discharge certificate will be furnished in accordance with section III, chapter 1.

b. Authority (sec II, chap. 8, AR 635-200) and SPN 220 will be included in directive or orders directing the individual to report to the appropriate transfer activity.

8-7. When not eligible for discharge. Women will not be eligible for discharge solely for reason of marriage during war or national emergency declared by Congress.

Section III. PREGNANCY

8-8. General. *a.* When it has been determined that an enlisted woman is pregnant, or has given birth to a living child during the period of her present enlistment, she will be afforded an opportunity to—

(1) Request discharge under the provisions of this chapter, or

(2) Request waiver for retention on active duty if lawfully married, or

(3) Submit an application for retirement, if eligible (chap. 12).

b. If pregnancy is the only medical condition which is disqualifying for retention in the service, discharge will be accomplished without processing by a medical board or physical evaluation board. If there are other medical conditions which disqualify the enlisted woman for retention, processing will be accom-

plished under the provisions of AR 40-3 and AR 635-40.

c. If the enlisted woman does not request discharge or retirement, and a waiver for retention on active duty is not granted, she will be discharged at the earliest practicable date.

8-9. Waivers. *a.* Requests for waivers for retention on active duty (para 8-8*a*(2)) will be forwarded to The Adjutant General through channels and will include:

(1) A statement to affirm that the child will not hinder the enlisted woman's performance of duty, and that continuation on active duty will not result in neglect of the child.

(2) The WAC unit commander's recommendations, including conduct and efficiency ratings and Average Efficiency Index and PMOS evaluation scores, if available.

(3) The circumstances involved.

(4) Requests for leave of absence (including accrued and excess leave) to cover prenatal and postnatal period. Unless medically contraindicated, the prenatal period will begin when the commanding officer determines that continued utilization of the individual in a duty status is no longer feasible, but in no case later than the 28th week of pregnancy. The postnatal period will terminate at the end of the 6th week following pregnancy, unless medically contraindicated. Excess leave required will be requested in accordance with AR 630-5. Advance leave will not be granted under any circumstances. Pending receipt from Headquarters, Department of the Army, of discharge instructions, or approval of retention on active duty and excess leave, the commander will grant ordinary leave to cover the prenatal period defined above. If the enlisted woman has insufficient leave accrued, the commander will authorize excess leave in accordance with AR 630-5 effective upon termination of ordinary leave.

(5) Proper medical certification and history.

(6) Date and period of enlistment and total length of active Federal service.

(7) Recommendation of officer who is job supervisor.

b. Nothing contained herein will act as a bar to a commander taking disciplinary or elimination action under other regulations if circumstances warrant.

8-10. Line of duty determination. Line of duty determination is not required for pregnancy, diseases resulting therefrom, or therapeutic abortion. Line of duty determination in cases involving misconduct will be made in accordance with AR 600-10.

8-11. Maternity care. An enlisted woman discharged under honorable conditions or retired who is pregnant at the time of separation is entitled to maternity care as provided in paragraph 22, AR 40-3 and AR 600-3. The medical benefits to which an enlisted woman is entitled are limited to care in military hospitals and do not, regardless of the circumstances, include care obtained in civilian hospitals.

8-12. Terminated pregnancies. If it has been determined by a medical officer that a pregnancy has been terminated without living issue prior to the effective date of separation or retirement the enlisted woman may request withdrawal of retirement or discharge, or, in the case of involuntary discharge, may request retention on active duty. The request will be forwarded to The Adjutant General, ATTN: AGPO-SS, Washington, DC 20314 for final action. The request must include the information in paragraph 8-9*a*(2), (3), (5), (6), and (7). In addition, in the case of illegitimate pregnancies, the commanding officer's recommendation must include a statement as to moral character.

8-13. Responsibility of the WAC unit officer. *a.* The WAC unit commander will direct the enlisted woman whose physical condition indicates the possibility of pregnancy to report at once to a physician on duty at an Armed Forces medical treatment facility for diagnosis.

b. Every assistance will be given by the unit commander or a designated officer of the Women's Army Corps to the enlisted woman. The

enlisted woman will be counseled by a WAC officer concerning all the rights, privileges, and benefits to be obtained as a result of her military service. She will also be assisted in contacting administering agencies for aid and advice in applying for such rights, benefits, and privileges. If the enlisted woman desires, the officer will refer her to a representative of the American Red Cross or to other appropriate agencies for assistance. The WAC unit commander will inform enlisted women being discharged under honorable conditions who are pregnant at the time of discharge that medical care for that pregnancy is limited to care in military medical treatment facilities only, and does not, regardless of the circumstances, include care obtained in civilian facilities.

8-14. Medical examination and diagnosis. *a.* Examination for pregnancy will be conducted as a complete medical examination. Standard Forms 88 and 93 will be utilized. When such examination results in a determination of pregnancy or of recent termination of pregnancy, no additional medical examination is required prior to discharge, provided discharge from the service is accomplished within the 6-month period specified in paragraph 10-17*a* (2), AR 40-501, and there is no change in the enlisted woman's medical condition other than her pregnancy.

b. The diagnosis will be certified by a physician on duty at an Armed Forces medical treatment facility as soon as possible. This does not preclude observation of the enlisted woman for a reasonable period of time in which to insure that the diag-

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CHAPTER 10

DISCHARGE FOR THE GOOD OF THE SERVICE

10-1. General. ★*a.* An individual whose conduct has rendered him triable by court-martial under circumstances which could lead to a bad conduct or dishonorable discharge may submit a request for discharge for the good of the service. The request for discharge may be submitted at any time after court-martial charges are preferred against him. An individual who is under a suspended sentence of a punitive discharge may likewise submit a request for discharge for the good of the service.

b. The request for discharge for the good of the service does not preclude or suspend disciplinary proceedings in a case. Whether such proceedings will be held in abeyance pending final action on a request for discharge under the provisions of this chapter is a matter to be determined by the commander exercising general court-martial jurisdiction over the individual concerned.

10-2. Personal decision. Commanders will insure that there is no element of coercion in submitting a request for discharge for the good of the service. The member will be given a reasonable time (not less than 48 hours) to consult with counsel (para 1-10*a*(2)) and to consider the wisdom of submitting such a request for discharge. If he elects to submit the request, the member will personally sign the written request, certifying that he understands that he may receive a discharge under other than honorable conditions and that he understands the adverse nature of such a discharge and the possible consequences thereof. The member's counsel shall sign as a witness, indicating whether he is qualified under Article 27(b)(1) of the Uniform Code of Military Justice, if he is not a member of the Judge Advocate General's Corps. If the member refuses all counsel (para 1-10*a*(2)), his request for discharge must explicitly state that fact.

10-3. Preparation and forwarding. *a.* A request for discharge for the good of the service will be submitted as shown in figure 2.

b. The request for discharge will be forwarded through channels to the officer who has general courts-martial jurisdiction over the individual concerned. Commanders through whom the request for discharge is forwarded will recommend either approval or disapproval with the reasons for the recommendation; if approval is recommended, the type discharge to be issued also will be recommended.

c. The following data will accompany the request for discharge:

(1) A copy of the court-martial charges.

(2) Report of a medical examination as prescribed in chapter 10, AR 40-501.

(3) A complete copy of all reports of investigation.

(4) Any statement, documents, or other matter considered by the commanding officer in arriving at his conclusion and making his recommendation.

(5) A statement of any reasonable ground for belief that the individual is, or was at the time of his misconduct, mentally defective, deranged, or abnormal. When appropriate, evaluation by a psychiatrist will be included.

d. When an individual is under a suspended sentence of discharge, a copy of the court-martial orders, or a summary of facts which relate to the conduct upon which the request for discharge is predicted, will be forwarded.

★***10-3.1. Consideration of request.*** The discharge authority in this chapter should not be used in cases where the nature, gravity, and circumstances surrounding an offense require a punitive discharge and confinement. Use of this authority is appropriate and encouraged in cases where the administrative burdens involved in courts-martial and confinement are not considered warranted in view of the nature of the offense, the minimal rehabilitative effect punishment can be expected to have on the offender, and the lack of any ultimate benefit to the Army or to society which would be achieved by punishment. Examples of such cases would include those involving individuals who are chronic disciplinary problems or who would qualify as candidates for administrative discharge by reason of misconduct or unfitness if court-martial action were not initiated.

10-4. Withdrawal of request for discharge. Unless trial results in an acquittal or a sentence

less than discharge, a request for discharge submitted under the provisions of this chapter may be withdrawn only with the consent of the commander exercising general court-martial jurisdiction.

10-5. Medical examination. An individual who submits a request for discharge for the good of the service will undergo a medical examination of the scope prescribed in chapter 10, AR 40-501. The report of medical examination will accompany the request for discharge.

10-6. Discharge authority. Commanders exercising general courts-martial jurisdiction are authorized to approve requests for discharge for the good of the service and to order the discharge of individuals or to disapprove such requests. This authority may be delegated as specified in paragraph 2-17*b*.

10-7. Discharge certificate issued. An undesirable discharge certificate will normally be furnished an individual who is discharged for the good of the service. However, the discharge authority may direct an honorable or general discharge, if warranted. The reason and authority for discharge (item 11c, DD Form 214) will be "For the good of the service, SPN 246."

found by The Surgeon General to be medically disqualified for flying.

h. The determination made by The Surgeon General, the member's request for discharge (fig. 5-1) or retention (fig. 5-2) and other pertinent papers will be filed in the member's DA Form 201 (Military Personnel Records Jacket (US Army)) as permanent material.

5-10. Discharge for the purpose of immediate enlistment or reenlistment. Unit commanders are authorized to order discharge of enlisted personnel for the convenience of the Government for the reasons set forth below. Individuals being discharged from their present status as provided in this paragraph will be reenlisted on the day following discharge. The discharge certificate will not be delivered to the individual until after reenlistment is accomplished.

a. Discharge is authorized for Regular Army personnel, other than personnel on initial enlistment, to permit their reenlistment for a term of 3 or more years provided they apply for and are qualified for reenlistment. Authority (AR 635-200) and SPN 313 will be included in directives or orders directing separation. Discharge may be accomplished—

(1) At any time during the last 90 days of current enlistment.

(2) For the purpose of—

★(*a*) Meeting length-of-service requirequirement for attendance at service schools, attendance at a civilian education institution in accordance with AR 621-1 or to attend Army Officer Candidate School.

(*b*) Assignment to an oversea tour of duty—

1. When the amount of service remaining in current enlistment is not sufficient to complete a prescribed foreign service tour in the oversea command to which an individual is to be assigned, the discharge and reenlistment are to be accomplished when the oversea assignment is evident.

2. In the case of personnel serving overseas to complete a normal tour when the length of service remaining in current enlistment is insufficient for that purpose, the discharge and reenlistment are to be accomplished immediately upon application of the individual.

(*c*) Assignment to National Guard, Reserve Officer's Training Corps, United States Army Reserve, instructorship at service schools, or recruiting duty when the amount of service remaining in current enlistment is less than 12 months. Discharge and reenlistment are to be effected when such assignment is evident.

(*d*) Meeting length-of-service requirement of individuals selected for assignment to US Military missions to accomplish travel to place of assignment, complete tour with the mission, and return to the United States in time to complete separation processing by the expiration date of their enlistment. Discharge and reenlistment will be accomplished prior to departure from home station.

(*e*) Meeting length-of-service requirement for oversea movement of dependents. Discharge and reenlistment of this category of individuals will be accomplished prior to departure from home station.

b. Discharge is authorized to permit immediate enlistment or reenlistment in the Regular Army upon completion of 8 months' active Federal service on their current term of service of individuals in (1), (2), and (3) below, who apply for and are qualified for enlistment or reenlistment. Authority (AR 635-200) and SPN 313 will be included in directives or orders directing separation.

(1) Regular Army personnel serving on their first enlistment.

(2) Army of the United States personnel inducted into service under the Military Selective Service Act of 1967.

(3) Personnel of the Army National Guard of the United States and the United States Army Reserve ordered to active duty.

c. Discharge is authorized for the purpose of immediate enlistment in the Regular Army of REP 63 ADT trainees who apply for and are qualified for enlistment upon completion of the period for which ordered to ADT. Author-

ity (AR 635-200) and SPN 313 will be included in directives or orders directing separation.

d. Discharge is authorized for Army of the United States personnel inducted into service, regardless of time served in active Federal service, to permit enlistment in the Regular Army for the purpose of attending Army Officer Candidate School. Authority (para 5-10, AR 635-200) and SPN 427 will be included in directives or orders directing separation.

e. Commanders responsible for US Army reception station processing are authorized to discharge inductees for the convenience of the Government to permit immediate enlistment in the Regular Army prior to their entry into BCT for school courses of 20 weeks' duration or longer.

(1) Authority (para 5-10, AR 635-200) and SPN 425 will be included in directives or orders directing separation of inductees to enlist for warrant officer flight training.

(2) Authority (para 5-10, AR 635-200) and SPN 426 will be included in directives or orders directing separation of inductees to enlist to attend critical MOS schools.

5-10.1. Separation for failure to complete Army Officer Candidate School. *a.* Enlisted personnel who were formerly inductees and who enlisted in the Regular Army under the provisions of paragraph 2-15, AR 351-5 and who, for any reason, withdraw, fail to satisfactorily complete Army Officer Candidate training, or are not commissioned, may apply for discharge not earlier than 60 days prior to and to be effective upon completion of 3 years' total active Federal service.

b. Commanders specified in section VI, chapter 2, are authorized to order the separation for the convenience of the Government of such personnel.

c. Authority (para 5-10.1, AR 635-200) and SPN 428 will be included in directives or orders directing separation.

Section IV. NATIONAL HEALTH, SAFETY, OR INTEREST

5-11. National health, safety, or interest. Enlisted personnel may apply for separation from active military service on the basis of importance to national health, safety, or interest. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 are not eligible for separation under this section.

a. General. This policy is applicable to situations where the critical need for the services of an individual in a civilian capacity from the viewpoint of health, safety, or general welfare outweighs the need of the Nation for the individual in an active military status. Normally, favorable action on requests for separation under the provisions of this policy will be made only when it is clearly determined that—

(1) Application is motivated by critical national or community interest and not for the personal benefit of the applicant.

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im to begin or resume his education. A statement o the effect that "this is the most opportune time for me to begin/resume my education" is not sufficient. Specific reasons as to why further delay would cause personal hardship must be included.

(*d*) The date on which the applicant must report to school must fall within the last 3 months of remaining service.

★(2) Application for early release to attend a theological school which is not listed in the Education Directory, Part 3, Higher Education, published by the Office of Education, U.S. Department of Health, Education, and Welfare, and has not been determined by that office to be eligible for such listing; foreign schools; and all doubtful cases will be forwarded by the commander having discharge authority direct to The Adjutant General, ATTN: AGPO-SS, Washington, DC 20314.

(3) The effective date of early separation under this program normally will not be earlier than 10 days prior to the class starting date. The following exceptions may be made when appropriate:

(*a*) On submitting specific evidence that the period between the separation date specified above and the class starting date is clearly insufficient, members may be separated up to 30 days prior to the day classes convene. This is not intended as authority to grant release a full 30 days prior to class starting date in every such case, but to provide reasonable latitude in justifiable cases to authorize separation on a date which will give the member adequate time to register and enter the school on time. Examples of circumstances which meet this criterion are:

1. Member is returning from overseas.

2. Member must move his family to the location of the educational institution.

3. The school's latest registration date, in relation to the class starting date, will work an undue hardship on the member.

(*b*) In the event late registration is permitted by the school, individuals who are ineligible for separation under the foregoing criteria may be separated on the first day within the last 3 months of service that they become eligible for separation.

(4) Individuals will be discharged, released from active duty and returned to the Army National Guard or Army Reserve, or released from active duty and transferred to the Army Reserve, as appropriate. Authority (AR 635-200) and SPN 41B for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for separation.

(5) Accrued leave may not be utilized in conjunction with early separation under the provisions of this paragraph.

b. Separation to accept teaching positions.

(1) Separation will be accomplished not earlier than 10 days prior to the effective date of employment when the following conditions are met:

(*a*) Release is for the purpose of accepting a teaching position in a public school system or comparable private educational institution, or a recognized college or university.

(*b*) The date on which the applicant must report for employment must fall within the last 3 months of remaining service.

(*c*) Teaching must be the normal occupation of the individual or he shows definite intent to engage in that occupation following separation.

(*d*) Applicant has evidence of employment by a specific school specifying date employment must commence.

(*e*) Individuals returned from overseas, or individuals who are required to move their families to the locations of the educational institutions may, on submitting specific evidence that the period between the separation date specified above and the effective date of employment is insufficient, be released up to 30 days prior to the effective date of employment.

(2) Individuals will be discharged, released from active duty and returned to Army National Guard or Army Reserve, or released from active duty and transferred to the Army Reserve, as appropriate. Authority (AR 635-200) and SPN 41C for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty.

Section IX. EMPLOYMENT

★**5-21. Separation to accept employment.** Commanders specified in section VI, chapter 2, are authorized to order early separation for the convenience of the Government of personnel enlisted, inducted, or ordered to active duty who have less than 3 months remaining in their period of service who have an opportunity for employment which is not continuously active the entire year and submit valid applications as outlined in *a* below. Applications for separation under this paragraph may be submitted not more than 60 days prior to the requested release date. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 and reservists ordered to active duty due to unsatisfactory participation in reserve assignment are not eligible for separation under this program.

a. Valid applications must meet the following criteria:

(1) Applicant must have less than 3 months remaining to expiration of term of service. Accrued leave may not be utilized to extend this 3-month limitation.

(2) Applicant's services must not be essential to the mission of his assigned organization.

(3) Applicant must present evidence of a bona fide employment opportunity (includes self-employment). A notarized statement from tentative employer is acceptable evidence. The sworn statement of the military member explaining the nature and type of self-employment will be accepted. These statements are accepted only as proof of employment. The application must show that—

(*a*) Employment is not continuously active nor in full operation during the whole of a calendar year in the geographical area of the employment site. Employment that is in operation the whole of a calendar year but has peak seasons or increased periods in operations is not the nature of employment within the meaning of this program. Employment that is in operation the whole of a calendar year but income from such employment ceases during a period of the year for reasons such as climatic conditions is employment within the meaning of this program.

(*b*) Employment will not be available if an individual does not report at a specified date. In the case of farming, it may be considered that the employment is not available after expiration of the planting or harvesting seasons.

(*c*) Scheduled date of employment must fall within the last 3 months of current period of service.

(*d*) Early separation will allow unhindered participation in such employment for at least half of the employment period.

(*e*) Employment must be the normal occupation of the individual or he shows definite intent to engage in the occupation following separation. Employment for the purpose of earning money to enter school is not considered employment within the meaning of this program.

(*f*) The income derived from this employment is the primary source of income.

b. Separation will not be accomplished earlier than 10 days prior to the date the individual must report for work. The date of separation must be within the last 3 months of the individual's period of service.

c. Individuals will be discharged, released from active duty and returned to Army National Guard or Army Reserve, or released from active duty and transferred to the Army Reserve, as appropriate. Authority (AR 635-200) and SPN 414 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for separation.

Section X. TRAVEL AND FORM OF SEPARATION CERTIFICATES

5-22. Travel allowance. See Joint Travel Regulations.

5-23. Form of separation certificate to be given. *a.* Discharge certificate, based upon the character of service rendered and an Armed Forces of the United States Report of Transfer or Discharge (DD Form 214) will be issued to the individual concerned.

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★CHAPTER 11

DISHONORABLE AND BAD CONDUCT DISCHARGE

11-1. When authorized. *a.* An enlisted person will be dishonorably discharged pursuant only to an approved sentence of a general court-martial imposing dishonorable discharge. See paragraphs 14*b* and 127, MCM 1951.

b. An enlisted person will be discharged with a bad conduct discharge pursuant only to an approved sentence of a general or special court-martial imposing a bad conduct discharge. See paragraphs 14*b*, 15*b*, and 127, MCM, 1951.

c. Personnel in either of the above categories, who are confined in foreign penal institutions, either before, during, or after trial by foreign tribunals, will not be discharged until they have been returned to the United States. In a specific individual case, if the commander considers that discharge in an oversea area is desired, he may forward a request for approval of such discharge to The Adjutant General, ATTN: AGPO-SS, Department of the Army, Washington, D.C., 20315. A report containing essentially the information outlined in paragraph 3-3*b*, will be forwarded with the request. The separation in foreign countries of persons so confined will be subject to the conditions set forth in paragraph 3-3*a*.

11-2. Expulsion from the Army. Dishonorable and bad conduct discharges result in expulsion from the Army. (For exceptions affecting court-martial jurisdiction, see 10 U.S.C. 802(7), 803 (Articles 2(7), 3, UCMJ, and para 11, MCM, 1951.)

11-3. Form of discharge certificate to be given. An enlisted person dishonorably discharged will be given a Dishonorable Discharge Certificate (DD Form 260A). An enlisted person discharged with a bad conduct discharge will be given a Bad Conduct Discharge Certificate (DD Form 259A).

11-4. Reason and authority for discharge. The reason and authority for discharge will be entered in item 11c, DD Form 214, Armed Forces of the United States Report of Transfer or Discharge as shown in AR 635-5.

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CHAPTER 7

DISCHARGE BECAUSE OF MINORITY

Section I. GENERAL

7-1. Scope. This chapter sets forth the criteria and procedures and provides authority for the discharge of enlisted personnel by reason of minority.

7-2. Applicability. The procedures set forth in this chapter are applicable to personnel who are enlisted, inducted, or ordered to active duty or active duty for training under the Reserve Enlistment Program of 1963.

7-3. Authority to order discharge. Commanding officers specified in section VI, chapter 2, are authorized to order discharge or release from military control of an individual on account of minority, as appropriate. Individuals for whom discharge has been ordered will be processed under the provisions of paragraph 6, AR 635-61.

Section II. MINORITY

7-4. Authority. *a.* Section 3256, Title 10, U.S. Code, provides in part that the Secretary of the Army may accept original enlistments in the Army of qualified, effective able-bodied persons who are—

(1) Not less than 17 years of age in the case of male persons, except that no male person under 18 years of age may be originally enlisted without the written consent of his parents or guardian, if he has a parent or guardian entitled to his custody or control.

(2) Not less than 18 years of age in the case of female persons, except that no female person under 21 years of age may be originally enlisted without the written consent of her parents or guardian, if she has a parent or guardian entitled to her custody or control.

b. Section 4(c)(4), Universal Military Training and Service Act and Section 1630.1(b) Selective Service Regulations provide that—

(1) A person after attaining the age of 17 years may, with the written consent of his parents or guardian, volunteer at his local board for induction into the Armed Forces.

(2) A registrant between the age of 18 and 18½, inclusive, may volunteer at his local board for induction into the Armed Forces without the written consent of his parents or guardian.

(3) The minimum age for involuntary induction is 18 years and 6 months. (Section 4(a) Universal Military Training and Service Act) (50 U.S. Code App. 454(a)).

7-5. Application of laws. *a. Enlisted men* (i.e., all male personnel serving in enlisted grades).

(1) The following individuals who have attained the age of 18 years while on active duty are not eligible for discharge due to minority regardless of age at the time of enlistment and regardless of whether the consent of his parents or guardian was obtained.

(*a*) Members of the Regular Army.

(*b*) Members of the Army National Guard of the the United States.

(c) Members of the Army Reserve.

(2) An enlisted man inducted pursuant to the Universal Military Training and Service Act and who has attained the age of 18 years and 6 months is not eligible for discharge due to minority regardless of the age at the time of induction and regardless of whether consent of his parents or guardian was obtained.

★(3) A minor under 17 years of age is incapable of entering into a valid enlistment or voluntary induction. The enlistment or voluntary induction of a minor who was below 17 years of age at date of enlistment or voluntary induction and who has not attained the age of 17 upon receipt of satisfactory evidence of the date of his birth is void. Likewise, the involuntary induction of a person who was under the age of 18 years and 6 months at date of induction and who has not attained that age upon receipt of satisfactory evidence of his date of birth is void. The Discharge Authority will not issue a discharge. However, he will issue an order releasing the individual from military control and a DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge). The order will reflect that the individual's enlistment or induction is void because of minority and that his release from military control is being accomplished by reason of his minority. Copies of the order will be issued to the individual and will also be made a permanent part of his personnel records.

(4) Unless under charges or in confinement for a serious offense committed after attainment of the age of 17 years, as set forth in paragraph 7-9, an enlisted man of the Regular Army who was under 17 years of age at the time of enlistment and who has attained the age of 17 but who has not reached the age of 18 years will be discharged upon receipt of satisfactory evidence of the date of his birth. However, upon recommendation of his immediate commanding officer, the enlisted man may be retained in service at the option of the Secretary of the Army, unless application for his discharge is made by his parents or guardian. Requests for retention in service, with appropriate documentation and recommendations, will be forwarded to The Adjutant General, ATTN: AGPO-SS, Department of the Army, Washington, D.C. 20315, for final decision.

(5) Unless under charges or in confinement for a serious offense, committed after attainment of the age of 17 years, as set forth in paragraph 7-9, an individual voluntarily inducted into the Army under 17 years of age and who has attained the age of 17 years, but who has not reached the age of 18 years and 6 months, will be discharged, unless retained in the service in accordance with the provisions of (4) above. An individual who was involuntarily inducted while under the age of 18 years and 6 months will not be discharged for minority if he has reached the age of 18 years and 6 months.

(6) Enlisted members of the Army National Guard of the United States and Army Reserve who enlisted at the age of 17 without the consent of parents or guardian will be discharged because of minority unless parental consent was obtained prior to entry into active military service, as prescribed in AR 135-300. Those members under the age of 17 at the date of enlistment and who have not reached the age of 17 years will be released from military control ((3) above). Those under the age of 17 years at the date of enlist-

ment and who have attained the age of 17 years but have not reached the age of 18 years may be discharged or retained in service in accordance with (4) above.

(7) Subject to the provisions of (1) and (2) above, an enlisted man 17 years of age at the time of enlistment or voluntary induction, who enlisted or was voluntarily inducted without the written consent of his parents or guardian, will be discharged upon application of the parents or guardian and presentation of satisfactory evidence of the date of his birth. An enlisted man who enlisted or was voluntarily inducted when 17 years of age, with the written consent of his parents or guardian, will not be discharged under this section.

(8) Action will be taken under the provisions of AR 600-2 to change the records concerning name and/or date of birth, as appropriate, on those individuals retained in service as provided in (4), (5), (6), and (7) above.

b. Enlisted women (i.e., all female personnel serving in enlisted grades).

(1) No enlisted woman 21 years of age or over will be discharged from the service because she entered such service without the written consent of her parents or guardian.

(2) Unless under charges or in confinement for a serious offense as set forth in paragraph 7-9, an enlisted woman who was under 18 years of age at the time of enlistment and who has not yet reached the age of 21 years may be discharged upon receipt of satisfactory evidence of the date of her birth, regardless of whether she enlisted with or without the consent of her parents or guardian. However, such enlisted woman may, upon recommendation of her immediate commanding officer, be retained in service at the option of the Secretary of the Army, unless application for her discharge is made by her parents or guardian in accordance with (3) below. Requests for retention in service, with appropriate documentation and recommendations, will be forwarded to The Adjutant General, Department of the Army, ATTN: AGPO-SS, Washington, D.C., 20315, for final decision.

(3) Subject to the provisions of (1) above, an enlisted woman between the ages of 18 and 21 years at the time of enlistment who enlisted without the written consent of her parents or guardian will be discharged upon application of the parents or guardian and presentation of satisfactory evidence of date of birth.

7-6. Evidence required. *a.* In support of an application for discharge, or for release from military control under this section, the following evidence of age is required:

(1) A duly authenticated copy of a municipal or other official record of birth of the individual, or

(2) If no official record of birth of the individual can be obtained, an affidavit of the parents or guardian must be furnished stating specifically why an official record cannot be obtained. The affidavit must be accompanied by one of the following:

(*a*) A baptismal certificate; a certified copy or photostat of school records, preferably the first term of school; the affidavit of the physician or midwife in attendance at the birth of the individual; or a notarized transcript from the records of the hospital in which the individual was born, or

(*b*) Affidavits of at least two persons not related to the enlisted person, testifying from their personal knowledge as to the date of birth.

b. In case of an enlistment under an assumed name, the identification of the individual with the person mentioned in the record of birth or

the affidavits must be shown by the affidavit of the parents or guardian.

c. Birth or baptismal certificates will be examined carefully for alterations other than those made officially. Care will be taken to note the "date of filing." A delayed birth certificate with date of filing subsequent to the individual's enlistment or one with no filing date is not acceptable unless supported by substantial evidence to establish the date and place of filing.

d. If the parents are divorced or otherwise legally separated, the application for discharge must be accompanied by a copy of the court order or other evidence showing that the parent submitting the application has custody of the enlisted person. If either parent has lost control of the enlisted person by judgment of a court, appointment of a guardian, desertion of family, or waiver, an application from such parent for the discharge of the individual will not be considered.

e. Although a guardian usually is not recognized as such unless legally appointed, a person who has assumed support of a minor and performed the duties of guardian for some years after the death of parents, even though not formally appointed, will for the purposes of this regulation, be recognized as a guardian. An affidavit supporting "guardianship" under these conditions will be submitted with the birth certificate.

7-7. Procedure. *a.* Any doubtful case will be forwarded for decision to The Adjutant General, Department of the Army, ATTN: AGPO-SS, Washington, D.C., 20315.

b. When an oversea commander exercising discharge authority finds that action on an application for discharge on account of minority would be materially expedited by having the case completed by Headquarters, Department of the Army, he will forward the case through channels to The Adjutant General, Department of the Army, ATTN: AGPO-SS, Washington, D.C., 20315, together with recommendation for disposition, and a report of the status of the individual.

c. Except as provided in *a* and *b* above, when a commander authorized to order minority discharge or release from military control by reason of minority receives an application from either the parents or guardian, submitted as prescribed in paragraph 7-5, together with the evidence required in paragraph 7-6, he will procure from the installation which enlisted the individual, or from The Adjutant General, Department of the Army, any additional information that is considered essential to determine whether the case comes under the provisions of this regulation, and will take final action on the application. The signatures on the application for minority discharge or release from military control by reason of minority, and any consent statement will be closely scrutinized to determine whether the applicant actually signed the statement.

7-8. Pay and allowances. *a.* Except as provided in *b* below, an individual discharged or released from military control on account of minority is entitled to—

(1) Whatever pay and allowances he has already received during the period of his minority enlistment or period of service, but no pay or allowances may be paid to him after the date of determination of minority.

(2) Transportation in kind to his home of record.

(3) A donation of not more than $25.00 if he is otherwise without funds to meet his immediate needs (para 11508, AR 37-104).

In addition to (1) through (3) above, an individual who is confined in an Army or contract prison at the time of discharge or release from military control on account of minority is also entitled to civilian clothing not to exceed $40.00 in cost.

b. An individual who enlisted in the Regular Army after becoming 17 years of age and who is discharged for minority prior to his 18th birthday upon request of his parents or guardian, is entitled to pay and allowances to the date of discharge.

7-9. When under charges or in confinement and certain other cases. When a minor who is otherwise eligible for minority discharge is under court-martial charges, serving a court-martial sentence, or in military confinement for a serious offense, he will not be discharged for minority until proper disposition has been made in his case. Although the facts indicate that, in other circumstances, he should be discharged for a reason other than minority (i.e., misconduct, unfitness, or unsuitability), ordinarily it is desirable to avoid action by boards of officers under AR 635-212, or trial and confinement of an individual who otherwise is eligible for minority discharge. It is quite proper to go to considerable lengths to determine that no board or trial should be held and to remit any sentence imposed. Immediate action will be taken, however, to discharge such personnel.

7-10. When outside the United States. An individual serving outside the United States, or an area of residence in which enlisted will not be discharged, or released from military control for minority until returned to the continental United States, or appropriate territory or area in accordance with AR 612-50. Orders will state clearly that the individual is a minor being returned for discharge or release from military control in order that such separation may be accomplished promptly upon arrival.

7-11. Indebtedness, or confinement by civil authorities. Indebtedness to the Government or to an individual, or confinement by civil authorities will not prevent discharge or release from military control for minority when an individual is eligible therefor.

★7-12. Form of discharge certificate. Notwithstanding the fact that enlistment may have been obtained by misrepresentation as to age or consent of parents or guardian, DD Form 256A (Honorable Discharge Certificate) or DD Form 257A (General Discharge Certificate) will be furnished as indicated in section III, chapter 1, to reflect the character of service performed since entry on active duty. No discharge certificate will be furnished a minor whose enlistment or induction is void. A minor whose enlistment or induction is void will be issued a copy of the order releasing him from military control and DD Form 214 in accordance with paragraph 7-5*a*(3).

7-13. ARNGUS and USAR trainees. *a.* ARNGUS trainees will be relieved from active duty for training for minority and returned to the control of the appropriate State National Guard authorities for discharge.

b. USAR REP 63 trainees will be discharged or released from their status as "reservists of the Army."

★7-14. Reason and authority for discharge or release from military control. *a.* When discharged because of minority the reason and authority for discharge (item 11c, DD Form 214, Armed Forces of the United States Report of Transfer or Discharge) will be entered as shown in AR 635-5.

b. When released from military control by reason of a void enlistment or induction, DD Form 214 will be completed in accordance with AR 635-5 except for items 11a, 11c, 13a, 15, and 16. The entry for the foregoing items will be as follows:

(1) Item 11a. Released from military control by reason of void enlistment (induction).
(2) Item 11c. AR 635-200, SPN 976 Voidance of enlistment (induction).
(3) Item 13a. Character of service will be Honorable or Under Honorable Conditions as indicated in section III, chapter 1.
(4) Item 15. Enter "NA".
(5) Item 16. Enter "NA".

7-15. Entitlement. The entitlements portion of this chapter pertaining to pay and allowances has been approved by the Secretary of Defense in accordance with 37 U.S.C. 1001.

at least 4 months ADT will be required to make up time lost except that commanding officers of training installations are authorized to waive this requirement if the individual has completed the required training and the commander does not consider it would be in the best interest of the service to retain the individual on active duty for training to make good time lost. Commanding officers of training installations are authorized to issue necessary amendatory orders extending the initial period of active duty for training in the cases of reservists who are required to make good time lost while undergoing active duty for training. Five copies of each amended order issued prior to release from ADT date indicated in original orders will be furnished the State adjutant general or the commander that issued the original active duty for training orders.

d. Enlisted members of the Army National Guard of the United States and the United States Army Reserve who are being released from active duty because the unit in which they were ordered to active duty is being returned as a unit to inactive status will not be retained on active duty to make good time lost.

2-4. When investigation is initiated with view to trial by court-martial or member is awaiting trial or result of trial. ★*a.* A member may be retained beyond the expiration of his term of service by a general court-martial convening authority, or his designee, when an investigation of his conduct has been initiated with a view to trial by court-martial; charges have been preferred; or the member has been apprehended, arrested, confined or otherwise restricted by the appropriate military authority.

b. An individual who, on the date on which he would otherwise be eligible for discharge or release from active duty, is awaiting trial or result of trial by court-martial will not be discharged or released from active duty until final disposition of the court-martial charges. For effective date of discharge, see section V, this chapter. Enlisted personnel under sentence to dishonorable or bad conduct discharge will not be discharged prior to completion of appellate review, unless so directed by Headquarters, Department of the Army. If the individual is absent without leave at the time appellate review is completed, the punitive discharge may be executed notwithstanding his absence.

2-5. En route to United States or to territory of origin. Whenever an individual is held in service after the expiration of his period of service under the conditions set forth in *a* and *b* below, he will be regarded as having been so retained for the convenience of the Government.

a. As a casual for separation. An individual en route as a casual to the United States from overseas will not under any circumstances be separated until he has arrived at his destination.

b. As a member of an organization. An individual whose period of service expires while at sea en route to the United States with his organization and who signifies his intention to reenlist for the same organization on the day following discharge will be discharged and reenlisted at sea. Those who do not signify their intention to reenlist will be held in the service until they arrive in the United States.

2-6. Requiring medical care or sick in hospital when the period of service expires and disease or injury has been determined as incurred incident to service. Any enlisted person, except those on active duty for training (ADT) on orders which are self-terminating, whose period of service will expire while requiring medical care or during the course of hospitalization for a disease or injury which finally has been determined to have been incurred incident to service (in line of duty) may, with his consent, be retained in service beyond the period of his service in order that he may complete the required medical care or hospitalization, and, if required, be brought before a physical evaluation board (see AR 635-40; for ADT cases, see AR 135-200). The final determination whether a member's disease or injury was incurred incident to service, referred to in this paragraph and in paragraph 2-7, is the decision of the Secretary of the Army in the line-of-duty investigation of the member's disease or in-

jury conducted under the provisions of AR 600-10. The enlisted person will be counseled for retention on active duty by an officer authorized to administer oaths pursuant to the Uniform Code of Military Justice, Article 136 (authority of Armed Forces personnel to administer oaths, take acknowledgments, and perform other notarial acts as contained in AR 600-11). He will furnish the enlisted person with the list of retention advantages in *d* below, will explain orally the advantages, and will have the enlisted person execute an affidavit as shown in *e* below, whether or not retention is desired. In those instances in which the individual has been determined to be mentally incompetent or otherwise unable to give consent, the next of kin or legal representative will be furnished the list of retention advantages and will be requested to furnish an affidavit as to the decision regarding retention. Any enlisted person so retained will receive at Government expense, medical care, hospitalization, pay and allowances (including expense money authorized by law and credit for longevity), and will be subject to forfeiture in the same manner and to the same extent as if the period of service had not expired. See DOD Military Pay and Allowances Entitlements Manual.

a. Any individual whose period of service will expire while requiring medical care or during the course of hospitalization may be held in service without his consent to make good time lost under title 10, United States Code, section 972.

b. No enlisted person may be held in service beyond the expiration of his term of service without his written consent in affidavit form or, in the case of mentally incompetent personnel, without the written consent in affidavit form of the next of kin or legal representative, solely to provide further medical care or to effect further hospitalization and subsequent separation or retirement for physical disability. The affidavit will be filed in the individual's Military Personnel Records Jacket, US Army (DA Form 201) and forwarded to US Army Personnel Services Support Center, Fort Benjamin Harrison, IN 46249, when transfer processing has been completed. Individuals for whom authority to retain beyond expiration of term of service is not granted will be discharged or released from active duty on the date of expiration of term of service. A hospitalized individual so discharged or released from active duty may be permitted to remain in the hospital as a pay patient at his own expense and without military status if his condition is such that he is physically unable to leave the hospital at the time of discharge or release from active duty or in mentally incompetent cases, if his discharge would be attended by danger to himself or others. In any such case in which the individual is eligible for authorized hospitalization as a beneficiary of the Veterans Administration or, if ineligible for Veterans Administration hospitalization but transfer to a State, county, municipal, or private institution may be effected, the hospital commander will take appropriate action to arrange for and effect transfer. In cases in which the next of kin or legal representative does not authorize retention in the service beyond expiration of term of service of a mentally incompetent patient, disposition will be made in accordance with AR 40-3. If a mentally incompetent patient has been determined to be dangerous to himself or others and the next of kin does not elect to assume responsibility for the patient and the patient is not eligible for transfer to a Veterans Administration hospital, the hospital commander will follow procedures outlined in paragraph 70*b*, AR 40-3.

c. If it is impossible to locate the next of kin of a mentally incompetent patient, or the next of kin does not indicate whether the individual should be retained or discharged, the hospital commander will not discharge the individual but will continue, when appropriate, physical disability processing. The hospital commander will immediately forward full details of the case, including reasons for not completing physical disability processing by the date of expiration of term of service, and action to secure consent of next of kin for retention, by the most expeditious means to The Adjutant General, Department of the Army, ATTN: AGPO-R, Washington, DC 20314. Disposition

instructions will be issued by the Secretary of the Army.

d. An enlisted person whose period of service will expire while requiring medical care or during the course of hospitalization will be advised concerning the advantages of remaining on active duty (DA Pam 608-2) and furnished the following list of retention advantages, provided the disease or injury for which medical care is being provided or for which hospitalized was incurred incident to service (in line of duty):

(1) Advantages while remaining on active duty for further medical care or continued hospitalization or while being processed for disability benefits are—

(*a*) Medical care and/or hospitalization provided.

(*b*) Receipt of normal benefits such as pay, allowances to include class Q allotment,

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CHAPTER 6

SEPARATION BECAUSE OF DEPENDENCY OR HARDSHIP

Section I. GENERAL

6-1. Scope. This chapter sets forth the criteria and procedures and provides authority for the separation of enlisted personnel from active military service by reason of dependency or hardship.

6-2. Applicability. The procedures set forth in this chapter are applicable to personnel who are enlisted, inducted, or ordered to active duty or active duty for training under the Reserve Enlistment Program of 1963.

6-3. By whom separation ordered. By authority of the Secretary of the Army, the commanders specified in section VI, chapter 2, will order discharge or release from active military service of enlisted personnel on account of dependency or hardship.

Section II. DEPENDENCY OR HARDSHIP

6-4. Authority. At the discretion of the Secretary of the Army, an individual may be discharged or released, as appropriate, from active military service because of—

a. Dependency, when by reason of death or disability of a member of his family occuring after his enlistment, induction, or order to active duty, members of the enlisted person's family become principally dependent upon him for care or support (10 U.S.C. 3813).

b. Hardship, when in circumstances not involving death or disability of a member of his family, his separation from the service will materially affect the care or support of his family by alleviating undue and genuine hardship.

6-5. Application of laws. Separation from the service of enlisted personnel by reason of dependency or hardship will be granted in the following circumstances:

a. Dependency.

(1) Undue and genuine dependency exists as a result of the death or disability of a member of the enlisted person's family occurring after his entry into the service.

(2) Dependency is not of a temporary nature.

(3) Conditions resulting from the death or disability of a member of the enlisted person's family occurring prior to his entry into the service have been aggravated to such an extent as to necessitate his care or support of a member of his family. Pregnancy of an enlisted man's wife is not a disability for which his separation is authorized. However, this does not preclude separation on account of a disability of the enlisted man's wife occurring as a result of her pregnancy.

(4) Every reasonable effort made by the enlisted person to alleviate the dependency condition has been without success.

(5) Discharge or release from active military service of the enlisted person is the only readily available means of eliminating or materially alleviating the dependency conditions.

b. Hardship.

(1) Undue and genuine hardship conditions affecting members of the enlisted person's family have arisen after, or as a result of his entry into active military service. Undue and genuine hardship does not necessarily exist solely because of altered income or because the entitled person is separated from his family, or must suffer the inconveniences normally incident to military service.

(2) Hardship conditions are not of a temporary nature.

(3) Conditions existing in the enlisted person's family prior to his entry into active military service have been aggravated to such an extent as to constitute undue and genuine hardship.

(4) The enlisted person has made every reasonable effort to alleviate hardship conditons, including application for benefits as provided in AR 37-104 (Dependents' Assistance Act of 1950), without success.

(5) Discharge or release from active military service of the enlisted person is the only readily

available means of eliminating or materially alleviating the hardship conditions.

c. Conditions affecting determination regarding separation for dependency or hardship.

(1) When an enlisted person is eligible for separation under this section, separation will not be disapproved because of the individual's indebtedness to the Government or to an individual.

(2) When an individual is eligible for separation under this section, separation will not be disapproved because his services are needed by his organization.

(3) When an individual is under charges, in confinement, under investigation for homosexuality or under the military personnel security program, or is being processed for discharge or retirement for physical disability, he will not be separated on account of dependency or hardship until such case has been properly disposed of.

(4) A sentence to confinement not including dishonorable or bad conduct discharge will be fully served unless sooner terminated by proper authority before a separation for dependency or hardship may be given.

(5) For the purpose of separation under this section, the term "members of the family" include only spouse, children, father, mother, brothers, sisters, and any person who stood in loco parentis to the enlisted person prior to his entry into the service. (The term "in loco parentis" as used herein is defined as "any person who has stood in the place of a parent to an enlisted person for 5 continuous years when the member was a minor child.")

6-6. Application for separation. *a.* Any enlisted person may submit a written application for separation because of dependency or hardship. Requests for separation will be submitted as follows:

(1) A person serving in the United States or stationed overseas will submit his application to his immediate commanding officer. In each instance the application will be supported by the evidence required in paragraph 6-7.

★(2) A person assigned to an oversea unit who is temporarily in the United States will submit his application to the commander of the military installation (except Armed Forces Examining and Entrance Stations and Recruiting Main Stations) nearest his leave address or the installation to which he is temporarily assigned.

(3) A person assigned to a unit or installation within the United States but temporarily in an oversea command will submit his application, together with such supporting evidence as he may have readily available, to the commander of the oversea command in which he is located.

(4) Enlisted personnel on orders for oversea shipment, either as individuals or as members of units, who have made application for dependency or hardship separation will be held at the home station pending final disposition of the application.

(5) Applications for dependency or hardship separation from personnel en route overseas normally will not be accepted at oversea replacement stations. However, the commanders of such activities may accept applications from personnel en route overseas who are attached or assigned to the U.S. Army Personnel Center or who have direct assignments to oversea units if they feel that, based upon the evidence submitted and/or personal interview, separation from active duty may be necessary to relieve undue and genuine hardship. In such instances, retention at oversea replacement stations for a period of not more than 30 days, in order to allow individuals to procure necessary evidence to support their application, is authorized. If the application, together with supporting evidence, is submitted within the above specified period, retention may be continued pending final action on the application. When separation of an individual with a direct assignment to an oversea unit is approved, the appropriate oversea commander will be notified.

b. Forwarding indorsements prepared by commanders having custody of the applicant's records will set forth the following information if it does not appear elsewhere in the inclosures:

(1) Enlisted person's home address.

(2) Primary MOS.

(3) Name and address of dependents for whose care or support separation is being requested.

(4) Amount and type of allotments the enlisted person has in effect, together with the name and relationship of each allottee, where applicable.

(5) When dependency discharge is requested by an inductee, a statement that a determination of dependency for benefits under the Dependents' Assistance Act of 1950 (sec A, chap. 2, part 2, AR 37-104) was or was not requested and denied

by the allotments and Deposits Operations, Finance Center, US Army.

(6) Selective Service number.

(7) Date of current enlistment or entry on active duty. (In the case of Reserve component personnel, both will be included.)

(8) Prior service.

(9) Whether the applicant is under charges, in confinement, under investigation for separation by reason of homosexuality or under the military personnel security program, or is being processed for discharge or retirement for physical disability.

c. Commanders of military installations in the United States, except Armed Forces Examining and Entrance Stations and Recruiting Main Stations, will accept applications for separation because of dependency or hardship from enlisted personnel temporarily in the United States from an oversea assignment. Personnel will be attached when on leave to an activity at the installation awaiting the final decision on their application for separation. The individual's parent oversea unit will be notified. When the separation of an individual is approved, the oversea command will be notified and requested to advise whether the provisions of AR 600-31 are applicable and, if not, to issue orders relieving the individual from assignment, and to forward the orders and personnel records by airmail in order that separation can be accomplished. When the separation of an individual on leave is disapproved, the individual will be released from an attached status and reverted to an emergency leave status, if previously on emergency leave, or ordinary leave status for return to his home station. The oversea commander will be notified and the application submitted while on leave will be forwarded to the individual's oversea unit to become part of his records.

6-7. Evidence required. *a.* The evidence required for dependency or hardship separation normally will be in affidavit form. The evidence must substantiate dependency or hardship conditions upon which the application for separation is based.

b. The evidence required will include affidavits or statements submitted by or in behalf of the individual's dependents and by at least two disinterested persons or agencies having firsthand knowledge of the circumstances. If dependency or hardship is the result of disability of a member of the individual's family, a physician's certificate should be furnished showing specifically when such disability occurred, the nature thereof, and prognoses for recovery. There also will be furnished the names, ages, occupations, home addresses, and monthly incomes of other members of the applicant's family. The affidavits of disinterested individuals and agencies should include reasons within their knowledge that these members of the family can or cannot aid in the financial or physical care of the dependents concerned for the period the enlisted person has remaining to serve on his current tour of duty.

★**6-8. Procedure.** *a.* Upon receipt of a written application, together with the required supporting evidence from an individual, the commanders specified in section VI, chapter 2, or other officers within the commanders' headquarters to whom authority has been delegated, will—

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

(2) Procure any additional information that may be necessary to determine the validity of the request. The services of the American National Red Cross may be utilized when the information contained in the application is not considered sufficient upon which to base a decision (para 6-9).

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

b. Applications upon which final action has been taken will become part of the records of the enlisted person concerned.

6-9. Service of American National Red Cross. *a.* Requests for supplemental factual information pertaining to applications for discharge or release of individuals because of dependency or hardship may be made to the American National Red Cross. Such requests orig-

inating within military agencies will be restricted to specific information in those cases where it appears probable separation is warranted.

b. The following procedures will be followed when military agencies request assistance from the American National Red Cross:

(1) The military agency requesting assistance will prepare a brief containing sufficient information to identify the applicant for separation. The brief will also include the name, address, and relationship of the dependent or dependents regarding whom the information is desired.

(2) If there is a Red Cross representative serving the organization or installation concerned, the brief, together with a request for the specific information, will be forwarded to the representative.

(3) If there is no Red Cross representative serving the organization or installation, the request will be sent to the appropriate area office.

American National Red Cross area offices are listed below:

National Headquarters
17th and D Streets, N.W.
Washington, DC 20006*
Hawaii
Insular chapters:
American Samoa
Canal Zone
Virgin Islands
Guam
Puerto Rico

Eastern Area
615 North St. Asaph Street
Alexandria, VA 22314
Connecticut
Delaware
District of Columbia
Indiana—Dearborn and Ohio Co., Franklin Co., and Switzerland Co. chapters
Kentucky—Boone Co., Campbell Co., Kenton Co. and the following chapters: Boyd Co., Greenup Co., Lewis Co., Bracken Co., Grant Co., Gallatin Co., Mason Co., Owen Co., and Pendleton Co.
Maine
Maryland
Massachusetts
New Hampshire
New Jersey
New York
North Carolina—US Coast Guard, *Elizabeth City and the following chapters:* Camden Co., Chowan Co., Currituck Co., Gates Co., Pasquotank Co., and Perquimans Co.
Ohio
Pennsylvania

*Alaska, Hawaii, and insular chapters are communicated with directly through postal or commercial cable facilities. Chapters should follow instructions in Handbook for Chapter Workers (ARC 1295) when indicated.

Rhode Island
Vermont
Virginia
West Virginia
Southeastern Area
1955 Monroe Drive, N.E.
Atlanta, GA 30324
Alabama
Arkansas (*except* Miller Co. and Little River Co.)
Florida
Georgia
Kentucky (*except* Boone Co., Campbell Co., Kenton Co., and the following chapters: Boyd Co., Bracken Co., Daviess Co.)
Indiana—Clark Co., Crawford Co., Harrison Co., and New Albany-Floyd Co. chapters
Kentucky: Gallatin Co., Grant Co., Greenup Co., Hancock Co., Henderson Co., Lewis Co., Mason Co., Owen Co., Pendleton Co., Sturgis Co., Union Co., and Webster Co.
Louisiana
Mississippi
North Carolina (*except* U.S. Coast Guard, Elizabeth City and the following chapters: Camden Co., Chowan Co., Currituck Co., Gates Co., Pasquotank Co., and Perquimans Co.)
South Carolina
Tennessee
Midwestern Area
4050 Lindell Boulevard
St. Louis, MO 63108
Arkansas—Miller Co., and Little River Co.
Illinois
Indiana (*except* Clark Co., Crawford Co., Dearborn Co., Ohio Co., Franklin Co., Harrison Co., New Albany-Floyd Co., and Switzerland Co. chapters)
Iowa
Kansas
Kentucky—Daviess Co., Hancock Co., Henderson Co., Sturgis Co., Union Co. and Webster Co. chapters
Michigan
Minnesota
Missouri
Nebraska
North Dakota
Oklahoma
South Dakota
Texas
Wisconsin
Wyoming—Crook Co., Weston Co.
Western Area
1550 Sutter Street
San Francisco, CA 94101
Alaska
Arizona
California
Colorado
Idaho
Montana
Nevada
New Mexico
Oregon
Utah
Washington
Wyoming (*except* Crook Co. and Weston Co.)

(4) The contents of reports furnished by the Red Cross will not be disclosed to the enlisted person or his family.

(5) When dependency or hardship application is forwarded to a State Director of Selective Service as provided in paragraph 6–8*b*, Red Cross reports will not be included as evidence. Excerpts of pertinent information from Red Cross reports may be furnished, insuring that identification of sources of information used by the Red Cross will not be disclosed.

c. Enlisted personnel or their dependents may, on their own initiative, request local chapters of the American National Red Cross to assist in obtaining necessary evidence to substantiate applications for separation. The American National Red Cross does not, however, make formal report to military agencies unless requested to do so by appropriate military commanders.

★**6–10. Types of separation.** *a*. Enlisted personnel will be discharged from the military service, except as provided in *b*, *c*, and *d* below.

b. ARNGUS personnel on active duty will be released for hardship and dependency reasons and returned to the control of the appropriate State National Guard authorities.

c. ARNGUS trainees will be discharged from their status as reservists of the Army and returned to the control of the Adjutant General of the appropriate State, District of Columbia, or Puerto Rico.

d. USAR trainees will be discharged from their status as reservists of the Army.

6-11. Form of separation certificate. *a. Discharge.* An Honorable Discharge Certificate (DD Form 256A) or a General Discharge Certificate (DD Form 257A) will be furnished in accordance with chapter 1.

b. Report of separation. Armed Forces of the United States Report of Transfer or Discharge (DD Form 214) will be furnished each enlisted person separated from the service under this section.

6-12. Reason and authority for separation. The reason and authority for separation (item 11c, DD Form 214) will be entered as follows:

a. When separation is for reason of dependency. "Chapter 6, section II, AR 635-200, SPN 226."

b. When separation is for reason of hardship. "Chapter 6, section II, AR 635-200, SPN 227."

★APPENDIX
ADDRESSES OF STATE AND TERRITORY ADJUTANTS GENERAL

State or territory	*Address*
Alabama	P. O. Box 1311, Montgomery, AL 36102
Alaska	Military Department, State of Alaska, Anchorage, AK 99501
Arizona	747 West Van Buren, Phoenix, AZ 85007
Arkansas	P. O. Box 678, North Little Rock, AR 72115
California	P. O. Box 214334, Sacramento, CA 95821
Colorado	300 Logan St., Denver, CO 80203
Connecticut	360 Broad St., Hartford, CT 06115
Delaware	State Armory, P. O. Box 607, Wilmington, DE 19899
District of Columbia	National Guard Armory, 2001 E. Capitol St., Washington, DC 20003
Florida	State Arsenal, St. Augustine, FL 32084
Georgia	P. O. Box 4839, Atlanta, GA 30302
Hawaii	Fort Ruger, Honolulu, HI 96816
Idaho	P. O. Box 1098, Boise, ID 83701
Illinois	State Armory Bldg., Springfield, ILL 62706
Indiana	Stout Field, Indianapolis, IN 46241
Iowa	P. O. Box 616, Des Moines, IA 50303
Kansas	State Capitol Bldg., Topeka, KS 66612
Kentucky	State Capitol, Frankfort, KY 40601
Louisiana	HQ Bldg., Jackson Barracks, New Orleans, LA 70140
Maine	Camp Keyes, Augusta, ME 04330
Maryland	Fifth Regiment Armory, Baltimore, MD 21201
Massachusetts	905 Commonwealth Ave., Boston, MA 02215
Michigan	P. O. Box 210, Lansing, MI 48901
Minnesota	Veterans Service Bldg., St. Paul, MN 55101
Mississippi	P. O. Box 5027, Fondren St., Jackson, MS 39216
Missouri	P. O. Box 897, Jefferson City, MO 65101
Montana	1100 N. Main Street, Helena, MT 59601
Nebraska	1300 Military Rd., Lincoln, NB 68508
Nevada	P. O. Box 1120, Carson City, NV 89701
New Hampshire	State Mil. Res., Airport Rd., Concord, NH 03301
New Jersey	Chief of Staff, Department of Defense, State of New Jersey, P. O. Box 979, Trenton, NJ 08625
New Mexico	P. O. Box 4277, Santa Fe, NM 87502
New York	The Chief of Staff, Division of Military and Naval Affairs, Public Security Bldg., State Campus, Albany, NY 12226

State or territory	*Address*
North Carolina	P. O. Box 26268, Raleigh, NC 27611
North Dakota	Fraine Barracks, Bismarck, ND 58501
Ohio	Bldg. 110, Ft. Hayes, Columbus, OH 43216
Oklahoma	2205 North Central St., Oklahoma City, OK 73105
Oregon	2150 Fairgrounds Rd., N. E., Salem, OR 97310
Pennsylvania	R. D. #2, Annville, PA 17003
Puerto Rico	P. O. Box 3786, San Juan, PR 00904
Rhode Island	1051 Main St., Providence, RI 02904
South Carolina	235 Wade Hampton State Office Bldg., Columbia, SC 29201
South Dakota	Camp Rapid, Rapid City, SD 57704
Tennessee	National Guard Armory, Sidco Dr., Nashville, TN 37204
Texas	P. O. Box 5218, West Austin Station, Austin, TX 78703
Utah	P. O. Box 8000, Salt Lake City, UT 84108
Vermont	Building No. 1, Camp Johnson, Winooski, VT 05404
Virginia	Room 506 Ninth Street, State Office Bldg., Richmond, VA 23219
Washington	Camp Murray, Fort Lewis, Tacoma, WA 98430
West Virginia	State Capitol, Charleston, WV 25305
Wisconsin	P. O. Box 328, Madison, WI 53701
Wyoming	5500 Bishop Blvd., P. O. Box 1709, Cheyenne, WY 82001

SES C 30 23 Sept 1971

CHAPTER 2

SEPARATION OF ENLISTED PERSONNEL

Section I. ELIGIBILITY FOR SEPARATION

★**2-1. Statutory authority.** Title 10, United States Code, section 1169 provides that no enlisted member of the Army may be discharged before his term expires except—

a. As prescribed by the Secretary of the Army.

b. By sentence of a general or special court-martial.

c. As otherwise provided by law.

2-2. Discharge or release from the Active Army upon termination of enlistment, period of induction, and other periods of active duty or active duty for training. *a.* The periods of military service required of all members of the Army will be in accordance with applicable laws. Periods for which enlistment is authorized are set forth in NGR 25-1, AR 140-111, and AR 601-210. Periods for which individuals are inducted or ordered to active duty are prescribed by law.

b. The following aliens will not be separated prior to the full period for which enlisted or inducted purely as a matter of convenience, except as provided in paragraph 5-2:

(1) Aliens who enlisted in the Regular Army for a period of 3 years (see section 328, Act of 27 June 1952 (66 Stat. 249; 8 U.S.C. 1439) for requirements as to naturalization).

(2) Aliens who were enlisted or inducted in the Army for a period of 24 months active duty and who were in the United States at the time of enlistment or induction (see section 4, Act of 24 October 1962 (76 Stat. 1247; 8 U.S.C. 1254)). If performance or conduct does not justify their retention, they will be processed for separation under appropriate regulations.

c. Personnel who are physically unfit for retention (chap. 3, AR 40-501) but who were accepted for, or continued in, military service under the provisions of AR 635-40 or similar directives, will not be separated by reason of expiration of term of service unless processing for separation by reason of physical disability is waived.

d. Subject to the provisions of section V of this chapter an individual enlisted, inducted, or ordered to active duty normally will be discharged, or released from active duty on the date upon which he completes the period for which enlisted, inducted, or ordered to active duty. However, an individual other than those listed in *b* above, whose term of service expires or who otherwise becomes eligible for discharge or release from active duty on a Saturday, Sunday, or legal holiday may, with his consent, be discharged or released to or transferred to the Army Reserve on the last working day prior to normal date of discharge or release. Individuals whose rate of pay is subject to change on a Saturday, Sunday, or legal holiday upon which they would be separated will not be discharged until their normal separation date unless they request otherwise. Individuals who are eligible for early release on a Saturday, Sunday, or legal holiday under early release separation criteria in chapter 5 will not be discharged or released from active duty on the last working day prior to the Saturday, Sunday, or legal holiday unless the basic service requirement of the particular early separation authority concerned is met. Release from active duty will be dated as of the release or discharge. Personnel released from active duty and transferred to the Army Reserve upon completion of the term of service for which inducted or ordered into active Federal service, or released to their Reserve component upon completion of active duty, will not be discharged until completion of their Reserve obligation.

e. AR 135-90 and AR 135-91 define the various service obligations incurred by military personnel upon initial entry into military service and prescribe the methods of fulfillment. Enlisted personnel who will not continue or reenter on active duty in another status will be released by separation orders to the Army National Guard of the United States or to the United States Army Reserve as set forth in paragraph E-1, AR 635-10 (under Separation orders, pages E-5 and E-6).

f. A noncitizen who incurred a Reserve obligation upon induction into military service but who at time of release from active duty fails or refuses to give a mailing address within the United States, Puerto Rico, the Virgin Islands, Guam, or the Canal Zone, but gives only an address in a foreign

country as a permanent mailing address (item 33, DD Form 214, Armed Forces of the United States Report of Transfer or Discharge), thus showing his intention to reside permanently outside the United States, is not eligible for transfer to the Army Reserve. He will be discharged upon and by reason of having completed the period of service for which inducted, but will be advised prior to such discharge that it may permanently bar him from United States citizenship.

g. Members of the Army National Guard of the United States and the Army Reserve ordered to active duty for a period in excess of 90 days will, upon release from active duty, revert to control of the appropriate Reserve component.

h. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 will be out-processed in accordance with AR 612-200.

i. Individuals serving as cadets in military academies whose expiration of enlisted term of service occurs while individual is serving in such capacity will be discharged or released, as appropriate.

j. An enlisted person who at the time of entry on active duty held an appointment as an Army Reserve commissioned or warrant officer, or who while on active duty accepts appointment and such appointment is still current, will not be transferred to the Army Reserve in his enlisted status but will be discharged. Special orders discharging the individual will be prepared as prescribed in AR 310-10 and will indicate that the individual is transferred to the Army Reserve in his commissioned or warrant grade. Discharge to enter another military status does not terminate the individual's military service obligation incurred under title 10, United States Code, subsection 651a.

Section II. DISCHARGE, RELEASE FROM ACTIVE DUTY, OR RELEASE FROM ACTIVE DUTY FOR TRAINING AFTER EXPIRATION OF PERIOD OF ACTIVE DUTY OR ACTIVE DUTY FOR TRAINING

2-3. Time lost to be made good. Every individual in active Federal service who renders himself unable for more than 1 day to perform duty will be liable, after a return to full duty status, to serve for such period as is necessary to complete his full term of service or obligation, exclusive of such time lost.

a. Lost time in the sense of this regulation refers to periods of more than 1 day during which an individual on active duty is unable to perform duty because of —

(1) Desertion.

(2) Absence without proper authority.

(3) Confinement under sentence.

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

(5) Intemperate use of drugs or alcoholic liquor.

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

★*b.* Time lost during an enlistment or induction period will be made good at the end of the enlistment or induction period, except that when an enlistment or period of induction is extended by law, time lost will be made good at the end of the extension. This requirement may be waived by Headquarters, Department of the Army. Recommendations for waiver of time lost will be submitted to The Adjutant General, ATTN: AGPO-SS, Department of the Army, Washington, DC 20314 when the discharge authority considers that because of unusual or extenuating circumstances waiver of time lost is in the best interest of the individual and the Government.

c. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 (trainees performing

S/S C 29 18 August 1971

CHAPTER 3

SEPARATION OF ENLISTED PERSONNEL IN FOREIGN COUNTRIES

3-1. Scope. This chapter prescribes the rules governing the separation of enlisted personnel in foreign countries. It governs only the place of separation and does not prescribe substantive rules for discharge or other separations.

3-2. Separation in foreign countries. *a.* An individual eligible for separation who is serving in a foreign country may be separated therein, provided—

(1) He requests separation in that country.

(2) His separation in that country is not precluded by any provision of paragraphs 3-3*a*, 3-4, and 3-5.

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

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

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

b. No individual will be separated in a foreign country until he has obtained all documents necessary to his lawful continued presence in that country.

★*c.* Requests for separation in an oversea command will be forwarded to The Adjutant General, ATTN: AGPO-SS, Department of the Army, when—

(1) Revocation action pursuant to paragraph 24, AR 604-5 has been taken against the individual concerned during his current term of enlistment.

(2) The individual's access to defense information is suspended pursuant to paragraph 17*b*, AR 604-5 at the time the decision is made whether or not to separate an enlisted member in a foreign country.

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

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

3-3. Enlisted personnel confined pursuant to the sentence of a foreign court. *a.* Enlisted personnel confined in a foreign penal institution pursuant to the sentence of a foreign court may be separated from the service under provisions of section VI, AR 635-206, during their period of confinement only—

(1) With the approval of Headquarters, Department of the Army.

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

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

b. When the oversea commander considers separation of such enlisted person prior to the completion of his sentence to confinement to be appropriate, he will forward request for approval for such separation to The Adjutant General, ATTN: AGPO-SS, Department of the Army, with a report which will include the following information:

(1) Name, grade, service number, branch of service.

(2) Last organization and assignment.

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

(4) Court before which tried.

(5) Date and place of trial.

(6) Offense(s) of which enlisted person was convicted.

(7) Sentence pursuant to which the enlisted person is confined.
(8) Matters in mitigation, extenuation, or aggravation.
(9) Appellate action, if any, and result thereof.
(10) Whether the action of the foreign courts is final or whether further appellate action is possible or contemplated.
(11) Place and condition of confinement.
(12) Possibility for parole and facts pertinent thereto.
(13) Special facts and circumstances, including reasons supporting discharge during confinement.
(14) Whether consent for separation in the territory of the foreign country has been obtained from that country.
(15) A report concerning board proceedings as set forth in section IV, AR 635-206.

3-4. Enlisted personnel under investigation by foreign authorities or sentence by foreign court but not confined pursuant to that sentence. *a.* Enlisted personnel whose sentences to confinement by foreign courts are not suspended and who are not confined pending appellate action, and enlisted personnel who are not confined but who are charged with or are under investigation for offenses subject to the jurisdiction of foreign authorities for which a sentence to confinement could be imposed will not be considered for separation in the foreign country until final action in the matter has been taken by the foreign authorities. After final action by the foreign authorities, such enlisted personnel may be considered for separation in the foreign country under paragraph 3-2 or 3-3, whichever is appropriate.

b. Enlisted personnel who are accepted for service in a foreign country but who are not stationed in that country may be returned to the place of acceptance and there separated if paragraph 3-2 is complied with. If the enlisted person concerned is in possession of appropriate documents entitling him entry into the country of acceptance, specific consent of that country for his separation in its territory need not be obtained.

3-5. Separation of enlisted personnel sentenced by foreign courts. The provisions of paragraph 3-3 will in no event be construed as prohibiting a commander from initiating action under the provisions of section VI, AR 635-206, when an enlisted person in his command is confined in a foreign penal institution, with a view toward discharge of such enlisted person after release from confinement and return to the United States or its territorial possessions.

3-6. Personnel eligible for return from overseas for discharge or release from active duty. Individuals scheduled for return to the continental United States, its Territories, or possessions, for discharge or release from active duty will be processed for return in accordance with AR 612-50.

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1-13. Limitations on administrative discharge and board hearings. ★*a.* Discharges pursuant to this regulation should not be based upon conduct which has already been considered at a prior administrative or judicial proceeding and disposed of in a manner indicating that discharge is not warranted. Accordingly, administrative discharges under the provisions of AR 604-10, AR 635-206, and AR 635-212 are subject to the following limitations:

(1) No member will be considered for administrative discharge because of conduct which has been the subject of judicial proceedings resulting in an acquittal or action having the effect thereof. The determination whether an action has the effect of an acquittal will be determined solely by Headquarters, Department of the Army, pursuant to a request submitted by the convening authority through command channels.

(2) No member will be considered for administrative discharge because of conduct which has been the subject of administrative proceedings resulting in a final determination that the member should be retained in the service.

(3) No member will be considered for administrative discharge because of conduct which was considered by a general or special court-martial if a sentence to a punitive discharge was authorized to be adjudged but was not adjudged, or was disapproved or suspended on review by the convening authority or any appellate agency, and remains suspended.

b. The limitations set forth in *a* above, are not applicable when—

(1) Substantial new evidence, fraud, or collusion is discovered, which was not known at the time of the original proceeding, despite the exercise of due diligence, and which will probably produce a result significantly less favorable for the member at a new hearing.

(2) Subsequent conduct by the member warrants considering him for discharge. Such conduct need not independently justify the member's discharge, but must be sufficiently serious to raise a question as to the member's potential for further useful military service. However, this exception does not permit further consideration of conduct of which the member has been absolved in a prior final factual determination by an administrative or judicial body.

★(3) An express exception has been granted by Headquarters, Department of the Army, pursuant to a request by a convening authority through channels that, due to the unusual circumstances of the case, administrative separation should be accomplished. Such exception may be granted in cases covered by *a*(3) above only and in no other cases.

c. No convening authority will direct discharge if a board recommends retention, nor will he authorize the issuance of a discharge of less favorable character than that recommended by the board. However, a convening authority may direct retention when discharge is recommended, or he may issue a discharge of a more favorable character than that recommended.

d. If, in his review of a case in which separation has been recommended by the board, the convening authority notes a defect in the proceedings which he deems to be harmless, he will take such final action as he deems appropriate, subject to *c* above. With respect to substantial defects, he may take one of the following actions:

(1) Direct retention.

(2) If the board has failed to make findings or recommendations required by the applicable regulations, return the case to the same board for compliance with the regulations concerned.

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

(4) If the board committed an error which materially prejudiced a substantial right of the respondent, the convening authority may set aside the findings and recommendations and refer the case to a new board for a rehearing. No member of the new board shall have served on a prior board which considered any of the same matter against the respondent. The new board may be furnished the evidence properly considered by the first board, to include extracts from its record of testimony of those witnesses not deemed by the convening authority to be reasonably available to testify at the rehearing. Additional admissible evidence may be furnished to or obtained by the new board. The convening authority may, upon due notice to the respondent, incorporate new allegations based on

subsequent conduct of the respondent. Unless the new board considers substantial additional evidence unfavorable to the respondent, the convening authority may not approve any portion of the findings and recommendations of the new board which is less favorable to the member than the action of the first board.

(5) No more than one rehearing may be directed without approval from Headquarters, Department of the Army.

Section IV. DETERMINING RETENTION OR SEPARATION OR SUSPENSION

1-14. Retention or separation or suspension. In determining whether a member should be retained or be administratively separated, the individual's entire military record, including records of nonjudicial punishment imposed during a prior enlistment or period of service, all records of conviction by courts-martial and any other factors which are material and relevant, may be evaluated. Commanding officers, investigating officers, administrative discharge boards, and other agencies charged with making such determinations will consider records of nonjudicial punishment imposed during a prior enlistment or period of service only if such records of punishment would have, under the particular circumstances of the case, a direct and strong probative value in determining whether retention or administrative separation is appropriate.

a. Cases in which the circumstances may warrant use of such records ordinarily will be limited to those involving patterns of conduct which would become manifest only over an extended period of time.

b. When a record of nonjudicial punishment imposed during a current enlistment or period of service is considered, isolated incidents and events which are remote in time, or have no probative value in determining whether retention or separation should be accomplished, will have minimal influence on the determination.

c. If a decision is made that a member should be administratively separated, section III of this chapter applies in determining the type of discharge.

1-15. Suspension of execution of approved discharge. *a.* In order to afford a highly deserving member a probationary period to demonstrate successful rehabilitation prior to expiration of his enlistment or period of obligated service, the discharge authority or higher authority may suspend execution of an approved discharge for a period not to exceed 6 months. During the period of suspension, the member will be afforded an opportunity to demonstrate that he is capable of behaving properly under varying conditions during the probationary period and that he can perform his assigned duties efficiently.

b. Upon satisfactory completion of the probationary period, the authority who suspended the discharge will cancel execution of the approved discharge. If the individual has been transferred to the command of another discharge authority, the discharge will be cancelled by the new discharge authority or higher authority.

c. If there is additional misconduct on the part of the member during the probationary period or actions which constitute substandard performance of duty or demonstrate characteristics of unsuitability, the commander concerned or the convening authority, whichever is appropriate, will take one of the following actions:

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

(2) Vacate suspension of the approved discharge when the member has been beyond military control for 15 days or more and discharge him in absentia.

(3) Advise the enlisted person in writing that vacation action is being considered and the reasons which warrant such consideration. The enlisted person will be given an opportunity to furnish information in his own behalf or decline to make any statement. The commander taking the action will consider any information the individual submits in his own behalf and will—

(*a*) Vacate suspension of approved discharge and execute discharge, or

(*b*) Continue to suspend execution of the approved discharge.

at least 4 months ACDUTRA) will be required to make up time lost except that commanding officers of training installations are authorized to waive this requirement if the individual has completed the required training and the commander does not consider it would be in the best interest of the service to retain the individual on active duty for training to make good time lost. Commanding officers of training installations are authorized to issue necessary amendatory orders extending the initial period of active duty for training in the cases of reservists who are required to make good time lost while undergoing active duty for training. Five copies of each amended order issued prior to release from ACDUTRA date indicated in original orders, will be furnished the State Adjutant General or the commander that issued the original active duty for training orders.

d. Enlisted members of the Army National Guard of the United States and the Army Reserve who are being released from active duty because the unit in which they were ordered to active duty is being returned as a unit to inactive status will not be retained on active duty to make good time lost.

★2-4. When investigation is initiated with view to trial by court-martial or member is awaiting trial or result of trial. *a.* A commander exercising general court-martial jurisdiction is authorized to retain a member beyond the expiration of his term of service when—

(1) An investigation of his conduct has been initiated with a view to trial by court-martial, and

(2) Investigation was initiated prior to expiration of term of service, and

(3) Flagging action under AR 600-31 has been accomplished.

b. An individual who, on the date on which he would otherwise be eligible for discharge or release from active duty, is awaiting trial or result of trial by court-martial will not be discharged or released from active duty until final disposition of the court-martial charges. For effective date of discharge, see section V, this chapter. Enlisted personnel under sentence to dishonorable or bad conduct discharge will not be discharged prior to completion of appellate review, unless so directed by Headquarters, Department of the Army. If the individual is absent without leave at the time appellate review is completed, the punitive discharge may be executed notwithstanding his absence.

2-5. En route to United States or to Territory of origin. Whenever an individual is held in service after the expiration of his period of service under the conditions set forth in *a* and *b* below, he will be regarded as having been so retained for the convenience of the Government.

a. As a casual for separation. An individual en route as a casual to the United States from overseas will not under any circumstances be separated until he has arrived at his destination.

b. As a member of an organization. An individual whose period of service expires while at sea en route to the United States with his organization and who signifies his intention to reenlist for the same organization on the day following discharge will be discharged and reenlisted at sea. Those who do not signify their intention to reenlist will be held in the service until they arrive in the United States.

★2-6. Requiring medical care or sick in hospital when the period of service expires and disease or injury has been determined as incurred incident to service. Any enlisted person, except those on active duty for training (ACDUTRA) on orders which are self-terminating, whose period of service will expire while requiring medical care or during the course of hospitalization for a disease or injury which finally has been determined to have been incurred incident to service (in line of duty) may, with his consent, be retained in service beyond the period of his service in order that he may complete the required medical care or hospitalization, and, if required, be brought before a physical evaluation board (see AR 635-40; for ACDUTRA cases, see AR 135-200). The final determination whether a member's disease or injury was incurred incident to service, referred to in this paragraph and in paragraph 2-7, is the decision of the Secretary of the Army in the line-of-duty investigation of the member's disease or injury conducted under the provisions of AR 600-10. The enlisted person will be counseled for retention on active duty by an officer authorized to administer oaths pursuant to the Uniform Code of Military Justice, Article 136 (authority of Armed Forces personnel to administer oaths, take acknowledgements, and perform other notarial acts as contained in AR 600-11). He will furnish the enlisted person with the list of

retention advantages in *d* below, will explain orally the advantages, and will have the enlisted person execute an affidavit as shown in *e* below, whether or not retention is desired. In those instances in which the individual has been determined to be mentally incompetent or otherwise unable to give consent, the next of kin or legal representative will be furnished the list of retention advantages and will be requested to furnish an affidavit as to the decision regarding retention. Any enlisted person so retained will receive at Government expense, medical care, hospitalization, pay and allowances (including expense money authorized by law and credit for longevity), and will be subject to forfeiture in the same manner and to the same extent as if the period of service had not expired. See DOD Military Pay and Allowances Entitlements Manual.

a. Any individual whose period of service will expire while requiring medical care or during the course of hospitalization may be held in service without his consent to make good time lost under Title 10, United States Code, section 972.

★*b.* No enlisted person may be held in service beyond the expiration of his term of service without his written consent in affidavit form or, in the case of mentally incompetent personnel, without the written consent in affidavit form of the next of kin or legal representative, solely to provide further medical care or to effect further hospitalization and subsequent separation or retirement for physical disability. The affidavit will be filed in the individual's Military Personnel Records Jacket, U.S. Army (DA Form 201) and forwarded to U.S. Army Personnel Services Support Center, Fort Benjamin Harrison, Ind. 46249, when transfer processing has been completed. Individuals for whom authority to retain beyond expiration of term of service is not granted will be discharged or released from active duty on the date of expiration of term of service. A hospitalized individual so discharged or released from active duty may be permitted to remain in the hospital as a pay patient at his own expense and without military status if his condition is such that he is physically unable to leave the hospital at the time of discharge or release from active duty or in mentally incompetent cases, if his discharge would be attended by danger to himself or others. In any such case in which the individual is eligible for authorized hospitalization as a beneficiary of the Veterans Administration or, if ineligible for Veterans Administration hospitalization but transfer to a State, county, municipal, or private institution may be effected, the hospital commander will take appropriate action to arrange for and effect transfer. In cases in which the next of kin or legal representative does not authorize retention in the service beyond expiration of term of service of a mentally incompetent patient, disposition will be made in accordance with AR 40-3. If a mentally incompetent patient has been determined to be dangerous to himself or others and the next of kin does not elect to assume responsibility for the patient and the patient is not eligible for transfer to a Veterans Administration hospital, the hospital commander will follow procedures outlined in paragraph 70*b*, AR 40-3.

c. If it is impossible to locate the next of kin of a mentally incompetent patient, or the next of kin does not indicate whether the individual should be retained or discharged, the hospital commander will not discharge the individual but will continue, when appropriate, physical disability processing. The hospital commander will immediately forward full details of the case, including reasons for not completing physical disability processing by the date of expiration of term of service, and action to secure consent of next of kin for retention, by the most expeditious means to The Adjutant General, Department of the Army, ATTN: AGPO-RE, Washington, D.C. 20315. Disposition instructions will be issued by the Secretary of the Army.

d. An enlisted person whose period of service will expire while requiring medical care or during the course of hospitalization will be advised concerning the advantages of remaining on active duty (DA Pam 608-2) and furnished the following list of retention advantages, provided the disease or injury for which medical care is being provided or for which hospitalization was incurred incident to service (in line of duty):

(1) Advantages while remaining on active duty for further medical care or continued hospitalization or while being processed for disability benefits are—

(*a*) Medical care and/or hospitalization provided.

(*b*) Receipt of normal benefits such as pay, allowances to include class Q allotment,

Immigration and Naturalization Service. Upon receipt of information that these individuals are subject to deportation proceedings at this time, that their custody is desired by the immigration officials, or upon release from military control, they will be reported through channels to The Adjutant General, Department of the Army, ATTN: AGPO-SS, Washington, D.C. 20315. Upon direction of Headquarters, Department of the Army, an individual will be released from custody of the Army by virtue of an erroneous induction by Special Orders. DD Form 214 will be issued and completed in accordance with AR 635-5 except for items 11a, 11c, 13a, 15, and 16. The entry in the foregoing items will be as follows:

(1) Item 11a. Released from military control.

(2) Item 11c. AR 635-200, SPN 311.

(3) Item 13a. Character of service will be honorable or under honorable conditions as indicated in section II, chapter 1.

(4) Item 15. NA.

(5) Item 16. NA.

For pay and allowances, see table 1-4-1, Department of Defense Military Pay and Allowances Entitlements Manual (DODPM). Commanders responsible for issuing Special Orders will notify immigration officials of the release or discharge action so that they may take the individual into custody, if they so desire.

5-7. Discharge of members of the Reserve components on active duty. Commanders specified in section VI, chapter 2, are authorized to order discharge of those members of the Reserve components on active duty who are precluded from attaining eligibility for retirement with pay as provided by Title 10, U.S.C. 1331. Commanders will examine the facts of the applicants' ability to complete the service required for retirement under cited law. In those cases in which personnel cannot complete the required service before further enlistment in the Reserve component is barred because of age, either under Federal or State law, discharge, if requested by the individual, will be directed. Authority (AR 635-200) and SPN 312 will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

5-8. Discharge of individuals serving in unspecified enlistments. *a.* Enlisted personnel referred to in (1) and (2) below who do not submit an application for retirement will be discharged after serving 6 years in an unspecified enlistment. Commanders specified in section VI, chapter 2, are authorized to order the discharge of these individuals.

(1) Those who have completed 30 years' active Federal service. Authority (AR 635-200) and SPN 418 will be included in directives or orders directing individual to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

(2) Those who have completed 20 or more years active Federal service and are 55 years of age. Authority (AR 635-200) and SPN 419 will be included in directives or orders directing individual to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

b. Commanders specified in section VI, chapter 2, may recommend discharge of enlisted personnel who are under 55 years of age and who have served 6 years in an unspecified enlistment, when—

(1) Such individuals have completed 20 years' active Federal service.

(2) It would be in the best interest of the service that such individuals be discharged.

c. Recommendation for discharge will be forwarded to The Adjutant General, Department of the Army, ATTN: AGPO-SS.

d. Authority (AR 635-200) and SPN 41D will be included in directives or orders directing the individual to report to the transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

★5-9. Discharge of personnel who did not meet the medical fitness standards. *a.* Commanders specified in section VI, chapter 2, are authorized to order discharge of individuals who were not medically qualified under procurement medical fitness standards when accepted for induction or initial enlistment. Eligibility for discharge will be governed by the following:

(1) A medical board finding that the individual has a medical condition which—

(*a*) Would have permanently disqualified him for entry in the military service had it been detected at that time; and

(*b*) Does not disqualify him from retention

in the military service under the provisions of chapter 3, AR 40-501.

(2) A request for discharge will be submitted by the individual to his unit commander within 4 months from date of initial entry on active duty or initial entry on active duty for training under the Reserve Enlistment Program of 1963. An individual found to meet the requirements of *a*(1) above, who elects to complete the period of service for which inducted or enlisted will be required to submit a written statement set forth in paragraph 54*e*(3), AR 40-3.

b. Application for discharge will be processed promptly, and separation will be accomplished within 72 hours following approval by the discharge authority.

c. Authority for discharge (AR 635-200) and SPN 375 will be included in directives or orders directing the individuals to report to the appropriate transfer authority.

d. Members who do not meet retention medical fitness standards will be processed under the provisions of AR 635-40.

e. This paragraph is not to be used as a substitute for unsuitability separations in cases of character and behavior disorders, which will continue to be processed under the provisions of AR 635-212.

★5-9.1. Inductees who did not meet the medical fitness standards at time of induction. Rescinded.

5-10. Discharge for the purpose of immediate enlistment or reenlistment. Unit commanders are authorized to order discharge of enlisted personnel for the convenience of the Government for the reasons set forth below. Individuals being discharged from their present status as provided in this paragraph will be reenlisted on the day following discharge. The discharge certificate will not be delivered to the individual until after reenlistment is accomplished.

a. Discharge is authorized for Regular Army personnel, other than personnel on initial enlistment, to permit their reenlistment for a term of 3 or more years provided they apply for and are qualified for reenlistment. Authority (AR 635-200) and SPN 313 will be included in directives or orders directing separation. Discharge may be accomplished—

(1) At any time during the last 90 days of current enlistment.

(2) For the purpose of—

(*a*) Meeting length-of-service requirement for attendance at service schools, attendance at a civilian education institution in accordance with AR 350-200, or to attend Army Officer Candidate School.

(*b*) Assignment to an oversea tour of duty.

1. When the amount of service remaining in current enlistment is not sufficient to complete a prescribed foreign service tour in the oversea command to which an individual is to be assigned, the discharge and reenlistment are to be accomplished when the oversea assignment is evident.

2. In the case of personnel serving overseas to complete a normal tour when the length of service remaining in current enlistment is insufficient for that purpose, the discharge and reenlistment are to be accomplished immediately upon application of the individual.

(*c*) Assignment to National Guard, Reserve Officer's Training Corps, United States Army Reserve, instructorship at service schools, or recruiting duty when the amount of service remaining in current enlistment is less than 12 months. Discharge and reenlistment are to be effected when such assignment is evident.

(*d*) Meeting length-of-service requirement of individuals selected for assignment to U.S. Military missions to accomplish travel to place of assignment, complete tour with the mission, and return to the United States in time to complete separation processing by the expiration date of their enlistment. Discharge and reenlistment will be accomplished prior to departure from home station.

(*e*) Meeting length-of-service requirement for oversea movement of dependents. Discharge and reenlistment of this category of individuals will be accomplished prior to departure from home station.

b. Discharge is authorized to permit immediate enlistment or reenlistment in the Regular Army upon completion of 8 months' active Federal service on their current term of service of individuals in (1), (2), and (3) below, who apply for and are qualified for enlistment or reenlistment. Authority (AR 635-200) and SPN 313 will be included in directives or orders directing separation.

(1) Regular Army personnel serving on their first enlistment.

(2) Army of the United States personnel inducted into service under the Military Selective Service Act of 1967.

(3) Personnel of the Army National Guard of the United States and the United States Army Reserve ordered to active duty.

c. Discharge is authorized for the purpose of immediate enlistment in the Regular Army of REP 63 ACDUTRA trainees who apply for and are qualified for enlistment upon completion of the period for which ordered to ACDUTRA. Authority (AR 635-200) and SPN 313 will be included in directives or orders directing separation.

d. Discharge is authorized for Army of the United States personnel inducted into service, regardless of time served in active Federal service, to permit enlistment in the Regular Army for the purpose of attending Army Officer Candidate School. Authority (para 5-10, AR 635-200) and SPN 427 will be included in directives or orders directing separation.

e. Commanders responsible for U.S. Army Reception Station processing are authorized to discharge inductees for the convenience of the Government to permit immediate enlistment in the Regular Army prior to their entry into BCT for school courses of 20 weeks' duration or longer.

(1) Authority (para 5-10, AR 635-200) and SPN 425 will be included in directives or orders directing separation of inductees to enlist for warrant officer flight training.

(2) Authority (para 5-10, AR 635-200) and SPN 426 will be included in directives or orders directing separation of inductees to enlist to attend critical MOS schools.

5-10.1. Separation for failure to complete Army Officer Candidate School. ★*a.* Enlisted personnel who were formerly inductees and who enlisted in the Regular Army under the provisions of paragraph 2-15, AR 351-5 and who, for any reason, withdraw, fail to satisfactorily complete Army Officer Candidate training, or are not commissioned, may apply for discharge not earlier than 60 days prior to and to be effective upon completion of 3 years' total active Federal service.

b. Commanders specified in section VI, chapter 2, are authorized to order the separation for the convenience of the Government of such personnel.

c. Authority (para 5-10.1, AR 635-200) and SPN 428 will be included in directives or orders directing separation.

Section IV. NATIONAL HEALTH, SAFETY, OR INTEREST

5-11. National health, safety, or interest. Enlisted personnel may apply for separation from active military service on the basis of importance to national health, safety, or interest. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 are not eligible for separation under this section.

a. General. This policy is applicable to situations where the critical need for the services of an individual in a civilian capacity from the viewpoint of health, safety, or general welfare outweighs the need of the Nation for the individual in an active military status. Normally, favorable action on requests for separation under the provisions of this policy will be made only when it is clearly determined that—

(1) Application is motivated by critical national or community interest and not for the personal benefit of the applicant.

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is unable to present last Armed Forces of the United States Report of Transfer or Discharge (DD Form 214), the applicant will contact the appropriate service direct for verification of prior active service from the following:

(*a*) For personnel with prior service in the Army, Commanding Officer, U.S. Army Personnel Services Support Center, ATTN: AGPE-V, Fort Benjamin Harrison, IN 46249.

★(*b*) For personnel with prior service in the Air Force, Military Personnel Records Center, GSA (Air Force), 9700 Page Boulevard, St. Louis, MO 63132.

★(*c*) For personnel with prior service in the Navy, Military Personnel Records Center, GSA (Navy), 9700 Page Boulevard, St. Louis, MO 63132.

★(*d*) For personnel with prior service in the Marine Corps, Military Personnel Records Center, GSA (Marine Corps), 9700 Page Boulevard, St. Louis, MO 63132.

(*e*) For personnel with prior service in the Coast Guard, Commandant, United States Coast Guard, Washington, DC 20226.

★(2) In order that service claimed may be readily identified, request for verification of prior service will contain the exact name under which the individual served, service number, Social Security Account Number, organization from which last discharged, and type of discharge claimed. If exact dates of service are not known, approximate dates will be given.

c. Combination of the provisions of this paragraph with the provisions of other early separation programs to effect separation prior to completion of a minimum of 24 months' total combined service is not authorized.

d. ACDUTRA prior to induction is not creditable toward completion of this period of service.

★*e.* Personnel separated under the provisions of this section will be discharged or released from active duty and transferred to the Army Reserve to complete the Reserve obligation imposed by the Military Selective Service Act of 1967, as appropriate. The characterization of a discharge issued under this section will be either honorable or general.

f. Authority (AR 635-200) and SPN 415 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty, as appropriate.

Section VII. ★SEPARATION OF ENLISTED PERSONNEL TO PRECLUDE NONPRODUCTIVE REASSIGNMENTS FOR SHORT PERIODS OF TIME

5-14. Oversea returnees. Commanders specified in section VI, chapter 2, are authorized to order separation for convenience of the Government of enlisted personnel returned to the United States, a possession of the United States, or area of residence in which enlisted, inducted, or ordered to active duty, after completing, or having credit for completing, the normal oversea tour in the appropriate area as set forth below.

★*a.* Unless individuals inducted under the Military Selective Service Act of 1967 elect to remain on active duty and volunteer for immediate entry on active duty as reservists under the provisions of chapter 4, AR 601-280, they will be separated from active duty and transferred to the Army Reserve or discharged, as appropriate, upon arrival in the United States or area of residence, if upon arrival they have the following amount of active duty or less remaining on their current tour:

(1) Returnees from a long tour area—30 days.

(2) Returnees from a short tour area—150 days.

★*b.* Unless members of the Regular Army and of the Reserve components elect to immediately extend their enlistments voluntarily or continue on active duty under the provisions of chapter 4, AR 601-280, they will be discharged or released from active duty and be returned to former Army National Guard or Army Reserve status, or released from active duty and transferred to the Army Reserve, as appropriate, upon arrival in the United States or area of residence, if upon arrival they have the following amount of active duty or less remaining before expiration of terms of enlistments or periods for which ordered to active duty:

(1) Returnees from a long tour area—30 days.

(2) Returnees from a short tour area—150 days.

★*c.* Enlisted personnel in the United States or area of residence on TDY, or leave for compassionate or emergency reasons, from oversea organizations who qualify for separation under the service commitments in *b* above will be discharged or released, as appropriate, provided they have less than 60 days remaining in present oversea service tour and/or to expiration of term of service, upon completion of TDY or leave. Those on TDY will be discharged or released only if the oversea commander does not indicate a desire to have the individuals return upon completion of TDY. Those who desire to extend immediately their period of active duty, or enlistments, or to enlist or reenlist immediately in the Regular Army, in accordance with appropriate regulations will be permitted to do so at the time of processing indicated in (2) below.

(1) Affected individuals will be reassigned to a transfer activity nearest their home for transfer processing. Transfer processing will not be accomplished prior to completion of leave or TDY. Records and allied papers will be forwarded to such transfer activity.

(2) Affected individuals will be instructed that upon completion of leave or TDY they will report to the tranfer activity to which assigned for transfer processing.

d. This paragraph is not to be construed as authority for early return. It authorizes separation for the purpose stated only, in order to preclude nonproductive reassignments for short periods of time.

e. Authority (AR 635-200) and SPN 411 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity for discharge or release from active duty, as appropriate.

★**5-15. Separation of personnel assigned to installations or units scheduled for inactivation or permanent change of station.** Except as indicated in *c* below, enlisted personnel of all components assigned to units scheduled for permanent change of station, inactivation or demobilization, or to installations scheduled for inactivation, who cannot be effectively utilized within other units at the same station, will be separated from service as set forth below. In the event of conflict with paragraph 5-14, concerning returnees from a long tour area, the provisions of this paragraph will apply.

a. Those having 90 days or less to serve beyond effective date of inactivation or change of station may be separated from active duty at the discretion of the unit commander provided individual desires separation. Separation will be accomplished during the 30-day period preceding the effective date of inactivation or change of station.

b. Those whose normal expiration of term of service expires during the 90-day period preceding the effective date of inactivation or change of station may be separated at the discretion of the unit commander any time during the 90-day period provided the individual desires separation.

c. Combination of the provisions of this paragraph with other separation programs so as to effect separation more than 90 days prior to normal expiration of term of service is not authorized.

d. Oversea commanders returning personnel to the United States for separation under this authority may add to normal traveltime required to return individuals from the theater to the United States to the aforementioned 90 days. However, care will be taken to insure that individuals do not arrive in the United States with more than 90 days remaining in their period of service. This paragraph is not to be construed as authority for early return. It authorizes separation for the purpose stated only, in order to preclude nonproductive reassignments for short periods of time.

e. Authority (AR 635-200) and SPN 701 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty, as appropriate.

5-16. *Enlisted personnel eliminated from service academies.* Individuals who are eliminated from cadet or midshipman status at service academies because of academic failure, resignation, or reasons other than physical disqualifications, will be discharged if they have completed their service obligation, or released from active duty and returned to the Army National Guard or Army Reserve, or transferred to the Army Reserve to fulfill their Reserve obligations, provided they have less than 3 months remaining in the period

for which enlisted or ordered to active duty. Authority (AR 635-200) and SPN 420 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity. The authority contained in this paragraph shall not preclude the Secretary of the Army from transferring a cadet to the Army Reserve and ordering him to active duty, as authorized by title 10, United States Code, section 4348(b).

5-17. Reserve component personnel ordered to ACDUTRA under Reserve Enlistment Program. Commanders of training installations are authorized to release Reserve component personnel ordered to ACDUTRA under Reserve Enlistment Program of 1963 upon completion of MOS training when training is completed prior to the period of time specified in ACDUTRA orders provided a minimum period of 4 months' ACDUTRA has been completed. Authority (AR 635-200) and SPN 764 for separation will be included in orders issued effecting early release from ACDUTRA.

5-18. Early relief from ACDUTRA because of emergency conditions. REP 63 trainees will be considered for early relief from initial tours of ACDUTRA based on eligibility for leave for cogent reasons such as death or serious illness of a member of the reservist's immediate family. Commanders of training activities, including Army service schools, may authorize early relief from ACDUTRA in lieu of granting leave, if the reservist has completed at least 4 months' ACDUTRA and the training benefits which will result from return to the training center upon completion of leave are not substantial enough to justify return to duty in lieu of early relief from ACDUTRA.

5-19. Separation of enlisted members of medical holding detachments. Commanders specified in section VI, chapter 2, are authorized to order separation for the convenience of the Government of enlisted personnel, other than Reserve component personnel, ordered to active duty for training under the Reserve Enlistment Program of 1963, assigned to medical holding detachments as set forth below. In the event of conflict with paragraph 5-14 concerning returnees from long tour area, the provisions of this paragraph will apply.

a. Any enlisted person, other than in *b* below, assigned to a medical holding detachment who signifies he does not intend to enlist or reenlist may be separated upon completion of hospitalization provided he has less than 3 months to serve prior to expiration of term of service.

a.1. Any enlisted person returned from a short tour area for hospitalization and who signifies that he does not intend to enlist or reenlist may be separated if he has 150 days or less remaining on his current tour of service at the time of release from the medical facility.

b. Authority (AR 635-200) and SPN 412 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity for discharge or release from active duty, as appropriate.

Section VIII. EARLY SEPARATION TO ATTEND SCHOOL OR TO ACCEPT TEACHING POSITIONS

★**5-20. Separation to attend school or to accept teaching positions.** Enlisted personnel may be discharged or released from active duty for the convenience of the Government in order to enter or return to school or to accept teaching positions when their services are not essential to the mission of their assigned organization. Commanders specified in section VI, chapter 2, are authorized to order the separation for the convenience of the Government of enlisted personnel (other than Reserve component personnel on active duty for training) who have less than 3 months remaining in their required period of service. REP 63 enlistees and reservists ordered to active duty due to unsatisfactory participation in Reserve assignment are not eligible for separation under the provisions of this section. An application for separation under this paragraph may be submitted not more than 60 days prior to the requested release date.

a. Separation to enter or return to school.

★(1) Separation will be effected not earlier than the appropriate date specified in (3) below for attendance at a recognized institution of higher education or at a vocational/technical school when the following conditions are met:

(*a*) A recognized institution of higher education is one at which the course of instruction in

which the individual has requested enrollment leads to an associate, baccalaureate, or higher degree. A recognized institution is one listed in the Education Directory, Part 3, Higher Education, published by the Office of Education, U. S. Department of Health, Education, and Welfare, or has been determined by that office to be eligible for such listing.

(*b*) The vocational/technical school must be a recognized school at which the course of instruction in which the individual has requested enrollment is of no less than 3 months duration. A recognized vocational/technical school is one which is approved by the cognizant State Board for Vocational Education, or one of the following nationally recognized accrediting agencies or associations listed by the United States Commissioner of Education:

1. Accrediting Commission for Business Schools.

2. National Association for Practical Nurse Education and Service, Inc.

3. National League for Nursing, Inc.

4. National Association of Trade and Technical Schools.

5. Committee on Occupational Education of the Southern Association of Colleges and Schools.

(*c*) Application will include the following information:

1. Documentary evidence from an appropriate school official (Registrar, Dean of Admissions, etc.) that the applicant has been accepted for enrollment, without qualification, commencing with a specific school term, in a full-time resident course of instruction leading to an associate, baccalaureate or higher degree. If the school is not currently listed in the Education Directory, Part 3 ((*a*) above), the statement of the school official must include whether the school has been determined by the Office of Education to be eligible for such listing. When applying for separation to attend a vocational/technical school the individual must include documentary evidence from the school that he has been accepted, without qualification, for enrollment commencing with a specific school term in a full-time resident course of instruction of no less than 3 months duration. Regardless of the type school, the statement will include the latest date on which the applicant must report to the school in person for registration in order to meet the school requirement for attendance, must state the school's specific accreditation status, must include the date that status was acquired, and must include the name of the accrediting agency or association granting such accreditation. The words "without qualification" mean that the individual must be accepted for admission without being subject to any further approval by the school prior to his entrance. A statement that an applicant is admissible subject to a review of his records, or subject to passing an entrance examination, qualifies such acceptance and does not meet the requirements for early release. On the other hand, an individual who is accepted on probation does meet the requirements for early release as he will be permitted to begin the specified course of instruction at the school. The term "full-time resident course of instruction" means that the individual must take the minimum number of credit hours for the semester, quarter, or term that is considered by the school to be a full-time course of instruction, and does not include night school.

2. A statement, signed by the individual concerned (after he has been informed of the provisions of Articles 3(b), 31(b), and 83, Uniform Code of Military Justice), as follows: "I understand that if I am separated from the Armed Forces by means of either a knowingly false representation in regard to any of the qualifications or disqualifications prescribed by law, regulation, or orders for such separation, or by deliberate concealment of any disqualification for separation, I shall be subject to courts-martial jurisdiction under the Uniform Code of Military Justice, Article 3(b), for violation of the Uniform Code of Military Justice, Article 83, for prosecution in a United States District Court for violation of Title 18, United States Code, Section 1001, or other applicable statutes."

3. A statement from the applicant that he has made payment of the entrance fee or that he is able and willing to do so.

4. Applicant must clearly establish that the specific school term for which he seeks enrollment is academically the most opportune time for

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b. Individuals released from active duty and transferred to the Army Reserve or returned to a Reserve component (USAR or ARNG) "For Convenience of the Government" will be furnished an Armed Forces of the United States Report of Transfer or Discharge.

c. An individual to be released from military control pursuant to paragraph 5-12, or an administrative determination that he is not currently a member of the Army cannot be legally discharged from the Army. Such individual will, instead, be released from the custody and control of the Army without being furnished a certificate of discharge of any kind or Armed Forces of the United States Report of Transfer or Discharge (DD Form 214).

Section XI. SOLE SURVIVING SONS

5-24. Separation of sole surviving sons. Commanders specified in section VI, chapter 2, are authorized to order discharge for convenience of the Government of enlisted men because they are sole surviving sons.

a. As used in this regulation, the definition of a sole surviving son is the only remaining son in a family of which, because of hazards incident to service in the Armed Forces of the United States, the father, or one or more sons or daughters—

(1) Have been killed; or

(2) Have died as a result of wounds, accident, or disease; or

(3) Are permanently 100 percent physically disabled (to include 100 percent mental disability) as determined by the Veterans Administration or one of the military services, and are hospitalized on a continuing basis and not gainfully employed by virtue of such disability.

b. In determining eligibility, the term "because of hazards," as used in *a* above, will be interpreted as meaning "incurred in line of duty," as determined under the provisions of AR 600-10 or comparable regulations of other services.

c. Enlisted personnel are eligible for discharge when—

(1) They become sole surviving sons subsequent to enlistment, induction, order to active duty or active duty for training under the Reserve Enlistment Program of 1963.

(2) Individuals defined in *a*(3) above who become eligible for discharge under (1) above may be discharged upon completion of at least 6 months of active duty. Six months active duty prior to discharge is required in order to qualify for a veteran's exemption under the provisions of 50 App. U.S.C. 456(*b*)(8).

d. All applications submitted will include the following evidence:

(1) Name, grade, MSN or SSN, branch of service (i.e., Army, Navy, Marine Corps, Coast Guard, or Air Force), relationship and date of death or disability of the family member upon which request is based.

(2) Veterans Administration Claim Number, if appropriate.

(3) Name, age, and sex of other family members.

e. See AR 614-75 for offices to contact to obtain verification of status of other family members, when appropriate.

f. An individual whose application meets the criteria in *a* above will be discharged, except that Army National Guard personnel will be released from active duty or active duty for training and returned to the control of the appropriate State National Guard authorities for discharge. A copy of the approved application for discharge will be furnished to the adjutant general of the State.

g. Authority (AR 635-200) and SPN 229 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty or active duty for training.

5-25. When discharge is not authorized. Discharge for the convenience of the Government based upon being a sole surviving son is not authorized during a period of war or national emergency hereafter declared by the Congress.

Section XII. EMPLOYMENT WITH A LEGAL ESTABLISHED LAW ENFORCEMENT AGENCY. (APPLICABLE TO CONUS, ALASKA, HAWAII, AND THE U.S. TERRITORIES.)

★**5-26. Separation to accept employment as a public police officer.** Commanders specified in section VI, chapter 2, are authorized to order separation for the convenience of the Government of enlisted personnel who have 3 months or less remaining in their periods of service, whose services are not essential to the mission of their assigned organizations, and who submit valid application for separation evidencing employment with a legally established law enforcement agency of a city, county, State, or Federal Government, including those of the U.S. Territories. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 and reservists ordered to active duty due to unsatisfactory participation in Reserve assignment are not eligible for separation under this program.

5-27. Definitions. For the purpose of this regulation the following definitions apply:

a. Public police officer. An individual employed by legally established law enforcement agencies of city, county, State, or Federal Government, including those of the U.S. territories. This specifically excludes private or corporate police organizations and elective police positions in local political jurisdictions.

b. Bona fide offer of employment. An employment offer certified by an appropriate official of a city, county, State, or Federal police agency (including that of a U.S. territory) that the applicant meets all requirements for training and/or employment as a police officer. In addition, individuals accepted for employment in nonuniformed positions are eligible for early release provided the position is integral to the police agency and the individual will be a bona fide member thereof.

★**5-28. Submission of application.** Application for separation may be submitted up to 6 months prior to applicant's expiration of term of service. An application for separation will include the following information:

a. A bona fide offer of employment as a public police officer with the date such employment is to commence, and

b. A statement signed by the individual concerned (after having been informed of the provisions of Articles 3(b), and 83, Uniform Code of Military Justice), as follows: "I understand that if I am separated from the Armed Forces by means of either a knowingly false representation in regard to any of the qualifications or disqualifications prescribed by law, regulation, or orders for such separation, or by deliberate concealment of any disqualification for separation, I shall be subject to courts-martial jurisdiction under the Uniform Code of Military Justice, Article 3(b), for violation of the Uniform Code of Military Justice, Article 83, or prosecution in a U.S. district court for violation of Title 18, United States Code, Section 1001, or other applicable statutes."

5-29. When separation is not authorized. Separation from active military service is not authorized when—

a. An individual is assigned to a unit scheduled for oversea deployment and is in an otherwise deployable status, or

b. An individual has signed a statement of intent to reenlist, or

c. AR 600-31 applies.

5-30. Separation action. *a.* Personnel may be separated when they have 3 months or less remaining in their period of service. Personnel accepted for immediate employment will be separated within 72 hours of notice of approval. Other personnel will be separated not earlier than 10 days prior to the effective date of employment.

b. Authority (AR 635-200) and SPN 320 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for separation.

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Section XIII. ERRONEOUS ENLISTMENTS

5-31. Erroneous enlistment. *a.* When it is discovered that an individual was erroneously enlisted because he failed to meet the qualifications for enlistment or reenlistment, the unit commander will request validation of the enlistment or discharge because of erroneous enlistment through military channels to The Adjutant General, ATTN: AGPO-SS, Department of the Army, Washington, DC 20315. All requests for validation of enlistment or discharge from an erroneous enlistment will contain the following information:

(1) Circumstances surrounding the erroneous enlistment.

(2) Reasons why validation or termination of the enlistment is requested.

(3) The enlisted person's desire for retention or separation.

(4) Conduct and efficiency ratings.

b. This section is not applicable to individuals eligible for separation under the provisions of paragraphs 5-6, 5-9, 5-32, or chapter 7 of this regulation, and paragraph 7-34*b*, AR 600-200, and individuals not meeting medical fitness standards for retention (AR 635-40).

c. Upon discovery and establishment that an enlistment is erroneous and the individual is AWOL, in desertion, or absent in the hands of civil authorities, the enlistment will be voided. Commanders specified in section VI, chapter 2, are authorized to void the enlistment. The Discharge Authority will not issue a discharge certificate nor DD Form 214. Such individual will be released from the custody and control of the Army by virtue of a void enlistment by special orders. The following entry will be made in item 38, DA Form 20 (Enlisted Qualification Record): "Released from military control by virtue of a void enlistment (cite special order number, SPN and issuing headquarters)." A copy of the special orders releasing the individual from military control will be filed as a permanent document in his DA Form 201 (Military Personnel Records Jacket, U.S. Army). For pay and allowances, see table 1-4-1, Department of Defense Military Pay and Allowances Entitlements Manual (DODPM).

5-32. Unfulfilled or erroneous enlistment commitments. *a.* Commanders specified in section VI, chapter 2, are authorized to order separation of personnel for the convenience of the Government when it is determined by Chief of Personnel Operations that—

(1) An enlistment commitment was erroneous because the individual did not meet the prerequisites for the option which must be determined prior to enlistment,

(2) An enlistment commitment was made but cannot be fulfilled.

b. Claims of unfulfilled or erroneous enlistment commitments are processed in accordance with AR 601-210 and AR 601-280. When it is determined by the Chief of Personnel Operations that an enlistment commitment was erroneous and/or cannot be fulfilled, separation may be requested as follows:

(1) Nonprior service Regular Army personnel serving on their first enlistment may request immediate separation or separation to be effective upon completion of 24 months' active military service. Individuals who were discharged from an AUS status to enlist will be separated when the active service in their prior AUS status and initial enlistment period totals 24 months' active service.

(2) Regular Army personnel serving on a second and subsequent enlistment prior to expiration of term of service for the purpose of reenlistment will be separated when active service in the current and preceding enlistment contracts equals the period stated in the previous enlistment contract.

c. Authority for separation (AR 635-200) and SPN 377 will be included in directives or orders directing the individuals to report to the appropriate transfer authority designated to accomplish transfer processing for separation.

y the allotments and Deposits Operations, Finance Center, U.S. Army.

(6) Selective Service number.

(7) Date of current enlistment or entry on active duty. (In the case of Reserve component personnel, both will be included.)

(8) Prior service.

(9) Whether the applicant is under charges, in confinement, under investigation for separation by reason of homosexuality or under the military personnel security program, or is being processed for discharge or retirement for physical disability.

★*c.* Commanders of military installations in the United States, except Armed Forces Examining and Entrance Stations and Recruiting Main Stations, will accept applications for separation because of dependency or hardship from enlisted personnel temporarily in the United States from an oversea assignment. Personnel will be attached when on leave to an activity at the installation awaiting the final decision on their application for separation. The individual's parent oversea unit will be notified. When the separation of an individual is approved, the oversea command will be notified and requested to advise whether the provisions of AR 600-31 are applicable and, if not, to issue orders relieving the individual from assignment, and to forward the orders and personnel records by air mail in order that separation can be accomplished. When the separation of an individual on leave is disapproved, the individual will be released from an attached status and reverted to an emergency leave status, if previously on emergency leave, or ordinary leave status for return to his home station. The oversea commander will be notified and the application submitted while on leave will be forwarded to the individual's oversea unit to become part of his records.

6-7. Evidence required. *a.* The evidence required for dependency or hardship separation normally will be in affidavit form. The evidence must substantiate dependency or hardship conditions upon which the application for separation is based.

b. The evidence required will include affidavits or statements submitted by or in behalf of the individual's dependents and by at least two disinterested persons or agencies having firsthand knowledge of the circumstances. If dependency or hardship is the result of disability of a member of the individual's family, a physician's certificate should be furnished showing specifically when such disability occurred, the nature thereof, and prognoses for recovery. There also will be furnished the names, ages, occupations, home addresses, and monthly incomes of other members of the applicant's family. The affidavits of disinterested individuals and agencies should include reasons within their knowledge that these members of the family can or cannot aid in the financial or physical care of the dependents concerned for the period the enlisted person has remaining to serve on his current tour of duty.

★**6-8. Procedure.** *a.* Upon receipt of a written application, together with the required supporting evidence from an individual, the commanders specified in section VI, chapter 2, will—

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

(2) Procure any additional information that may be necessary to determine the validity of the request. The services of the American National Red Cross may be utilized when the information contained in the application is not sufficient to base a decision to approve or disapprove the request (para 6-9).

(3) Take final action to approve or disapprove the application except in cases wherein *b* below applies.

b. When an application for separation is submitted by an individual who was inducted into the military service under the Military Selective Service Act of 1967 or who is serving in an initial enlistment, the following procedure will apply:

(1) If the application does not contain conclusive evidence upon which to base a clear-cut decision that release is or is not warranted, the application and supporting evidence will be forwarded by letter to the Director of Selective Service of the State in which the individual's local board of jurisdiction is located. The letter will request a statement as to whether the circumstances presented in the application would result in deferment on the basis of undue and genuine hardship to the individual's dependents if he were being considered for induction. The letter to the State Director of Selective Service will also include the enlisted person's Selective Service number, and in dependency cases when the inductee or reservist has no allotment for claimed dependency, a statement that a determination of dependency for bene-

fits under Dependents' Assistance Act of 1950 (DOD Military Pay and Allowances Entitlements Manual) was or was not requested and denied by the Allotments and Deposits Operations, Finance Center, U.S. Army. It is not mandatory in any way that the officer having discharge authority follow the recommendation of the State Director of Selective Service, but when such statement is received it will be considered in relation to other supporting evidence. When the need arises, the recommendation of the State Director may be disclosed. If a report by the American National Red Cross is appropriate, it will be handled as prescribed in paragraph 6-9*b*(3). All subsequent applications for hardship or dependency discharge from the same inductee or enlistee also will be referred to Selective Service. Recommendations made by the Selective Service System become part of the application for separation and will be placed in an individual's Military Personnel Records Jacket, U.S. Army.

(2) At the discretion of the commanders having discharge authority, the procedure described in (1) above may be followed even though the application indicates that the release from active military service is warranted.

c. **Rescinded.**

d. Applications upon which final action has been taken will become part of the records of the enlisted person concerned.

6-9. Service of American National Red Cross.

a. Requests for supplemental factual information pertaining to applications for discharge or release of individuals because of dependency or hardship may be made to the American National Red Cross. Such requests originating within military agencies will be restricted to specific information in those cases where it appears probable separation is warranted.

b. The following procedures will be followed when military agencies request assistance from the American National Cross:

(1) The military agency requesting assistance will prepare a brief containing sufficient information to identify the applicant for separation. The brief will also include the name, address, and relationship of the dependent or dependents regarding whom the information is desired.

(2) If there is a Red Cross representative serving the organization or installation concerned, the brief, together with a request for the specific information will be forwarded to the representative.

(3) If there is no Red Cross representative serving the organization or installation, the request will be sent to the appropriate area office.

American National Red Cross area offices are listed below:

National Headquarters
17th and D Streets, N.W.
Washington, DC 20006*
- Hawaii
- Insular chapters:
  - American Samoa
  - Canal Zone
  - Virgin Islands
  - Guam
  - Puerto Rico

Eastern Area
615 North St. Asaph Street
Alexandria, VA 22314
- Connecticut
- Delaware
- District of Columbia
- Indiana—Dearborn and Ohio Co., Franklin Co., and Switzerland Co. chapters
- Kentucky—Boone Co., Campbell Co., Kenton Co. and the following chapters: Boyd Co., Greenup Co., Lewis Co., Bracken Co., Grant Co., Gallatin Co., Mason Co., Owen Co., and Pendleton Co.
- Maine
- Maryland
- Massachusetts
- New Hampshire
- New Jersey
- New York
- North Carolina—U.S. Coast Guard, Elizabeth City and the following chapters: Camden Co., Chowan Co., Currituck Co., Gates Co., Pasquotank Co., and Perquimans Co.
- Ohio
- Pennsylvania

★*Alaska, Hawaii, and insular chapters are communicated with directly through postal or commercial cable facilities. Chapters should follow instructions in Handbook for Chapter Workers (ARC 1295) when indicated.

★CHAPTER 8

DISCHARGE OF ENLISTED WOMEN—MARRIAGE, PREGNANCY, OR PARENTHOOD

Section I. GENERAL

8-1. Scope. This chapter establishes policy, sets forth procedures, and provides authority for discharge of enlisted women by reasons of marriage, pregnancy, or parenthood.

8-2. Authority to discharge. Commanders specified in section VI, chapter 2, are authorized to approve the discharge of enlisted women under this chapter.

Section II. MARRIAGE

8-3. Authority. An enlisted woman may be discharged by reason of marriage at her own request providing she meets the following requirements:

a. Served at least 18 months on her current enlistment.

b. Completed all obligated periods of service incurred through schooling or promotion as required by AR 600-200.

c. Served at least 6 months in the oversea command if application is submitted while serving overseas or subsequent to departure from home station en route to overseas.

8-4. Enlisted or reenlisted on or after 1 July 1965 and prior to 20 June 1966. Rescinded.

8-5. Delay discharge. Rescinded.

8-6. Type of certificate to be furnished and authority for discharge. *a.* An honorable or general discharge certificate will be furnished in accordance with section III, chapter 1.

b. Authority (sec II, chap. 8, AR 635-200) and SPN 220 will be included in directive or orders directing the individual to report to the appropriate transfer activity.

8-7. When not eligible for discharge. Women will not be eligible for discharge solely for reason of marriage during war or national emergency declared by Congress.

Section III. PREGNANCY

8-8. General. *a.* When it has been determined that an enlisted woman is pregnant, or has given birth to a living child during the period of her present enlistment, she will be afforded an opportunity to—

(1) Request discharge under the provisions of this chapter, or

(2) Request waiver for retention on active duty if lawfully married, or

(3) Submit an application for retirement, if eligible (chap. 12).

b. If pregnancy is the only medical condition which is disqualifying for retention in the service, discharge will be accomplished without processing by a medical board or physical evaluation board. If there are other medical conditions which disqualify the enlisted woman for retention, processing will be accomplished under the provisions of AR 40-3 and AR 635-40.

c. If the enlisted woman does not request discharge or retirement, and a waiver for retention on active duty is not granted, she will be discharged at the earliest practicable date.

8-9. Waivers. *a.* Requests for waivers for retention on active duty (para 8-8*a*(2)) will be forwarded to The Adjutant General through channels and will include:

(1) A statement to affirm that the child will not hinder the enlisted woman's performance of duty, and that continuation on active duty will not result in neglect of the child.

(2) The WAC unit commander's recommendations, to include conduct and efficiency ratings and Average Efficiency Index and PMOS evaluation scores, if available.

(3) The circumstances involved.

(4) Requests for leave of absence (to include accrued and excess leave) to cover prenatal and

postnatal period. Unless medically contraindicated, the prenatal period will begin when the commanding officer determines that continued utilization of the individual in a duty status is no longer feasible, but in no case later than the 28th week of pregnancy. The postnatal period will terminate at the end of the 6th week following pregnancy, unless medically contraindicated. Excess leave required will be requested in accordance with AR 630-5. Advance leave will not be granted under any circumstances. Pending receipt from Headquarters, Department of the Army, of discharge instructions, or approval of retention on active duty and excess leave, the commander will grant ordinary leave to cover the prenatal period defined above. If the enlisted woman has insufficient leave accrued, the commander will authorize excess leave in accordance with AR 630-5 effective upon termination of ordinary leave.

(5) Proper medical certification and history.

(6) Date and period of enlistment and total length of active Federal service.

(7) Recommendation of officer who is job supervisor.

b. Nothing contained herein will act as a bar to a commander taking disciplinary or elimination action under other regulations if circumstances warrant.

8-10. Line of duty determination. Line of duty determination is not required for pregnancy, diseases resulting therefrom, or therapeutic abortion. Line of duty determination in cases involving misconduct will be made in accordance with AR 600-10.

8-11. Maternity care. An enlisted woman discharged under honorable conditions or retired who is pregnant at the time of separation is entitled to maternity care as provided in paragraph 22, AR 40-3 and AR 600-3. The medical benefits to which an enlisted woman is entitled are limited to care in military hospitals and do not, regardless of the circumstances, include care obtained in civilian hospitals.

8-12. Terminated pregnancies. If it has been determined by a medical officer that a pregnancy has been terminated without living issue prior to the effective date of separation or retirement the enlisted woman may request withdrawal of retirement or discharge, or, in the case of involuntary discharge, may request retention on active duty. The request will be forwarded to The Adjutant General, ATTN: AGPO-SS, Washington, DC 20310 for final action. The request must include the information in paragraph 8-9*a* (2), (3), (5), (6), and (7). In addition, in the case of illegitimate pregnancies, the commanding officer's recommendation must include a statement as to moral character.

8-13. Responsibility of the WAC unit officer. *a.* The WAC unit commander will direct the enlisted woman whose physical condition indicates the possibility of pregnancy to report at once to a physician on duty at an Armed Forces medical treatment facility for diagnosis.

b. Every assistance will be given by the unit commander or a designated officer of the Women's Army Corps to the enlisted woman. The enlisted woman will be counseled by a WAC officer concerning all the rights, privileges, and benefits to be obtained as a result of her military service. She will also be assisted in contacting administering agencies for aid and advice in applying for such rights, benefits, and privileges. If the enlisted woman desires, the officer will refer her to a representative of the American Red Cross or to other appropriate agencies for assistance. The WAC unit commander will inform enlisted women being discharged under honorable conditions who are pregnant at the time of discharge that medical care for that pregnancy is limited to care in military medical treatment facilities only, and does not, regardless of the circumstances, include care obtained in civilian facilities.

8-14. Medical examination and diagnosis. *a.* Examination for pregnancy will be conducted as a complete medical examination. Standard Forms 88 and 89 will be utilized. When such examination results in a determination of pregnancy or of recent termination of pregnancy, no additional medical examination is required prior to discharge, provided discharge from the service is accomplished within the 6-month period specified in paragraph 10-17*a*(2), AR 40-501, and there is no change in the enlisted woman's medical condition other than her pregnancy.

b. The diagnosis will be certified by a physician on duty at an Armed Forces medical treatment facility as soon as possible. This does not preclude observation of the enlisted woman for a reasonable period of time in which to insure that the diag-

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CHAPTER 8

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Section I. GENERAL

8-1. Scope. This chapter establishes policy, sets forth procedures, and provides authority for discharge of enlisted women by reason of marriage, pregnancy, or parenthood.

8-2. Authority to discharge. Commanders specified in section VI, chapter 2, are authorized to approve the discharge of enlisted women under this chapter.

Section II. MARRIAGE

★**8-3. Authority.** An enlisted woman may request discharge by reason of marriage. Commanders will approve such requests providing the applicant meets the following requirements:

a. Has served at least 18 months on her current enlistment.

b. Has completed all obligated periods of service incurred through schooling or promotion as required by AR 600-200.

c. Has served at least 6 months in the oversea command if application is submitted while serving overseas or subsequent to departure from home station en route to overseas.

8-4. Enlisted or reenlisted on or after 1 July 1965 and prior to 20 June 1966. Rescinded.

8-5. Delay discharge. Rescinded.

8-6. Type of certificate to be furnished and authority for discharge. *a.* An honorable or general discharge certificate will be furnished in accordance with section III, chapter 1.

b. Authority (sec II, chap. 8, AR 635-200) and SPN 220 will be included in directive or orders directing the individual to report to the appropriate transfer activity.

8-7. When not eligible for discharge. Women will not be eligible for discharge solely for reason of marriage during war or national emergency declared by Congress.

Section III. PREGNANCY

8-8. Requirement for discharge. *a.* Discharge will be accomplished at the earliest practicable date when—

(1) It has been determined by a physician on duty at an Armed Forces medical treatment facility that an enlisted woman is pregnant.

(2) It has been determined by a physician on duty at an Armed Forces medical treatment facility that an enlisted woman has been pregnant at any time during the present enlistment.

(3) The enlisted woman gives birth to a child during present enlistment.

b. Exceptions to the above are as follows:

(1) If a legitimate pregnancy is terminated without live issue prior to the effective date of discharge or the child dies prior to the effective date of discharge, the enlisted woman may request waiver for discharge in order to be retained on active duty. The request for waiver will be forwarded through military channels to the Adjutant General, ATTN: AGPO-SS, Department of the Army, Washington, DC 20314, for final determination. The request will be accompanied by proper verification and history. The following information will be included in the forwarding comments:

(*a*) The enlisted woman's conduct and efficiency ratings.

(*b*) The WAC unit officer's recommendation.

(*c*) The circumstances involved.

(2) When medical examination discloses conditions, in addition to pregnancy, which require medical treatment and/or hospitalization, the enlisted woman will be retained until such time as maximum benefits of hospitalization have been attained. If it appears that the enlisted woman may be permanently physically disabled for any reason, the case will be processed under AR 635-40.

(3) When it has been determined by a physician on duty at an Armed Forces medical treatment facility that a lawfully married enlisted woman is pregnant and the woman has 18 or more years' active Federal service as of the date of certification of pregnancy, the enlisted woman may request waiver of discharge and retention on active duty or request retirement, if otherwise eligible, as indicated below. Processing of such applications will be expedited.

(*a*) An enlisted woman having 20 years' active Federal service will be afforded the opportunity to submit an application for retirement to be effective immediately. The application for retirement together with the Report of Medical Examination (SF 88) will be submitted in accordance with AR 635-200. When an enlisted woman refuses to apply for retirement, a report will be forwarded to The Adjutant General,

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ATTN: AGPO-SS, Department of the Army, Washington, D.C. 20315, as to her refusal. The certification of pregnancy from the physician on duty at an Armed Forces medical treatment facility will be attached to the report.

(*b*) An enlisted woman having 18 or more years' active Federal service but less than 20 years, will be afforded the opportunity of requesting waiver of discharge in order to be retained on active duty. The request for waiver of discharge will be made immediately after certification of pregnancy. The request for waiver will be forwarded through military channels to The Adjutant General, ATTN: AGPO-SS, Department of the Army, Washington, D.C. 20315, for final determination. The following will be included in the request for waiver and forwarding comments:

1. A statement signed by the enlisted woman as follows: "I certify I will apply for retirement from the Army upon completion of 20 years' active Federal service notwithstanding my (extension) (reenlistment)."

2. Proper medical verification and history to include estimated confinement date.

3. The enlisted woman's conduct and efficiency ratings.

4. The WAC unit officer's recommendation.

5. A statement giving circumstances which will indicate that the child will not hinder the enlisted woman's performance of duty, and continuation on active duty will not result in neglect of the child.

6. Date and period of enlistment.

7. Total length of active Federal service.

8. Request for leave of absence (including request for accrued leave and request for excess leave) to cover the prenatal period and at least 6 weeks following birth of the child. (For purposes of this regulation, the prenatal period begins upon verification of pregnancy.) Leave required in excess of that which is accrued to the applicant will be requested under the provisions of paragraph 21, AR 630-5. (Advanced leave will not, under any circumstances, be granted.) Pending receipt from Headquarters, Department of the Army, of discharge instructions or approval of waiver and excess leave, the unit commander will grant the ordinary leave. In the event the enlisted woman has less than 21 days' accrued leave, the appropriate commander will authorize leave in accordance with the provisions of paragraph 21*b*, AR 630-5, effective upon termination of individual's ordinary leave. The intent of these provisions is to provide for the assumption of a leave status by the enlisted woman upon verification of pregnancy or as soon thereafter as possible.

(*c*) When an enlisted woman's current term of service expires prior to the date she will complete 20 years' active Federal service, one of the following will be included in the request for waiver:

1. Request for extension of enlistment when an enlisted woman will require no more than 11 months' service subsequent to expiration of current period of service to qualify for retirement.

2. Request for discharge and reenlistment, *1* above, is not appropriate. In the event the individual is not otherwise qualified for reenlistment, a request for waiver of such disqualification will be included.

(4) Nothing contained herein will act as a bar to a commander taking disciplinary or elimination action under other regulations if circumstances warrant.

8-9. Responsibility of WAC unit officer. *a.* The WAC unit commander will direct the enlisted woman whose physical condition indicates the possibility of pregnancy to report at once to a physician on duty at an Armed Forces medical treatment facility for diagnosis. The WAC unit commander will also initiate discharge proceedings immediately upon medical certification of pregnancy or recent termination.

★*b.* Every assistance will be given by the unit commander or a designated officer of the Women's Army Corps to the enlisted woman. The enlisted woman will be counseled by a WAC officer concerning all the rights, privileges, and benefits to be obtained as a result of her military service. She will also be assisted in contacting administering agencies for aid and advice in applying for such rights, benefits, and privileges. If the enlisted woman desires, the officer will refer her to a representative of the American National Red Cross or to other appropriate agencies for assistance. The WAC unit commander will inform enlisted women being discharged under honorable conditions who are pregnant at the time of discharge that medical care for that pregnancy is limited to care in mili-

tary medical treatment facilities only, and does not, regardless of the circumstances, include care obtained in civilian facilities.

8-10. Medical examination and diagnosis. *a.* Examination for pregnancy will be conducted as a complete medical examination. Standard Forms 88 and 89 will be utilized. When such examination results in a determination of pregnancy or of recent termination of pregnancy, no additional medical examination is required prior to discharge, provided discharge from the service is accomplished within the 6-month period specified in paragraph 10-17*a*(2), AR 40-501, and there is no change in the enlisted woman's medical condition other than her pregnancy.

b. The diagnosis will be certified by a physician on duty at an Armed Forces medical treatment facility as soon as possible. This does not preclude observation of the enlisted woman for a reasonable period of time in which to insure that the diagnosis is correct. In establishing the diagnosis, the physician may utilize biological or other tests for pregnancy without cost to the patient.

8-11. Discharge action. *a.* The interval between diagnosis and discharge will be held to a minimum. For personnel stationed within the United States, discharge normally will not be later than 7 days after receipt of certified diagnosis. Personnel arriving in CONUS from an oversea tour will be processed for discharge in accordance with paragraph 3-6, AR 635-10. The discharge will be accomplished without reference to a medical or physical evaluation board unless this procedure is required for reason other than pregnancy.

b. Discharge will not be accomplished wit an oversea command unless the enlisted woman home is located there. Return travel of personnel to the United States will be expedited and normally will be by air rather than surface means.

c. The enlisted woman may remain on duty in the interval prior to discharge if, in the opinion of the physician, her physical condition permits and if the WAC unit commander deems it appropriate.

d. If, during the processing for discharge under another chapter or regulation, an enlisted woman is found to be pregnant, she will not be discharged under this section except as indicated in *e* below. Discharge will be accomplished under the chapter or regulation under which separation processing was initiated. In such cases, a notation of pregnancy will be made on Standard Form 88.

e. An enlisted woman under investigation, court-martial charges, or sentence of court-martial who is certified by a physician on duty at an Armed Forces medical treatment facility to be pregnant may be discharged under this chapter only with the written consent of the commander exercising general courts-martial jurisdiction over the enlisted woman.

f. Commanders of U.S. Army oversea replacement stations may retain an enlisted woman en route overseas to establish whether she is pregnant in those cases where the enlisted woman either claims that she is pregnant or when her physical condition indicates such possibility.

8-12. Type of certificate to be furnished and authority for discharge. *a.* An honorable or general discharge certificate will be furnished,

n accordance with section III, chapter 1. Determination of the type of discharge to be furnished will be made without regard to the marital status of the enlisted woman.

b. Authority (sec III, chapter 8, AR 635-200) and SPN 221 will be included in directive or orders directing the individual to report to the appropriate transfer activity.

8-13. Maternity care. An enlisted woman discharged from the Army under honorable conditions who is pregnant at the time of discharge is entitled to maternity care as provided by AR 600-110 and paragraph 22, AR 40-3. The medical benefits to which an enlisted woman is entitled are limited to care in military hospitals and do not, regardless of the circumstances, include care obtained in civilian hospitals. An enlisted woman who is pregnant at time of retirement is entitled to maternity care as a retired member.

8-14. Release of information concerning pregnancy. The release of information concerning pregnancy will be governed by AR 345-20 and AR 345-200.

★**8-14.1. Authority to discharge.** The commanders specified in paragraph 2-17*e* are authorized to order the discharge of an enlisted woman for pregnancy.

Section IV. PARENTHOOD

8-15. Requirement for discharge. *a.* An enlisted woman will be discharged when she becomes the parent by adoption, the stepparent, foster parent, or custodian of a child under 18 years of age who resides within the household of the enlisted woman for a period of 30 consecutive days a year, except as indicated in *b* below.

b. A waiver to *a* above, may be granted when it is established the child will not hinder the enlisted woman's performance of duty, and continuation on active duty will not result in neglect of the child.

c. The commander having discharge authority will render final decision on request for waiver. He may also order revocation of waiver upon determination that the child interferes with the enlisted woman's performance of duty or her continuation on active duty is resulting in neglect of the child.

8-16. Type of certificate to be furnished and authority for discharge. *a.* An honorable or general discharge certificate will be furnished, in accordance with section III, chapter 1.

b. Authority (sec IV, chap. 8, AR 635-200) and SPN 222 will be included in directive or orders directing the individual to report to the appropriate transfer activity.

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CHAPTER 12

RETIREMENT FOR LENGTH OF SERVICE

Section I. GENERAL

12-1. Purpose. This chapter establishes procedures for implementation of laws and policies governing voluntary retirement of enlisted personnel of the Regular Army by reason of length of service.

12-2. Scope. *a.* The provisions of this chapter govern the retirement of Regular Army enlisted personnel, male or female, who are retiring in their Regular Army enlisted status.

b. Prior service enlisted personnel serving on active duty as officers, who are not qualified for retirement in their commissioned status, may qualify for retirement under this chapter. For procedures, see AR 635-100.

Section II. STATUTORY AUTHORITY

12-3. General provisions of laws governing retirement. *a.* In general, laws governing retirement of enlisted members of the Regular Army provide that—

(1) The individual must be an enlisted member of the Regular Army on active duty at the time of retirement (10 U.S.C. 3914 and 3917).

(2) Retirement will be in the active duty grade in which serving at the time of retirement (10 U.S.C. 3961).

(3) Years of service for retirement are computed by adding all active service in the Armed Forces and service computed under Title 10, United States Code, section 3683 (10 U.S.C. 3925).

(4) The date of retirement is uniformly the first day of the month following the month in which the individual is released from active duty (5 U.S.C. 8301).

b. See chapter 3, AR 37-104-1 concerning retired pay.

12-4. 20-year retirement law (10 U.S.C. 3914). *a.* An enlisted member of the Regular Army who has completed 20, but less than 30 years of active Federal service in the Armed Forces of the United States and who has completed all required service obligations at the time of retirement may, upon his request and at the discretion of the Secretary of the Army, be retired. He then becomes a member of the Army Reserve (Retired) and remains in that status until his active service prior to retirement and the period served in Army Reserve (Retired) after retirement equals 30 years. He will perform such active duty as may be prescribed by law.

b. An enlisted member who holds a current commission in the U.S. Army Reserve will be transferred to the Retired Reserve in the status he elects. Dual status in the U.S. Army Reserve is not authorized and once retirement is accomplished pursuant to an election of the member, election may not be changed. Transfer to the Retired Reserve to complete obligated service in an enlisted status vacates commissioned status in the U.S. Army Reserve.

12-5. 30-year retirement law (10 U.S.C. 3917). An enlisted member of the Regular Army who has completed at least 30 years of active Federal service in the Armed Forces of the United States will, upon his request, be placed on the retired list.

12-6. Advancement on the retired list (10 U.S.C. 3964). *a.* Members retired with less than 30 years active Federal service are considered for advancement on the retired list to the grade equal to the highest temporary grade satisfactorily held on active duty in the U.S. Army, as determined by the Secretary of the Army, when active service prior to retirement plus service on the retired list totals 30 years. Upon completion of 30 years service, the military personnel records of each member who held a higher grade than that in which retired are reviewed to determine if his service in the higher grade was satisfactory. Members advanced to a higher grade will be notified of such advancement by The Adjutant General.

b. Members retired after completion of 30 years active Federal service are advanced on the retired list, concurrently with retirement, to the highest temporary grade satisfactorily held on active duty in the U.S. Army, as determined by the Secretary of the Army.

c. Members advanced to a higher commissioned grade may apply to the Secretary of the Army within 3 months of advancement for restoration on the retired list to former enlisted status (10 U.S.C. 3965).

d. Members may, for personal reasons, desire to defer advancement to a higher grade; accordingly, prior to such advancement, a member may apply to the Secretary of the Army for a specified period of deferment and for placement or retention on the retired list in his current status. The application will include a statement by the member that he understands that subsequent advancement will not be retroactive and that increased pay or other entitlements accruing therefrom will be based on the actual date of advancement. Such application must be received by The Adjutant General, ATTN: AGPO-R, not later than 30 days prior to the date the member completes 30 years service (active Federal service plus service on the retired list).

Section III. REQUIREMENTS AND PROCEDURES FOR RETIREMENT

12-7. Applying for retirement. *a.* Request for retirement will be submitted in triplicate on DA Form 2339 (Application for Voluntary Retirement).

b. Once an application for retirement is submitted, it may not be withdrawn unless extenuating circumstances justify an exception. Requests for withdrawal of retirement applications will be fully documented and submitted through the same channels as the original application for retirement. Applications may not be withdrawn if travel has been performed in connection with retirement.

12-8. Final authority. The Adjutant General has the authority to approve or disapprove requests for voluntary retirement. However, applications which are incomplete or do not contain necessary documentation may be returned to the applicant for correction or additional information.

★12-9. Eligibility. *a.* Members who have completed 19 years and 6 months or more of active Federal service may apply for retirement not earlier than 6 months prior to desired retirement date provided all applicable service obligations will have been completed by the retirement date specified. Applications submitted less than 3 months in advance of desired retirement date will include reason(s) for the delay or an explanation of the emergency or hardship which precluded earlier submission.

b. **Rescinded.**

c. An individual receiving an alert which includes nomination for assignment, or orders for reassignment providing for a permanent change of station, as an individual or accompanying a unit, may not submit an application for retirement until arrival at his new duty station. An individual submitting an application for retirement after arrival at his new duty station may request retirement effective on or after completion of 12 months in the new duty assignment. An individual whose dependents travel at Government expense will be required to serve a minimum of 12 months in the new duty assignment from the date of arrival of dependents. As an exception, the 12-month service requirement following reassignment or arrival of dependents is waived for personnel who have returned from oversea assignments to assignments in CONUS or area of residence.

d. **Rescinded.**

★12-10. Service obligations (applicable to individuals retiring under 10 U.S.C. 3914). *a.* An individual will serve at least 1 year in his current assignment prior to date of retirement. (See para 12-9*c* for exception to the 12-month requirement.)

b. An individual whose dependents travel at Government expense must serve a minimum of 1 year in the new station after arrival of his dependents. (See para 12-9*c* for exception to the 12-month requirement.)

c. The provisions of paragraph 12-12*b*(2) will be complied with before any retirement application is forwarded to Headquarters, Department of the Army. For the purpose of determining eligibility for submission of application, the date shown on a DA message alert, DA assignment instruction, or DA Special Orders, whichever is earlier, is considered the date of alert or receipt of orders. Retirement applications may not be submitted by members of units scheduled for relocation after the formal date of alert notification, as established by the unit commander. Applications received from individuals in alerted units will contain information as to the date members of the unit were notified of the unit alert. An individual submitting an application for retirement after arrival at his new duty station may re-

quest retirement effective on or after completion of 12 months in the new duty assignment. An individual whose dependents travel at Government expense will be required to serve a minimum of 12 months in the new duty assignment from the date of arrival of dependents. An individual assigned to a unit deploying from an oversea area to CONUS who has submitted or who has an approved application for retirement will move with the unit providing his retirement will not be delayed. Notwithstanding the provisions of *a* and *b* above, such individuals will be retired on the date originally requested. (See para 12-9c for exception to the 12-month requirement.)

d. An individual who has attended a military or civilian course of instruction must complete any service obligation voluntarily incurred as a result of such instruction.

e. Except as provided below, an individual accepting a promotion to pay grades E-7, E-8, and E-9, subsequent to submitting an application for retirement, is not eligible for retirement:

(1) An individual who has completed more than 28 years active Federal service.

(2) An individual who is already eligible, through prior service, for a higher grade at time of retirement. Other than as indicated in (1) above, the acceptance of promotion constitutes withdrawal of an application for retirement. Commanders will notify Department of the Army by message to TAG, ATTN: AGPO-R and OPO, ATTN: EPCMS when an individual accepts promotion to pay grade E-7, E-8, or E-9 and application for retirement has been forwarded to Headquarters, Department of the Army.

f. An individual incurring a 2-year service obligation upon promotion to pay grade E-7, E-8, or E-9 in accordance with AR 600-200 must complete the obligated service, except as indicated in *e*(1) above.

12-11. Waivers. *a*. Exceptions to service obligations may be granted when the best interests of the service are involved and/or when substantial hardship exists or would otherwise result if the member is not retired. Requests for exceptions must be fully defined and documented. ETS in itself is not justification for exception.

b. For the purpose of this chapter, substantial hardship is defined as a situation or circumstance which imposes undue privation or suffering on the member or his immediate family. Potential loss of extremely favorable employment because of an employer's reporting deadline or attendance at an institution of higher learning may constitute a hardship.

12-12. Preparation of DA Form 2339. *a*. Each member requesting retirement will read this chapter and then, with the assistance of the personnel officer, complete Section I, DA Form 2339. Each item will be completed in full. The words "not applicable (N/A)" or "none" will be entered where appropriate. When an exception to a service obligation is requested, complete justification will be included as an inclosure to DA Form 2339.

b. The officer having custody of the applicant's personnel records will—

(1) Assist the member in preparing his application. Special attention will be given to items 6, 11, 14, and 17.

(*a*) *Item 6*. Enter the first day of desired retirement month and not the last day of the preceding month.

(*b*) *Item 11*. Enter the highest temporary grade in which the member served on active duty

(*c*) *Item 17*. Insure that time lost during the period covered by the current service record is correctly entered.

★(2) Notify the Chief of Personnel Operations by message the name, service number, SSAN, grade, PMOS and date of retirement application of members who apply for retirement, as follows: ATTN: EPCMS, of members in grades E-7 through E-9 and those in grades E-6 and below identified in table 1-1, AR 614-200; ATTN: EPCMR, of members in grades E-6 and below (other than those identified in table 1-1, AR 614-200). An application will *not* be forwarded until a message or letter has been received from the Chief of Personnel Operations indicating that assignment instructions have not been issued. A copy of the OPO message or letter will be attached to the retirement application when forwarded to The Adjutant General. Applications from such personnel received in The Adjutant General's Office without a copy of the OPO message or letter attached will be returned without action. As an exception, notification is not required for individuals who are assigned to a unit scheduled for deployment. However, such applications will include the date the members of the unit were notified of the unit alert and will be forwarded to The Adjutant General

only if the notification was after the date of the retirement application.

(3) Obtain verification for other than Army service (para 12-19).

(4) Schedule the member for physical examination not earlier than 6 months prior to requested retirement date (sec V). Consultations for and treatment of known medical and dental defects and conditions should be accomplished at an early date.

(5) Complete Section II, DA Form 2339. Each item will be completed in full. Enter "not applicable" or "none" where appropriate.

(*a*) *Item 23*. Enter in this item the complete designation and location of the authorized transfer activity where the individual is required to be processed for retirement. In those instances where a member elects to be processed for retirement at a CONUS location of choice, also enter the complete designation and location of such transfer activity. For example, on line 1, indicate "Authorized transfer activity: U.S. Army Transfer Station, Fort Hamilton, NY 11252"; on line 2, indicate "Transfer activity of choice: U.S. Army Transfer Station, Fort Lewis, WA 98433." See section V, chapter 2, AR 635-10 concerning selection of CONUS transfer activity of choice.

(*b*) *Item 30*. Enter the following in this item:

1. SSAN.

2. Date member arrived at present assignment.

3. Date dependents arrived at present assignment.

★*4*. **Rescinded.**

5. Members electing to be processed for retirement at a CONUS location of choice will be required (after having been counseled on the provisions of section V, chapter 2, AR 635-10), to include the following statement, with his signature and grade:

I attest that I have been counseled as specified by paragraph 2-18, AR 635-10. I also fully understand the provisions of section V, chapter 2, AR 635-10 concerning my entitlements pertaining to per diem, travel and transportation allowances, based on my retirement at a CONUS location of choice.

6. Date members of the unit were notified of the unit alert (where applicable).

★(6) Forward the complete application to The Adjutant General, ATTN: AGPO-R, Department of the Army, Washington, DC 20314 direct or through channels prescribed by the major commander concerned. A completed report of medical examination must accompany the application for retirement. Applications received without the report of medical examination will be returned without action. One copy of the application, less the report of medical examination, will be forwarded to Chief of Personnel Operations, ATTN: EPCMS, on members in grades E-7 through E-9 and those in grades E-6 and below identified in table 1-1, AR 614-200, at the same time the original is forwarded to The Adjutant General. Verification of other than Army service will also be included. In those cases where the applicant requests waiver of service obligation, commanders must comment on justification submitted and include a statement concerning essentiality of applicant to the mission of the command.

(7) Furnish any additional information as requested by The Adjutant General.

(8) Insure that the member's enlistment does not expire prior to requested retirement date. If his enlistment will expire prior to requested date of, or eligibility date for voluntary retirement, his enlistment may be extended in monthly increments to date of retirement, but not more than 11 months, under the provisions of paragraph 4-5, AR 601-

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280. These requests will be approved and oaths of extension accomplished before retirement applications are submitted. When the individual is not eligible for extension under AR 601-280, application for exception will be forwarded to Commanding Officer, Enlistment Eligibility Activity, 9700 Page Boulevard, St. Louis, MO 63132, for final action.

(9) Immediately notify The Adjutant General, ATTN: AGPO-R, of any change in a member's status or physical condition which precludes retirement. It is necessary, if a change occurs or retirement should not be accomplished, that notification reach The Adjutant General not later than 2400 hours (local time) on the date of relief from active duty cited in the retirement orders so that amendment or revocation of orders may be accomplished. If necessary, notification may be made by telephone. During duty hours (Monday through Friday: 0730 to 1600 hours) such calls may be made to OXford 37594 or 37575 if member's last name begins with the letters A through K; OXford 37555 or 37584 if member's last name begins with the letters L through Z. After 1600 hours, Washington, D.C. time, on the last work day of the month, such calls may be made to OXford 50163.

12-13. Retirement orders. *a.* A member's retirement is not approved until Department of the Army Special Orders are issued.

b. Retirement orders direct relief from active duty on the last day of the month and placement on the retired list, with or without transfer to the USAR (Retired), on the first day of the next month. Relief from active duty and retirement are automatically accomplished unless the orders are amended or revoked by The Adjutant General prior to 2400 hours (local time) on the date of relief from active duty.

c. Once an order has been issued, it will not be amended or revoked except for good and sufficient reasons. Orders may not be modified, amended or revoked on or after the effective date of retirement in the absence of fraud, manifest error, mathematical miscalculation or substantial new evidence.

12-14. Date of retirement. Members retiring for service may be placed on the retired list only on the first day of the requested month, with release from active duty on the last day of the preceding month. A member will be retired on the date requested provided he is physically and otherwise qualified for retirement, or as soon thereafter as practicable.

★**12-15. Place of retirement.** *a.* Except as provided in *b* and *c* below and paragraph 3-2*a*, enlisted personnel, regardless of where stationed, are required to be processed for retirement at the authorized and directed transfer activity specified in paragraph 2-17, AR 635-10.

b. The provisions of paragraphs 2-18 and 2-19, AR 635-10 apply. When an eligible member elects to be retired at a CONUS location of choice, the Department of the Army will forward the retirement folder to the transfer activity of choice. If the member subsequently elects to be retired at the authorized and directed place of retirement, *prior to his departure from the unit of assignment*, adequate justification for this change of election will be submitted to his commanding officer. If the member's commanding officer approves the request, that commander will immediately advise the transfer activity commander at the CONUS location of choice to airmail the retirement folder to the authorized and directed transfer activity. In this situation, Department of the Army retirement orders will not be amended and TC 207 and 208 *will not* be utilized. The only change the member who had elected to be processed for retirement at a CONUS location of choice may later make is from the location of choice transfer activity to the authorized and directed transfer activity. A change from one CONUS location of personal choice to another CONUS location of choice is *not* authorized.

c. For absence from home station in a leave status on date of retirement, see AR 630-5.

d. An individual serving on foreign service who desires retirement in his oversea area of assignment (subject to approval of oversea commander) should indicate this in his application for retirement. If required, a passport should be secured by the retiree from the nearest United States Consulate.

12-16. References. Additional information concerning retirement is contained in the following publications:

Decorations and awards	AR 672-5-1
Identification and dependents' privilege cards.	AR 606-5
Preparation of DD Form 214	AR 635-5
★Records disposition	AR 635-10 and AR 640-10
Preretirement leave	AR 630-5
Retirement ceremony	AR 600-25
Selection of home	Paragraph M4158, JTR
Transportation of dependents	Paragraph M7010, JTR
Shipment of household goods	Paragraph M8260, JTR

Section IV. COMPUTATION OF SERVICE

12-17. Service creditable for retirement. In general, years of service creditable for retirement are computed by adding all active service in the Armed Forces of the United States (10 U.S.C. 3925). All service shown below is creditable for retirement under this chapter and is creditable for basic pay purposes. For other service creditable for basic pay, see Chapter 1, Part 1, Department of Defense Military Pay and Allowances Entitlements Manual. Whenever "active Federal service" is specified, it includes active duty for training and other full-time training duty (37 U.S.C. 101(18)). Service below is creditable for retirement if performed as a commissioned officer, commissioned warrant officer, warrant officer, Army field clerk, flight officer, or enlisted member unless otherwise specified.

a. Army.

(1) U.S. Army (Regular).

(2) Women's Army Corps.

(3) Active Federal service in the—

(*a*) Regular Army Reserve.

(*b*) Army of the United States.

(*c*) U.S. Army Reserve.

(*d*) Organized Reserve Corps.

(*e*) Officers Reserve Corps.

(*f*) Enlisted Reserve Corps.

(*g*) Army National Guard.

(*h*) Army National Guard of the United States.

(*i*) Army Nurse Corps as it existed at any time before 16 April 1947.

(4) All active service performed under an appointment under the act of 22 December 1942 (ch. 805, 56 Stat. 1072) or the act of 22 June 1944 (ch. 272, 58 Stat. 324).

(5) All active full-time service, except as a student or apprentice, with the Medical Department of the Army as a civilian employee—

(*a*) In the dietetic or physical therapy categories, if the service was performed after 6 April 1917 and before 1 April 1943, or

(*b*) In the occupational therapy category, if the service was performed before appointment in the Army Nurse Corps or the Women's Medical Specialist Corps and before 1 January 1949.

(6) Cadet, U.S. Military Academy.

(7) Women's Army Auxiliary Corps (active service performed after 13 May 1942 and before 30 September 1943).

(8) Philippine Scouts.

(9) Officer Training Camp as an enlisted member.

(10) Fraudulent enlistment, if enlistment was not voided.

(11) Civilian Conservation Corps (active duty as commissioned officer).

b. Navy.

(1) U.S. Navy (Regular).

(2) Active Federal service in the—

(*a*) U.S. Naval Reserve.

(*b*) Naval Militia.

(*c*) Naval Reserve Force.

(*d*) Navy Nurse Corps as it existed at any time before 6 April 1947.

(3) V-12 Program of World War II (service in dual status as enlisted member on active duty as midshipman in the program).

(4) Midshipman, U.S. Naval Academy.

c. Air Force.

(1) U.S. Air Force (Regular).

(2) Active Federal service in the—

(*a*) Air Force of the United States.

(*b*) U.S. Air Force Reserve.

(*c*) Air National Guard.

(*d*) Air National Guard of the United States.

(3) Aviation Cadet.

(4) Cadet, U.S. Air Force Academy.

d. Marine Corps.

(1) U.S. Marine Corps (Regular).

(2) Active Federal service in the—

(*a*) U.S. Marine Corps Reserve.

(*b*) Marine Corps Reserve Force.

e. Coast Guard.

(1) U.S. Coast Guard (Regular).

(2) Active Federal service in the U.S. Coast Guard Reserve.

(3) Midshipman, U.S. Coast Guard Academy.

f. Public Health Service. Active Federal service as a commissioned officer in the Reserve Corps of the Public Health Service.

g. Minority service. All service performed under an enlistment or induction entered into before attaining the age prescribed by law for that enlistment or induction when such service is otherwise creditable.

12-18. Periods not creditable for retirement. None of the following periods are creditable for retirement under this chapter:

a. All time required to be made up (10 U.S.C. 972). See paragraph 2-3.

b. Periods of service voided by the Government other than those voided by reason of minority.

c. Time in a nonpay (noncasualty) status under the Missing Persons Act (56 Stat. 143, as amended by act of 29 August 1957) (71 Stat. 491); (50 U.S.C. App 1002).

d. Service in a Reserve component not on—

(1) Active duty.

(2) Active duty for training.

(3) Other full-time training duty.

12-19. Verification of other than Army service. Each member will be interviewed when he completes 18 years service for basic pay to determine if he has service in addition to Army service. Verification of such service will consist of certified statements of service and other official statements furnished from one of the addresses below. Statements will contain all dates of active duty, active duty for training or other full-time training duty, and all time lost. The original or certified copies will be forwarded as inclosure(s) to an application for retirement.

a. Navy. Military Personnel Records Center, GSA (Navy), 9700 Page Boulevard, St. Louis, MO 63132.

b. Air Force. Military Personnel Records Center, GSA (Air Force), 9700 Page Boulevard, St. Louis, MO 63132.

c. Marine Corps. Military Personnel Records Center, GSA (Marine Corps), 9700 Page Boulevard, St. Louis, MO 63132.

d. Coast Guard. Commandant, U.S. Coast Guard, Washington, DC 20226.

e. National Guard. Adjutant General of the State concerned.

Section V. REPORT OF MEDICAL EXAMINATION

12-20. General. *a.* The purpose of the retirement medical examination is a means of identifying conditions which may require attention, and to record as accurately as possible the state of health of the individual, as a means of protecting the interests of the individual and the Government. Medical examinations will be accomplished not earlier than 6 months nor later than 3 months prior to scheduled retirement. No member will be retired unless he undergoes the prescribed medical examination.

b. A report of medical examination of the scope prescribed in chapter 10, and appendix IX, AR 40-501, will serve as a basis for determining whether a member is medically fit for retirement, requires medical care, or referral to medical or physical evaluation boards for further processing under the provisions of AR 40-3 and AR 635-40. All such reports of medical examination, or medical board proceedings not referred to a physical evaluation board must be reviewed and approved in the office of The Surgeon General, Headquarters, Department of the Army, prior to retirement.

12-21. Medical examination reports. *a.* A medical examination report for retirement will consist of the originals of the following:

(1) Report of Medical Examination (Standard Form 88) and

(2) Report of Medical History (Standard Form 89) and

(3) Electrocardiogram properly mounted and identified on Clinical Record—Electrocardiographic Record (Standard Form 520) and

(4) Report of any consulation(s) accomplished, or

(5) Complete report of medical board proceedings accomplished under the provisions of AR 40-3, Medical Board Proceedings (DA Form 8-

118) Clinical Record—Narrative Summary (Standard Form 502), Report of Medical Examination (Standard Form 88).

★*b.* One copy of the complete report of medical examination or medical board proceedings will be filed in Health Records Jacket (*DD Form 722*). Additional copies will be placed in the Health Record Jacket for distribution by the transfer activity in accordance with AR 635-10.

c. Any additional consultations or examinations deemed necessary by The Surgeon General will be accomplished with the least possible delay as directed by The Adjutant General.

12-22. Members hospitalized. ★Commanders having custody of personnel records, in coordination with hospital commanders, will furnish the following information or reports to The Adjutant General, ATTN: AGPO-R.

a. If the member is hospitalized, or hospitalization is imminent, prior to the retirement application being forwarded to Department of the Army, the forwarding indorsement will include:

(1) The date of hospitalization (actual or anticipated).

(2) Name of the medical facility.

(3) Diagnosis and prognosis.

(4) Probable date of disposition.

(5) Probability or fact that referral to a physical evaluation board is or is not required (AR 635-40).

b. If the member is hospitalized after retirement application has been forwarded to the Department of the Army, information specified in *a* above will be furnished as soon as possible after member is admitted to the hospital.

c. When maximum benefit of hospitalization is attained and the member—

(1) Does not appear before a medical board, a Report of Medical Examination (SF 88) and a Report of Medical History (SF 89) together with a copy of Clinical Record—Narrative Summary (SF 502) which outlines in detail the diagnosis and treatment for which the individual was hospitalized will be submitted. In cases where the Report of Medical Examination and Report of Medical History had previously been submitted only a copy of the Clinical Record—Narrative Summary (SF 502) is required.

(2) Appears before a medical board which does not recommend consideration by a physical evaluation board, the original of the medical board proceedings will be forwarded.

(3) Is referred to a physical evaluation board by a medical board, he will be processed in accordance with AR 635-40. A report of such referral will be made to The Adjutant General.

officers under AR 635-212 may tender a resignation in lieu of board action.

a. When the recommendation for board action is based upon unsuitability under AR 635-212, the resignation will be forwarded through channels to the officer who has discharge authority over the individual (para 9-11*a*) and who is authorized to accept or, under conditions set forth in paragraph 9-11*e*, to recommend refusal to accept the resignation. The resignation, if accepted, will be under honorable conditions and the individual discharged with an honorable or general discharge as warranted by the individual's military record. The reason and authority for discharge (item 11c, DD Form 214) will be entered as shown in appendix I, AR 635-5.

b. When the recommendation for board action is based upon unfitness under AR 635-212, the resignation will be forwarded through channels to the officer who has general courts-martial jurisdiction over the individual (para 9-11*a*) and who is authorized to accept or, under conditions set forth in paragraph 9-11*e*, to recommend refusal to accept the resignation. The resignation, if accepted, will normally be under conditions other than honorable and the individual discharged with an undesirable discharge. However, if the particular circumstances in a given case warrant, a general or honorable discharge may be furnished. The reason and authority for discharge (item 11c, DD Form 214) will be entered as shown in appendix I, AR 635-5.

c. When the recommendation is based upon misconduct under AR 635-206, the resignation will be forwarded through channels to the officer who has general courts-martial jurisdiction over the individual (para 9-11*a*) and who is authorized to accept, or under conditions set forth in paragraph 9-11*e*, to recommend refusal to accept the resignation. However, in those instances where AR 635-206 requires that separation action be taken by The Adjutant General, the resignation will be forwarded for acceptance or refusal. The resignation, if accepted, will normally be under conditions other than honorable and the individual discharged with an undesirable discharge. However, if the particular circumstances in a given case warrant a general or honorable discharge may be given.

d. When a resignation is tendered in lieu of board action, the immediate commanding officer of the individual concerned will append thereto a copy of the report required in AR 635-206 when a board is waived or in paragraph 12*a* or *b*, AR 635-212, as appropriate.

e. A request for withdrawal of a resignation tendered in lieu of board action may be submitted to the officer authorized to accept the resignation in accordance with paragraph 9-11*b*.

9-6. Resignation in lieu of reduction for misconduct or inefficiency. *a.* An individual may tender his resignation in lieu of accepting punishment under the Uniform Code of Military Justice, Article 15, or in lieu of reduction for inefficiency under AR 600-200 (para 9-4 above). In such cases, the individual will not be required to appear before a board convened under AR 600-200 or reclassification board. The commanding officer of the individual concerned will prepare and add as an inclosure to the resignation a complete summary of all facts which relate to the alleged misconduct or inefficiency, and will attach to the summary signed statements of witnesses having knowledge of the alleged misconduct or inefficiency. The resignation will be forwarded through channels to the officer who has discharge authority over the individual concerned (para 9-11*a*) and who is authorized to accept or, under conditions set forth in paragraph 9-11*e*, to recommend refusal to accept the resignation. If accepted, the resignation will be accepted under honorable conditions, and the individual will be furnished a general discharge certificate. In meritorious cases, an honorable discharge certificate may be furnished. The reason and authority for discharge (item 11c, DD Form 214) will be entered as shown in appendix I, AR 635-5.

b. A request for withdrawal of a resignation tendered in lieu of reduction for misconduct or inefficiency may be submitted to the officer authorized to accept the resignation in accordance with paragraph 9-11*b*.

9-7. Resignation for good of the service. ★*a.* An individual whose conduct has rendered him triable by court-martial under circumstances which could lead to a dishonorable or bad conduct discharge may tender his resignation for the good of the service in lieu of trial by court-martial. Prior to submission of a resignation, an individual will be afforded the opportunity to consult with counsel (para 9-4). The individual will also certify in writing that he understands that he will normally receive a discharge under other than honorable conditions and that he understands the adverse nature of such a discharge and the possible consequences thereof. The resignation will be forwarded through channels to the officer who has general courts-martial jurisdiction over the individual (para 9-11*a*) and who is authorized to accept the resignation, to recommend refusal thereof under conditions set forth in paragraph 9-11*e*, or to direct trial. The foregoing is not to be construed as precluding an appropriate convening authority from referring a case to trial by courts-martial at any time prior to acceptance of a resignation. The resignation, if accepted, normally will be under conditions other than honorable, and the individual normaly furnished an undesirable discharge. However, the Discharge Authority may direct an honorable or general discharge, if warranted (section III, chapter 2). The reason and authority for discharge (item 11c, DD Form 214) will be entered as shown in appendix I, AR 635-5.

(1) The appropriate commanding officer of an individual who tenders his resignation in lieu of trial by courts-martial will prepare a complete summary of all facts which relate to the conduct upon which the resignation is predicated. This summary with the following statements attached, will be added as an inclosure to the resignation:

(*a*) Signed statement of the substance of testimony of witnesses who have been examined.

(*b*) Any statements, documents, or evidence of other factors considered by the commanding officer in arriving at his conclusion and in making his recommendation.

(*c*) A statement of any reasonable ground for the belief that the accused is, or was at the time of his misconduct, mentally defective, deranged, or otherwise abnormal.

(*d*) A statement from the individual indicating whether he desires to make a statement in his own behalf. (If answer is affirmative, statement will be appended or deferred for later submission at the option of the individual.)

(2) The final decision with respect to the resignation will be made by the officer having general courts-martial jurisdiction within 3 months of the submission of such resignation, and the mentioned officer will take appropriate action within such period of time.

(3) A resignation for the good of the service tendered under the procedures above, ordinarily will not be accepted when the offense or offenses with which the individual is, or may be, charged would warrant imposition by a general court-martial of punishment more severe than dishonorable discharge from the service.

b. An individual who is under suspended sentence of bad conduct or dishonorable discharge may tender his resignation for the good of the service (para 9-4). The resignation will be forwarded through channels to the officer who has general courts-martial jurisdiction over the individual (para 9-11*a*) and who is authorized to accept or, under conditions set forth in paragraph 9-11*e* to recommend refusal to accept the resignation. The resignation, if accepted, will normally be under conditions other than honorable and the individual normally furnished an undesirable discharge. However, the Discharge Authority may direct an honorable or general discharge if warranted. The reason and authority for discharge (item 11c, DD Form 214) will be entered as shown in appendix I, AR 635-5.

SUBJECT: Resignation

TO:

1. Under the provisions of Chapter 9, Army Regulation 635-200, I hereby voluntarily tender my resignation from the Army. This resignation is tendered (without conditions) (in lieu of board proceedings under AR 635-___ for [unsuitability] [unfitness] [homosexuality] [misconduct]) (in lieu of board proceedings under AR 604-10) (in lieu of reduction for inefficiency under AR 600-200) (in lieu of accepting punishment under Article 15 of the Uniform Code of Military Justice) (for the good of the service in lieu of trial by court-martial under circumstances which could lead to a bad conduct or dishonorable discharge). I have not been subjected to coercion with respect to this resignation. I have been advised of the implications that are attached to it.

2. (Applicable to resignations in lieu of board proceedings.) I hereby waive a hearing before a board of officers, at which, with benefit of counsel, I would be afforded an opportunity to submit matters in mitigation or defense in my case.

3. (Applicable to resignations in lieu of board proceedings for unfitness, homosexuality, misconduct under AR 635-206, AR 604-10, and applicable to resignations for the good of the service in lieu of trial by court-martial under circumstances which could lead to a bad conduct or dishonorable discharge.)

4. (Applicable to unconditional resignations, resignations in lieu of board proceedings for unsuitability, and resignations in lieu of reduction for inefficiency or in lieu of accepting Article 15 punishment.) I understand that this resignation, if accepted, may be under General or Honorable conditions.

5. Statements in my own behalf (are) (are not) submitted herewith (as Inclosure___).

6. I understand that, once this resignation is submitted, it may be withdrawn, whether or not accepted, only with the consent of the officer empowered to accept it. An unconditional resignation, as defined in paragraph 9-3, AR 635-200, may be withdrawn in accordance with subparagraph 9-11b(1), AR 635-200.

* Figure 1

7. Prior to completing this form, I have been afforded the opportunity to consult with appointed counsel, or military counsel of my own choice, if he is reasonably available, or civilian counsel at my own expense. I (have consulted with counsel _____, who
(name of counsel)
has fully advised me in this matter on _____) (decline the
(date)
opportunity to consult counsel).

8. I have retained a copy of this resignation and of any inclosures I submitted.

Signature of individual member

_____
Typed name, service number, grade, present duty station, and unit to which assigned and/or attached

Having been advised by me (of the basis for his contemplated separation), the effects of his resignation, and the rights available to him, (name of individual) personally made the choices indicated in the foregoing resignation.

Signature of counsel

_____
Typed name, service number, grade and branch. (If counsel is not a JAGC officer, he must indicate whether he is qualified under Article 27(b)(1) of the Uniform Code of Military Justice.)

Figure 1- Continued

★CHAPTER 10

DISCHARGE FOR THE GOOD OF THE SERVICE

10-1. General. *a. An individual whose conduct* has rendered him triable by court-martial under circumstances which could lead to a bad conduct or dishonorable discharge may submit a request for discharge for the good of the service in lieu of trial. The request for discharge may be submitted at any time after court-martial charges are preferred against him. An individual who is under a suspended sentence of a punitive discharge may likewise submit a request for discharge for the good of the service.

b. The request for discharge for the good of the service does not preclude or suspend disciplinary proceedings in a case. Whether such proceedings will be held in abeyance pending final action on a request for discharge under the provisions of this chapter is a matter to be determined by the commander exercising general court-martial jurisdiction over the individual concerned.

10-2. Personal decision. Commanders will insure that there is no element of coercion in submitting a request for discharge for the good of the service. The member will be given a reasonable time (not less than 48 hours) to consult with counsel (para 1-10*a*(2)) and to consider the wisdom of submitting such a request for discharge. If he elects to submit the request, the member will personally sign the written request, certifying that he understands that he may receive a discharge under other than honorable conditions and that he understands the adverse nature of such a discharge and the possible consequences thereof. The member's counsel shall sign as a witness, indicating whether he is qualified under Article 27(b)(1) of the Uniform Code of Military Justice, if he is not a member of the Judge Advocate General's Corps. If the member refuses all counsel (para 1-10*a*(2)), his request for discharge must explicitly state that fact.

10-3. Preparation and forwarding. *a.* A request for discharge for the good of the service will be submitted as shown in figure 2.

b. The request for discharge will be forwarded through channels to the officer who has general courts-martial jurisdiction over the individual concerned. Commanders through whom the request for discharge is forwarded will recommend either approval or disapproval with the reasons for the recommendation; if approval is recommended, the type discharge to be issued also will be recommended.

c. The following data will accompany the request for discharge:

(1) A copy of the court-martial charges.

(2) Report of a medical examination as prescribed in chapter 10, AR 40-501.

(3) A complete copy of all reports of investigation.

(4) Any statement, documents, or other matter considered by the commanding officer in arriving at his conclusion and making his recommendation.

(5) A statement of any reasonable ground for belief that the individual is, or was at the time of his misconduct, mentally defective, deranged, or abnormal. When appropriate, evaluation by a psychiatrist will be included.

d. When an individual is under a suspended sentence of discharge, a copy of the court-martial orders, or a summary of facts which relate to the conduct upon which the request for discharge is predicted, will be forwarded.

10-4. Withdrawal of request for discharge. Unless trial results in an acquittal or a sentence less than discharge, a request for discharge submitted under the provisions of this chapter may be withdrawn only with the consent of the commander exercising general court-martial jurisdiction.

10-5. Medical examination. An individual who submits a request for discharge for the good of the service will undergo a medical examination of the scope prescribed in chapter 10, AR 40-501. The report of medical examination will accompany the request for discharge.

10-6. Discharge authority. Commanders exercising general courts-martial jurisdiction are authorized to approve requests for discharge for the good of the service and to order the discharge of individuals or to disapprove such requests. This au-

thority may be delegated as specified in paragraph 2-17b.

10-7. Discharge certificate issued. An undesirable discharge certificate will normally be furnished an individual who is discharged for the good of the service. However, the discharge authority may direct an honorable or general discharge, if warranted. The reason and authority for discharge (item 11c, DD Form 214) will be "For the good of the service, SPN 246."

TAGO 29A

U.S. GOVERNMENT PRINTING OFFICE: 1969

SUBJECT: Request for Discharge for the Good of the Service

TO:

1. Under the provisions of Chapter 10, AR 635-200, I (name of member) hereby request discharge for the good of the service (in lieu of trial by court-martial under circumstances which could lead to a bad conduct or dishonorable discharge) (while under a suspended sentence to a bad conduct or dishonorable discharge) (as applicable). I have not been subjected to coercion with respect to this request for discharge, and I have been advised of the implications that are attached to it.

2. I understand that, if this request for discharge is accepted, I may be discharged under other than honorable conditions and furnished an Undesirable Discharge Certificate. I understand that, as a result of the issuance of such a discharge, I shall be deprived of many or all Army benefits, that I may be ineligible for many or all benefits administered by the Veterans' Administration, and that I may be deprived of my rights and benefits as a veteran under both Federal and State law. I also understand that I may expect to encounter substantial prejudice in civilian life by reason of an undesirable discharge.

3. I understand that, once this resignation is submitted, it may be withdrawn, whether or not accepted, only with the consent of the commander exercising general court-martial jurisdiction over me.

4. Statements in my own behalf (are) (are not) submitted herewith (as inclosure___).

5. Prior to completing this form, I have been afforded the opportunity to consult with appointed counsel, or military counsel of my own choice, if he is reasonably available, or civilian counsel at my own expense. I (have consulted with counsel, _____, who has fully
(name of counsel)
advised me in this matter on _____) (decline the
(date)
opportunity to consult with counsel).

6. I have retained a copy of this request for discharge and of any inclosures I submitted.

Signature of individual member

_____
Typed name, service number, grade, present duty station, and unit to which assigned and/or attached.

* Figure 2

Having been advised by me of (the basis for his contemplated trial by court-martial under circumstances which could lead to a bad conduct or dishonorable discharge) (the significance of his suspended sentence to a bad conduct or dishonorable discharge), of the effects of this request for discharge, and the rights available to him, (name of individual) personally made the choices indicated in the foregoing request for discharge.

Signature of Counsel

_____

Typed name, service number, grade, and branch. (If counsel is not a JAGC officer, he must indicate whether he is qualified under Article 27(b)(1) of the Uniform Code of Military Justice.)

* Figure 2 - Continued

been proper over a reasonable period of time sequent to the conviction(s), he may be considered for an honorable discharge (*c* and *d* above).

(3) A member's service may be characterized as general by the commanding officer authorized to take such action or higher authority when the member is eligible for or is subject to separation and it has been determined, under the prescribed standards, that such separation is warranted.

f. Undesirable discharge. An undesirable discharge is an administrative separation from the service under conditions other than honorable. It may be issued for unfitness, misconduct, homosexuality, or for security reasons.

(1) *Special considerations.* In any case in which an undesirable discharge is authorized by regulation a member may be awarded an honorable or general discharge, as appropriate, if, during the current or a prior enlistment or period of service or voluntary or involuntary extension of either, he has been awarded a personal decoration, or if warranted by the particular circumstances of a specific case.

(2) *Consideration required.* Commanders and members of boards of officers responsible for recommending discharges to be furnished, and commanders having responsibility for determining finally the type of discharge to be issued, are urged to consider all facets of a particular case involving discharge in order that a fair decision will result.

1-10. Issuance of an undesirable discharge. An undesirable discharge will be directed only by a commander exercising general court-martial jurisdiction, or by higher authority, based upon the approved recommendation of a board of officers, unless the member waives the board or resigns, or requests discharge for the good of the service. Prior to such action, the following procedures and safeguards must be observed:

a. A member who is under military control will be notified in writing that his discharge has been recommended pursuant to a specific regulation, and of the specific allegations on which the proposed action is based, and advised that he has the following rights:

(1) To present his case before an administrative discharge board.

(2) To be represented by appointed counsel (a 1-3*i*); military counsel of his own choice, provided such counsel is reasonably available; or civilian counsel at his own expense.

(3) To submit statements in his own behalf.

(4) To wave the above rights in writing. The member will be given an opportunity and a reasonable time (not less than 48 hours) to consult with counsel ((2) above) prior to waiving the above rights. If he elects to waive these rights, the member shall personally sign a written waiver. His counsel shall sign as a witness, indicating whether he is qualified under Article 27(b)(1) of the Uniform Code of Military Justice, if he is not a member of the Judge Advocate General's Corps. If the member refuses counsel, his waiver must explicitly state that fact.

b. If a member waives his rights, the discharge authority may disapprove the waiver and refer the case to an administrative discharge board, or direct retention on active duty, or direct discharge by reason of unfitness, misconduct, homosexuality, or security. If discharge is directed, the type of certificate will be specified.

c. A member unable to appear in person before an administrative discharge board by reason of confinement by civil authorities will be advised (by registered mail) of the proposed discharge action, the type of discharge certificate that may be issued, and the fact that action has been suspended to give him the opportunity to exercise the following rights:

(1) To request appointment of a military counsel or employ civilian counsel at his own expense to represent him and, in his absence, present his case before an administrative discharge board.

(2) To submit statements in his own behalf.

(3) To waive the foregoing rights, either in writing or by declining to reply to the letter of notification within 30 days from the date of receipt.

★*d.* A member beyond military control by reason of unauthorized absence may be issued an undesirable discharge in absentia only under the direction of Headquarters, Department of the Army. Notification of the imminent discharge action and the effective date thereof will be sent by registered mail to the record address of the member or the next of kin, as appropriate. Separation of members of the Reserve components will be subject to the limitations of Title 10, U.S.C. 1163.

e. A member who submits a resignation or re-

quests discharge for the good of the service may be issued an undesirable discharge without board action provided he has been afforded the opportunity (not less than 48 hours) to consult with counsel (*a*(2) above), and provided that the member certifies in writing his understanding that he will receive a discharge under other than honorable conditions and that he understands the adverse nature of such a discharge and the possible consequences thereof. The member must personally sign his written resignation or request for discharge. His counsel shall sign as a witness, indicating whether he is qualified under Article 27(b)(1) of the Uniform Code of Military Justice, if he is not a member of the Judge Advocate General's Corps. If the member refuses all counsel (*a*(2) above), his resignation or request for discharge must explicitly state that fact.

1-11. Determination of character of service. *a.* In all cases requiring an administrative discharge board or waiver thereof, the discharge of an enlisted member will be characterized by the officer authorized to approve such a separation or by higher authority. In all other cases, the character of separation will be determined by the immediate commanding officer of the last unit to which the member was assigned or attached prior to his separation processing at the transfer facility, except when otherwise directed by higher authority. The officer characterizing the service will—

(1) Review the individual's military record and determine the character of separation to be awarded in accordance with governing criteria.

(2) Enter in the "Remarks" section of the Enlisted Qualification Record (DA Form 20) the character of separation to be issued upon separation.

b. Commanders of transfer activities will examine each enlisted qualification record of personnel undergoing transfer processing and will issue the type of discharge ordered by the discharge authority (sec. VI, chap. 2) with the characterization determined by the appropriate officer (*a* above).

c. The commanders of transfer activities will change neither the type nor character of separation except in those instances when the member's conduct, subsequent to the determination by the discharge authority and the characterization by the appropriate officer (*a* above), warrants a change in type or character of separation. When no administrative discharge board is convened, the commander of the transfer activity may issue an honorable or general discharge. Appropriate entries will be made in the individual's enlisted qualification record with the reason for the determination or characterization by the commander of the transfer activity.

1-12. Periodic explanation. At such time as the Articles of the Uniform Code of Military Justice are explained pursuant to 10 U.S.C 937, a comprehensive and careful explanation will be given of the types of discharge certificates, their bases for issue, and the possible effects of various certificates on reenlistment, civilian employment, veterans' benefits, and related matters. Section 937, 10 U.S.C. requires that the explanation be given to each enlisted member at the time of his entrance on active duty (or within 6 days thereafter), after completion of 6 months' active duty, and again at the time of reenlistment. For an explanation of veterans' entitlements, see Incidents of Discharge Chart (DA Graphic Training Aid 21-2-1, 1965). At the time of the required explanation, DA Pam 635-2 will be issued to each individual, and Training Film 21-3947 will be shown to each individual. The pamphlet and film will be used as aids to instruction but not as substitutes for instruction. Since the initial explanation will probably be the first military instruction received by the new soldier, it is especially incumbent on commanders of U.S. Army reception stations and training centers, as appropriate, to insure that it is presented expertly and comprehensively. Failure on the part of the member to receive or understand the explanation, however, will in no event be considered a defense in an administrative discharge proceeding or a bar thereto.

CHAPTER 2

SEPARATION OF ENLISTED PERSONNEL

Section I. ELIGIBILITY FOR SEPARATION

2-1. Statutory authority. Title 10, United States Code, section 3811, provides that no enlisted member of the Army may be discharged before his term expires except—

a. As prescribed by the Secretary of the Army.

b. By sentence of a general or special court-martial.

c. As otherwise provided by law.

2-2. *Discharge or release from the Active Army upon termination of enlistment, period of induction, and other periods of active duty or active duty for training.* *a.* The periods of military service required of all members of the Army will be in accordance with applicable laws. Periods for which enlistment is authorized are set forth in NGR 25-1, AR 140-111, and AR 601-210. Periods for which individuals are inducted or ordered to active duty are prescribed by law.

b. The following aliens will not be separated prior to the full period for which enlisted or inducted purely as a matter of convenience, except as provided in paragraph 5-2:

(1) Aliens who enlisted in the Regular Army for a period of 3 years (see section 328, Act of 27 June 1952 (66 Stat. 249; 8 U.S.C. 1439) for requirements as to naturalization).

(2) Aliens who were enlisted or inducted in the Army for a period of 24 months active duty and who were in the United States at the time of enlistment or induction (see section 4, Act of 24 October 1962 (76 Stat. 1247; 8 U.S.C. 1254)).

If performance or conduct does not justify their retention, they will be processed for separation under appropriate regulations.

c. Personnel who are physically unfit for retention (chap. 3, AR 40-501) but who were accepted for, or continued in, military service under the provisions of AR 635-40 or similar directives, will not be separated by reason of expiration of term of service unless processing for separation by reason of physical disability is waived.

d. Subject to the provisions of section V of this chapter an individual enlisted, inducted, or ordered to active duty normally will be discharged, or released from active duty, on the date upon which he completes the period for which enlisted, inducted, or ordered to active duty. However, an individual other than those listed in *b* above, whose term of service expires or who otherwise becomes eligible for discharge or release from active duty on a Saturday, Sunday, or legal holiday, may, with his consent, be discharged or released to or transferred to the Army Reserve on the last working day prior to normal date of discharge or release. Individuals whose rate of pay is subject to change on a Saturday, Sunday, or legal holiday upon which they would be separated will not be discharged until their normal separation date unless they request otherwise. Individuals who are eligible for early release on a Saturday, Sunday, or legal holiday under early release separation criteria in chapter 5 will not be discharged or released from active duty on the last working day prior to the Saturday, Sunday, or legal holiday unless the basic service requirement of the particular early separation authority concerned is met. Release from active duty will be dated as of the release or discharge. Personnel released from active duty and transferred to the Army Reserve upon completion of the term of service for which inducted or ordered into active Federal service, or released to their Reserve component upon completion of active duty, will not be discharged until completion of their Reserve obligation.

★*e.* AR 135-90 and AR 135-91 define the various service obligations incurred by military personnel upon initial entry into military service and prescribe the methods of fulfillment. Enlisted personnel who will not continue or reenter on active duty in another status will be released by separation orders to the Army National Guard of the United States or to the United States Army Reserve as set forth in paragraph E-1, AR 635-10 (under Separation orders, pages E-5 and E-6).

f. A noncitizen who incurred a Reserve obligation upon induction into military service but who

at time of release from active duty fails or refuses to give a mailing address within the United States, Puerto Rico, the Virgin Islands, Guam, or the Canal Zone, but gives only an address in a foreign country as a permanent mailing address (item 33, DD Form 214, Armed Forces of the United States Report of Transfer or Discharge), thus showing his intention to reside permanently outside the United States, is not eligible for transfer to the Army Reserve. He will be discharged upon and by reason of having completed the period of service for which inducted, but will be advised prior to such discharge that it may permanently bar him from United States citizenship.

g. Members of the Army National Guard of the United States and the Army Reserve ordered to active duty for a period in excess of 90 days will, upon release from active duty, revert to control of the appropriate Reserve component.

h. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 will be out-processed in accordance with AR 612-200.

i. Individuals serving as cadets in military academies whose expiration of enlisted term of service occurs while individual is serving in such capacity will be discharged or released, as appropriate.

j. An enlisted person who at the time of entry on active duty held an appointment as an Army Reserve commissioned or warrant officer, or who while on active duty accepts appointment, and such appointment is still current, will not be transferred to the Army Reserve in his enlisted status but will be discharged. Special orders discharging the individual will be prepared as prescribed in AR 310-10 and will indicate that the individual is transferred to the Army Reserve in his commissioned or warrant grade. Discharge to enter another military status does not terminate the individual's military service obligation incurred under title 10, United States Code, subsection 651a.

Section II. DISCHARGE, RELEASE FROM ACTIVE DUTY, OR RELEASE FROM ACTIVE DUTY FOR TRAINING AFTER EXPIRATION OF PERIOD OF ACTIVE DUTY OR ACTIVE DUTY FOR TRAINING

2-3. Time lost to be made good. Every individual in active Federal service who renders himself unable for more than 1 day to perform duty will be liable, after a return to full duty status, to serve for such period as is necessary to complete his full term of service or obligation, exclusive of such time lost.

a. Lost time in the sense of this regulation refers to periods of more than 1 day during which an individual on active duty is unable to perform duty because of—

(1) Desertion.

(2) Absence without proper authority.

(3) Confinement under sentence.

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

(5) Intemperate use of drugs or alcoholic liquor.

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

b. Time lost during an enlistment will be made good at the end of the enlistment period, except that, when an enlistment is extended by law, time lost will be made good at the end of the extension. This requirement may be waived by Headquarters, Department of the Army. Recommendations for waiver of time lost will be submitted to The Adjutant General, Department of the Army, ATTN: AGPO-SS, Washington, DC 20315, in unusual circumstances, when the discharge authority considers that because of extenuating circumstances waiver of time lost is in the best interest of the individual and the Government.

c. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 (trainees performing

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(4) The contents of reports furnished by the Red Cross will not be disclosed to the enlisted person or his family.

(5) When dependency or hardship application is forwarded to a State Director of Selective Service as provided in paragraph 6–8*b*, Red Cross reports will not be included as evidence. Excerpts of pertinent information from Red Cross reports may be furnished, insuring that identification of sources of information used by the Red Cross will not be disclosed.

c. Enlisted personnel or their dependents may, on their own initiative, request local chapters of the American National Red Cross to assist in obtaining necessary evidence to substantiate applications for separation. The American National Red Cross does not, however, make formal report to military agencies unless requested to do so by appropriate military commanders.

6–10. Types of separation. *a.* Enlisted personnel will be discharged or released from active military service in accordance with section I, chapter 2.

b. ARNGUS trainees will be relieved from active duty for training for hardship and dependency reasons and returned to the control of

CHAPTER 8

DISCHARGE OF ENLISTED WOMEN—MARRIAGE, PREGNANCY, OR PARENTHOOD

Section I. GENERAL

8-1. Scope. This chapter establishes policy, sets forth procedures, and provides authority for discharge of enlisted women by reason of marriage, pregnancy, or parenthood.

8-2. Authority to discharge. Commanders specified in section VI, chapter 2, are authorized to approve the discharge of enlisted women under this chapter.

Section II. MARRIAGE

★8-3. Authority. An enlisted woman may be discharged by reason of marriage at her own request providing she meets the following requirements:

a. Served at least 18 months on her current enlistment.

b. Completed all obligated periods of service incurred through schooling or promotion as required by AR 600-200.

c. Served at least 6 months in the overseas command if application is submitted while serving overseas or subsequent to departure from home station en route to overseas.

★8-4. Enlisted or reenlisted on or after 1 July 1965 and prior to 20 June 1966. Rescinded.

★8-5. Delay discharge. Rescinded.

8-6. Type of certificate to be furnished and authority for discharge. *a.* An honorable or general discharge certificate will be furnished in accordance with section III, chapter 1.

b. Authority (sec II, chap. 8, AR 635-200) and SPN 220 will be included in directive or orders directing the individual to report to the appropriate transfer activity.

★8-7. When not eligible for discharge. Women will not be eligible for discharge solely for reason of marriage during war or national emergency declared by Congress.

Section III. PREGNANCY

8-8. Requirement for discharge. *a.* Discharge will be accomplished at the earliest practicable date when—

(1) It has been determined by a physician on duty at an Armed Forces medical treatment facility that an enlisted woman is pregnant.

(2) It has been determined by a physician on duty at an Armed Forces medical treatment facility that an enlisted woman has been pregnant at any time during the present enlistment.

(3) The enlisted woman gives birth to a child during present enlistment.

b. Exceptions to the above are as follows:

(1) If a legitimate pregnancy is terminated without live issue prior to the effective date of discharge or the child dies prior to the effective date of discharge, the enlisted woman may request waiver for discharge in order to be retained on active duty. The request for waiver will be forwarded through military channels to The Adjutant General, ATTN: AGPO SS, Department of the Army, Washington, D.C. 20315, for final determination. The request will be accompanied by proper verification and history. The following information will be included in the forwarding comments:

(*a*) The enlisted woman's conduct and efficiency ratings.

(*b*) The WAC unit officer's recommendation.

(*c*) The circumstances involved.

(2) When medical examination discloses conditions, in addition to pregnancy, which require medical treatment and/or hospitalization, the enlisted woman will be retained until such time as maximum benefits of hospitalization have been attained. If it appears that the enlisted woman may be permanently physically disabled for any reason, the case will be processed under AR 635-40.

(3) When it has been determined by a phy-

sician on duty at an Armed Forces medical treatment facility that a lawfully married enlisted woman is pregnant and the woman has 18 or more years' active Federal service as of the date of certification of pregnancy, the enlisted woman may request waiver of discharge and retention on active duty or request retirement, if otherwise eligible, as indicated below. Processing of such applications will be expedited.

(*a*) An enlisted woman having 20 years' active Federal service will be afforded the opportunity to submit an application for retirement to be effective immediately. The application for retirement together with the Report of Medical Examination (SF 88) will be submitted in accordance with AR 635-230. When an enlisted woman refuses to apply for retirement, a report will be forwarded to The Adjutant General,

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CHAPTER 12
RETIREMENT FOR LENGTH OF SERVICE

Section I. GENERAL

12-1. Purpose. This chapter establishes procedures for implementation of laws and policies governing voluntary retirement of enlisted personnel of the Regular Army by reason of length of service.

12-2. Scope. *a.* The provisions of this chapter govern the retirement of Regular Army enlisted personnel, male or female, who are retiring in their Regular Army enlisted status.

★*b.* Prior service enlisted personnel serving on active duty as officers, who are not qualified for retirement in their commissioned status, may qualify for retirement under this chapter. For procedures, see AR 635-100.

Section II. STATUTORY AUTHORITY

12-3. General provisions of laws governing retirement. *a.* In general, laws governing retirement of enlisted members of the Regular Army provide that—

(1) The individual must be an enlisted member of the Regular Army on active duty at the time of retirement (10 U.S.C. 3914 and 3917).

(2) Retirement will be in the active duty grade in which serving at the time of retirement (10 U.S.C. 3961).

(3) Years of service for retirement are computed by adding all active service in the Armed Forces and service computed under Title 10, United States Code, section 3683 (10 U.S.C. 3925).

(4) The date of retirement is uniformly the first day of the month following the month in which the individual is released from active duty (5 U.S.C. 8301).

b. See chapter 3, AR 37-104-1 concerning retired pay.

12-4. 20-year retirement law (10 U.S.C. 3914). *a.* An enlisted member of the Regular Army who has completed 20, but less than 30 years of active Federal service in the Armed Forces of the United States and who has completed all required service obligations at the time of retirement may, upon his request and at the discretion of the Secretary of the Army, be retired. He then becomes a member of the Army Reserve (Retired) and remains in that status until his active service prior to retirement and the period served in Army Reserve (Retired) after retirement equals 30 years. He will perform such active duty as may be prescribed by law.

b. An enlisted member who holds a current commission in the U.S. Army Reserve will be transferred to the Retired Reserve in the status he elects. Dual status in the U.S. Army Reserve is not authorized and once retirement is accomplished pursuant to an election of the member, election may not be changed. Transfer to the Retired Reserve to complete obligated service in an enlisted status vacates commissioned status in the U.S. Army Reserve.

12-5. 30-year retirement law (10 U.S.C. 3917). An enlisted member of the Regular Army who has completed at least 30 years of active Federal service in the Armed Forces of the United States will, upon his request, be placed on the retired list.

12-6. Advancement on the retired list (10 U.S.C. 3964). *a.* Members retired with less than 30 years active Federal service are considered for advancement on the retired list to the grade equal to the highest temporary grade satisfactorily held on active duty in the U.S. Army, as determined by the Secretary of the Army, when active service prior to retirement plus service on the retired list totals 30 years. Upon completion of 30 years service, the military personnel records of each member who held a higher grade than that in which retired are reviewed to determine if his service in the higher grade was satisfactory. Members advanced to a higher grade will be notified of such advancement by The Adjutant General.

b. Members retired after completion of 30 years active Federal service are advanced on the retired list, concurrently with retirement, to the highest temporary grade satisfactorily held on active duty in the U.S. Army, as determined by the Secretary of the Army.

c. Members advanced to a higher commissioned

grade may apply to the Secretary of the Army within 3 months of advancement for restoration on the retired list to former enlisted status (10 U.S.C. 3965).

★*d.* Members may, for personal reasons, desire to defer advancement to a higher grade; accordingly, prior to such advancement, a member may apply to the Secretary of the Army for a specified period of deferment and for placement or retention on the retired list in his current status. The application will include a statement by the member that he understands that subsequent advancement will not be retroactive and that increased pay or other entitlements accruing therefrom will be based on the actual date of advancement. Such application must be received by The Adjutant General, ATTN: AGPO-R, not later than 30 days prior to the date the member completes 30 years service (active Federal service plus service on the retired list).

Section III. REQUIREMENTS AND PROCEDURES FOR RETIREMENT

12-7. Applying for retirement. *a.* Request for retirement will be submitted in triplicate on DA Form 2339 (Application for Voluntary Retirement).

b. Once an application for retirement is submitted, it may not be withdrawn unless extenuating circumstances justify an exception. Requests for withdrawal of retirement applications will be fully documented and submitted through the same channels as the original application for retirement. Applications may not be withdrawn if travel has been performed in connection with retirement.

12-8. Final authority. The Adjutant General has the authority to approve or disapprove requests for voluntary retirement. However, applications which are incomplete or do not contain necessary documentation may be returned to the applicant for correction or additional information.

12-9. Eligibility. *a.* Members who have completed 19 or more years active Federal service may apply for retirement 12 months prior to desired retirement date provided all applicable service obligations have been completed. Applications submitted less than 3 months in advance of desired retirement date will include reason(s) for the delay or an explanation of the emergency or hardship which precluded earlier submission.

b. Retirement of applicants who are in critical positions may be deferred by Headquarters, Department of the Army, until a replacement can be made available through operations of the normal requisitioning cycle. Forwarding indorsements on requests for retirement wherein deferment is recommended will contain a justification for such deferment.

c. An individual receiving an alert which includes nomination for assignment, or orders for reassignment providing for a permanent change of station, as an individual or accompanying a unit, may not submit an application for retirement until arrival at his new duty station. An individual submitting an application for retirement after arrival at his new duty station may request retirement effective on or after completion of 12 months in the new duty assignment. An individual whose dependents travel at Government expense will be required to serve a minimum of 12 months in the new duty assignment from the date of arrival of dependents.

d. When military requirements dictate, an individual may be selected for assignment after submission of a request for retirement. However, in such cases, the requirement in paragraph 12-10*a* and *b* relative to completion of 12 months in the new duty assignment after the individual's arrival or the arrival of his dependents is waived. Assignment instructions received for personnel who have requested retirement and which do not specifically state that the assignment is made under the provisions of this subparagraph will be verified with the Chief of Personnel Operations prior to issuing orders. Request for verification will be made by message (ATTN: EPADS, for personnel in grades E-7 through E-9, and special category personnel as defined in table 3-2, AR 600-200; and ATTN: EPADO-D for all other enlisted personnel). Message will state facts and circumstances, to include date of assignment instructions; assignment authority, effective date of retirement and DA retirement order reference if issued.

12-10. Service obligations (applicable to individuals retiring under 10 U.S.C. 3914). *a.* An individual will serve at least 1 year in his current assignment prior to date of retirement.

b. An individual whose dependents travel at Government expense must serve a minimum of 1 year in the new station after arrival of his dependents.

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★*c.* An individual selected by Department of the Army for a permanent change of station or alerted for assignment to a deploying unit may not submit an application for retirement until arrival at the new duty station. The provisions of paragraph 12 12*b*(2) will be complied with before any retirement application is forwarded to Headquarters, Department of the Army. For the purpose of determining eligibility for submission of application, the date shown on DA assignment instructions or DA Special Orders is considered the date of alert or receipt of orders. Retirement applications may not be submitted by members of units scheduled for relocation after the formal date of alert notification, as established by the unit commander. Applications received from individuals in alerted units will contain information as to the date members of the unit were notified of the unit alert. An individual submitting an application for retirement after arrival at his new duty station may request retirement effective on or after completion of 12 months in the new duty assignment. An individual whose dependents travel at Government expense will be required to serve a minimum of 12 months in the new duty assignment from the date of arrival of dependents. An individual assigned to a unit deploying from an oversea area to CONUS who has submitted or who has an approved application for retirement will move with the unit providing his retirement will not be delayed. Notwithstanding the provisions of *a* and *b* above, such individuals will be retired on the date originally requested.

d. An individual who has attended a military or civilian course of instruction must complete any service obligation voluntarily incurred as a result of such instruction.

e. Except as provided below, an individual accepting a promotion to pay grades E-7, E-8, and E-9, subsequent to submitting an application for retirement, is not eligible for retirement:

(1) An individual who has completed more than 28 years active Federal service.

(2) An individual who is already eligible, through prior service, for a higher grade at time of retirement. Other than as indicated in (1) above, the acceptance of promotion constitutes withdrawal of an application for retirement. Commanders will notify Department of the Army by message to TAG, ATTN: AGPO-R and OPO, ATTN: EPADS when an individual accepts promotion to pay grade E-7, E-8, or E-9 and application for retirement has been forwarded to Headquarters, Department of the Army.

f. An individual incurring a 2-year service obligation upon promotion to pay grade E-7, E-8, or E-9 in accordance with AR 600-200 must complete the obligated service, except as indicated in *c*(1) above.

12-11. Waivers. *a.* Exceptions to service obligations may be granted when the best interests of the service are involved and/or when substantial hardship exists or would otherwise result if the member is not retired. Requests for exceptions must be fully defined and documented. ETS in itself is not justification for exception.

★*b.* For the purpose of this chapter, substantial hardship is defined as a situation or circumstance which imposes undue privation or suffering on the member or his immediate family. Potential loss of extremely favorable employment because of an employer's reporting deadline or attendance at an institution of higher learning may constitute a hardship.

12-12. Preparation of DA Form 2339. *a.* Each member requesting retirement will read this chapter and then, with the assistance of the personnel officer, complete Section I, DA Form 2339. Each item will be completed in full. The words "not applicable (N/A)" or "none" will be entered where appropriate. When an exception to a service obligation is requested, complete justification will be included as an inclosure to DA Form 2339.

b. The officer having custody of the applicant's personnel records will—

(1) Assist the member in preparing his application. Special attention will be given to items 6, 11, 14, and 17.

(*a*) *Item 6.* Enter the first day of desired retirement month and not the last day of the preceding month.

(*b*) *Item 11.* Enter the highest temporary grade in which the member served on active duty.

(*c*) *Item 17.* Insure that time lost during the period covered by the current service record is correctly entered.

★(2) Notify the Chief of Personnel Operations by message the name, service number, SSAN, grade, PMOS and date of retirement application of members who apply for retirement, as follows:

ATTN: EPADS, of members in grades E-7 through E-9 and those in grades E-6 and below identified in figure 3-2, AR 600-200; ATTN: EPADR, of members in grades E-6 and below (other than those identified in fig. 3-2, AR 600-200). An application will *not* be forwarded until a message or letter has been received from the Chief of Personnel Operations indicating that assignment instructions have not been issued. A copy of the OPO message or letter will be attached to the retirement application when forwarded to The Adjutant General. Applications from such personnel received in The Adjutant General's Office without a copy of the OPO message or letter attached will be returned without action. As an exception, notification is not required for individuals who are assigned to a unit scheduled for deployment. However, such applications will include the date the members of the unit were notified of the unit alert and will be forwarded to The Adjutant General only if the notification was after the date of the retirement application.

(3) Obtain verification for other than Army service (para 12-19).

(4) Schedule the member for physical examination not earlier than 6 months prior to requested retirement date (sec V). Consultations for and treatment of known medical and dental defects and conditions should be accomplished at an early date.

(5) Complete Section II, DA Form 2339. Each item will be completed in full. Enter "not applicable" or "none" where appropriate.

★(*a*) *Item 23.* Enter in this item the complete designation and location of the authorized transfer activity where the individual is required to be processed for retirement. In those instances where a member elects to be processed for retirement at a CONUS location of choice, also enter the complete designation and location of such transfer activity. For example, on line 1, indicate "Authorized transfer activity: U.S. Army Transfer Station, Fort Hamilton, NY 11252"; on line 2, indicate "Transfer activity of choice: U.S. Army Transfer Station, Fort Lewis, WA 98433." See section V, chapter 2, AR 635-10 concerning selection of CONUS transfer activity of choice.

(*b*) *Item 30.* Enter the following in this item:

1. SSAN.

2. Date member arrived at present assignment.

3. Date dependents arrived at present assignment.

4. Anticipated date report of medical examination can be expected to be forwarded when application is submitted more than 6 months prior to requested retirement date. When a report of medical examination is not forwarded with an application for retirement, the personnel officer will insure that it is accomplished and forwarded not earlier than 6 months nor later than 3 months prior to the anticipated date of retirement.

5. Members electing to be processed for retirement at a CONUS location of choice will be required (after having been counseled on the provisions of section V, chapter 2, AR 635-10), to include the following statement, with his signature and grade:

> I attest that I have been counseled as specified by paragraph 2-18, AR 635-10. I also fully understand the provisions of section V, chapter 2, AR 635-10 concerning my entitlements pertaining to per diem, travel and transportation allowances, based on my retirement at a CONUS location of choice.

6. Date members of the unit were notified of the unit alert (where applicable).

(6) Forward the complete application to The Adjutant General, ATTN: AGPO-R, Department of the Army, Washington, DC 20314 direct or through channels prescribed by the major commander concerned. Report of medical examination will be included with applications submitted within 6 months of requested retirement date. However, submission of retirement applications will not be delayed because of medical examination. Verification of other than Army service will also be included. In those cases where the applicant requests waiver of service obligation, commanders must comment on justification submitted and include a statement concerning essentiality of applicant to the mission of the command.

(7) Furnish any additional information as requested by The Adjutant General.

(8) Insure that the member's enlistment does not expire prior to requested retirement date. If his enlistment will expire prior to requested date of, or eligibility date for voluntary retirement, his enlistment may be extended in monthly increments to date of retirement, but not more than 11 months, under the provisions of paragraph 4-5, AR 601

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2-15. When retained in service awaiting trial or result of trial. When an individual is retained in service as prescribed in paragraph 2-4, the effective date of his discharge or release from active duty depends upon the result of his trial or the disposition made of the case. Examples are given below.

a. An individual who has previously lost no time which he is required to make good under title 10, United States Code, section 972, who is confined awaiting trial will, if acquitted subsequent to expiration of term of service date, be discharged or released from active duty within 5 days after date of announcement of acquittal, and will be regarded as having been retained in service for the convenience of the Government.

b. An individual who is confined awaiting trial will, if convicted and sentenced to either confinement only, or confinement and forfeiture only, be discharged on the adjusted expiration date of term of service. The adjusted ETS date will be computed by adding to the original ETS date all time lost prior to and including the original ETS date.

★*c. An individual who is retained under the* provisions of paragraph 2-4, with a view to trial by court-martial and court-martial charges are not preferred or are disposed of without trial, will be separated within 5 days after the decision is made and will be regarded as having been retained in service for the convenience of the Government.

★**2-16. Absent without leave or in hands of civil authorities.** Discharge of an individual who is absent without leave or who has been convicted by the civil authorities is governed by AR 635-206, except for those individuals who have been sentenced to a dishonorable or bad conduct discharge. However, when discharge under the provisions of AR 635-206, AR 635-212, or chapter 10 of this regulation has been ordered by competent authority, and the individual concerned, while in the continental United States or area of residence, absents himself without leave or is absent in the hands of civil authorities subsequent to the date discharge is approved by the appropriate authority or subsequent to the issuance of discharge orders, the discharge may be executed notwithstanding such absence. Discharge Certificate, Armed Forces of the United States Report of Transfer or Discharge (DD Form 214), and orders will be dispatched by certified mail, with return receipt requested, to individual to the address provided for that purpose. If the forms are returned unclaimed, or for any other reason prove undeliverable, they will be forwarded, along with report of action, to the Commanding Officer, U.S. Army Administration Center, 9700 Page Boulevard, St. Louis, MO 63132, for file with the individual's records. Distribution of DD Forms 214 will be made in accordance with AR 635-5.

Section VI. AUTHORITY TO ORDER SEPARATION AND ACCOMPLISH SEPARATION

2-17. Authority to order discharge or release from active duty prior to expiration period of service. Authority is granted to the following commanders to order discharge or release from active duty of enlisted individuals prior to expiration of enlistment, induction, or period for which ordered to active duty:

a. Discharge or release from active duty not including general courts-martial authority. Commanders of all units and installations (including class II installations) which are commanded by, or are under the normal command of a general officer; commanders of Army hospitals under the command jurisdiction of The Surgeon General of the Army; commanders of personnel centers, training centers, oversea replacement depots, transportation terminal commands, and all active installations having an authorized strength of 4,000 or more personnel. The above commanders are not authorized to delegate discharge authority to subordinate commanders without prior approval of the Secretary of the Army.

b. Discharge involving general court-martial authority. Commanders exercising general court-martial jurisdiction are authorized to order discharge under AR 635-206, AR 635-212, and chapters 10 and 11 of this regulation. This authority may be delegated, except for chapter 11 of this regulation, to a general officer in command who has a judge advocate on his staff for cases arising in that command. Every action taken pursuant to such a delegation will state the authority therefor.

c. Authority to order discharge or release from active duty of enlisted personnel at class II installations. In the absence of prior instructions,

commanders of class II installations not having transfer activities or authority to issue PCS orders will contact the appropriate field commander or service for issuance of orders in connection with the release from active duty.

d. Discharge involving special court-martial authority. Commanders exercising special court-martial jurisdiction are authorized to order discharge for unsuitability under AR 635-212.

e. Discharge of an enlisted woman for pregnancy. Commanders of all units and installations which are commanded by, or are under the normal command of general officers *and colonels*, and other commanders as specified in paragraph 2-17 are authorized to discharge for pregnancy under section III, chapter 8.

2-18. Expiration of term of service. Separation will be accomplished by the transfer facility processing the member for separation (see AR 635-10), pursuant to the discharge order issued by the appropriate commander.

2-19. Reason and authority for separation. The specific reason and authority for separation entered in item 11c, DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) will be entered as shown in AR 635-5.

2-20. Action by commanders having discharge authority. Commanders having discharge authority directing discharge or release from active duty of an enlisted person will comply with the provisions of AR 635-10.

im to begin or resume his education. A statement to the effect that "this is the most opportune time for me to begin/resume my education" is not sufficient. Specific reasons as to why further delay would cause personal hardship must be included.

(*d*) The date on which the applicant must report to school must fall within the last 3 months of remaining service.

(2) Application for early release to attend a theological school which is not accredited by a regional accrediting association, foreign institutions, and all doubtful cases will be forwarded by the commander having discharge authority direct to The Adjutant General, ATTN: AGPO-SS, Washington, DC 20314.

(3) The effective date of early separation under this program normally will not be earlier than 10 days prior to the class starting date. The following exceptions may be made when appropriate:

(*a*) On submitting specific evidence that the period between the separation date specified above and the class starting date is clearly insufficient, members may be separated up to 30 days prior to the day classes convene. This is not intended as authority to grant release a full 30 days prior to class starting date in every such case, but to provide reasonable latitude in justifiable cases to authorize separation on a date which will give the member adequate time to register and enter the school on time. Examples of circumstances which meet this criterion are:

1. Member is returning from overseas.

★*2.* Member must move his family to the location of the educational institution.

3. The school's latest registration date, in relation to the class starting date, will work an undue hardship on the member.

(*b*) In the event late registration is permitted by the school, individuals who are ineligible for separation under the foregoing criteria may be separated on the first day within the last 3 months of service that they become eligible for separation.

(4) Individuals will be discharged, released from active duty and returned to the Army National Guard or Army Reserve, or released from active duty and transferred to the Army Reserve, as appropriate. Authority (AR 635-200) and SPN 41B for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for separation.

(5) Accrued leave may not be utilized in conjunction with early separation under the provisions of this paragraph.

b. Separation to accept teaching positions.

(1) Separation will be accomplished not earlier than 10 days prior to the effective date of employment when the following conditions are met:

(*a*) Release is for the purpose of accepting a teaching position in a public school system or comparable private educational institution, or a recognized college or university.

(*b*) The date on which the applicant must report for employment must fall within the last 3 months of remaining service.

(*c*) Teaching must be the normal occupation of the individual or he shows definite intent to engage in that occupation following separation.

(*d*) Applicant has evidence of employment by a specific school specifying date employment must commence.

(*e*) Individuals returned from overseas, or individuals who are required to move their families to the locations of the educational institutions may, on submitting specific evidence that the period between the separation date specified above and the effective date of employment is insufficient, be released up to 30 days prior to the effective date of employment.

(2) Individuals will be discharged, released from active duty and returned to Army National Guard or Army Reserve, or released from active duty and transferred to the Army Reserve, as appropriate. Authority (AR 635-200) and SPN 41C for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty.

Section IX. EMPLOYMENT

5-21. Separation to accept employment. Commanders specified in section VI, chapter 2, are authorized to order early separation for the convenience of the Government of personnel enlisted, inducted, or ordered to active duty who have less than 3 months remaining in their period of service who have an opportunity for employment which is not continuously active the entire year and submit valid applications as outlined in *a* below. Applications for separation under this paragraph may be submitted not more than 60 days prior to the requested release date. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 are not eligible for separation under this program.

a. Valid applications must meet the following criteria:

(1) Applicant must have less than 3 months remaining to expiration of term of service. Accrued leave may not be utilized to extend this 3-month limitation.

(2) Applicant's services must not be essential to the mission of his assigned organization.

(3) Applicant must present evidence of a bona fide employment opportunity (includes self-employment). A notarized statement from tentative employer is acceptable evidence. The sworn statement of the military member explaining the nature and type of self-employment will be accepted. These statements are accepted only as proof of employment. The application must show that—

(*a*) Employment is not continuously active nor in full operation during the whole of a calendar year in the geographical area of the employment site. Employment that is in operation the whole of a calendar year but has peak seasons or increased periods in operations is not the nature of employment within the meaning of this program. Employment that is in operation the whole of a calendar year but income from such employment ceases during a period of the year for reasons such as climatic conditions is employment within the meaning of this program.

(*b*) Employment will not be available if an individual does not report at a specified date. In the case of farming, it may be considered that the employment is not available after expiration of the planting or harvesting seasons.

(*c*) Scheduled date of employment must fall within the last 3 months of current period of service.

(*d*) Early separation will allow unhindered participation in such employment for at least half of the employment period.

(*e*) Employment must be the normal occupation of the individual or he shows definite intent to engage in the occupation following separation. Employment for the purpose of earning money to enter school is not considered employment within the meaning of this program.

(*f*) The income derived from this employment is the primary source of income.

b. Separation will not be accomplished earlier than 10 days prior to the date the individual must report for work. The date of separation must be within the last 3 months of the individual's period of service.

c. Individuals will be discharged, released from active duty and returned to Army National Guard or Army Reserve, or released from active duty and transferred to the Army Reserve, as appropriate. Authority (AR 635-200) and SPN 414 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for separation.

Section X. TRAVEL AND FORM OF SEPARATION CERTIFICATES

5-22. Travel allowance. See Joint Travel Regulations.

5-23. Form of separation certificate to be given. *a.* Discharge certificate, based upon the character of service rendered and an Armed Forces of the United States Report of Transfer or Discharge (DD Form 214) will be issued to the individual concerned.

b. Individuals released from active duty and transferred to the Army Reserve or returned to a

Reserve component (USAR or ARNG) "For Convenience of the Government" will be furnished an Armed Forces of the United States Report of Transfer or Discharge.

c. An individual to be released from military control pursuant to paragraph 5-12, or an administrative determination that he is not currently a member of the Army cannot be legally discharged from the Army. Such individual will, instead, be released from the custody and control of the Army without being furnished a certificate of discharge of any kind or Armed Forces of the United States Report of Transfer or Discharge (DD Form 214).

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Section XI. SOLE SURVIVING SONS

★**5-24. Separation of sole surviving sons.** Commanders specified in section VI, chapter 2, are authorized to order discharge for convenience of the Government of enlisted men because they are sole surviving sons.

a. As used in this regulation, the definition of a sole surviving son is the only remaining son in a family of which, because of hazards incident to service in the Armed Forces of the United States, the father, or one or more sons or daughters—

(1) Have been killed; or

(2) Have died as a result of wounds, accident, or disease; or

(3) Are permanently 100 percent physically disabled (to include 100 percent mental disability) as determined by the Veterans' Administration or one of the military services, and are hospitalized on a continuing basis and not gainfully employed by virtue of such disability.

b. In determining eligibility, the term "because of hazards," as used in *a* above, will be interpreted as meaning "incurred in line of duty," as determined under the provisions of AR 600-10 or comparable regulations of other services.

c. Enlisted personnel are eligible for discharge when—

(1) They become sole surviving sons subsequent to enlistment, induction, order to active duty or active duty for training under the Reserve Enlistment Program of 1963.

(2) Individuals defined in *a*(3) above who become eligible for discharge under (1) above may be discharged upon completion of at least 6 months of active duty. Six months active duty prior to discharge is required in order to qualify for a veteran's exemption under the provisions of 50 App. U.S.C. 456(*b*)(3).

d. All applications submitted will include the following evidence:

(1) Name, grade, MSN or SSN, branch of service (i.e., Army, Navy, Marine Corps, Coast Guard, or Air Force), relationship and date of death or disability of the family member upon which request is based.

(2) Veterans' Administration Claim Number, if appropriate.

(3) Name, age, and sex of other family members.

e. See AR 614-75 for offices to contact to obtain verification of status of other family members, when appropriate.

f. An individual whose application meets the criteria in *a* above will be discharged, except that Army National Guard personnel will be released from active duty or active duty for training and returned to the control of the appropriate State National Guard authorities for discharge. A copy of the approved application for discharge will be furnished to the adjutant general of the State.

g. Authority (AR 635-200) and SPN 229 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty or active duty for training.

5-25. When discharge is not authorized. Discharge for the convenience of the Government based upon being a sole surviving son is not authorized during a period of war or national emergency hereafter declared by the Congress.

★SECTION XII. EMPLOYMENT WITH A LEGAL ESTABLISHED LAW ENFORCEMENT AGENCY. (APPLICABLE TO CONUS, ALASKA, HAWAII, AND THE U.S. TERRITORIES.)

★**5-26. Separation to accept employment as a public police officer.** Commanders specified in section VI, chapter 2, are authorized to order separation for the convenience of the Government of enlisted personnel who have 3 months or less remaining in their periods of service and who submit valid application for separation evidencing employment with a legally established law enforcement agency of a city, county, State, or Federal Government, including those of the U.S. territories. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 are not eligible for separation under this program.

★**5-27. Definitions.** For the purpose of this regulation the following definitions apply:

a. Public police officer. An individual employed by legally established law enforcement agencies of city, county, State, or Federal Governments, including those of the U.S. territories. This specifically excludes private or corporate police organizations and elective police positions in local political jurisdictions.

b. Bona fide offer of employment. An employment offer certified by an appropriate official of a city, county, State, or Federal police agency (including that of a U.S. territory) that the applicant meets all requirements for training and/or employment as a police officer. In addition, individuals accepted for employment in nonuniformed positions are eligible for early release provided the position is integral to the police agency and the individual will be a bona fide member thereof.

★**5-28. Submission of application.** Application for separation may be submitted up to 6 months prior to applicant's expiration of term of service. Overseas personnel serving in a long tour area who will complete their overseas tour and whose DEROS is within 3 months of the expiration of their term of service are eligible to apply. An application for separation will include the following information:

a. A bona fide offer of employment as a public police officer with the date such employment is to commence, and

b. A statement signed by the individual concerned (after having been informed of the provisions of Articles 3(b), and 83, Uniform Code of Military Justice), as follows: "I understand that if I am separated from the Armed Forces by means of either a knowingly false representation in regard to any of the qualifications or disqualifications prescribed by law, regulation, or orders for such separation, or by deliberate concealment of any disqualification for separation, I shall be subject to courts-martial jurisdiction under the Uniform Code of Military Justice, Article 3(b), for violation of the Uniform Code of Military Justice, Article 83, or prosecution in a U.S. district court for violation of Title 18, United States Code, Section 1001, or other applicable statutes."

5-29. When separation is not authorized. Separation from active military service is not authorized when—

a. An individual is assigned to a unit scheduled for oversea deployment and is in an otherwise deployable status, or

b. An individual has signed a statement of intent to reenlist, or

c. AR 600-31 applies.

5-30. Separation action. *a.* Personnel may be separated when they have 3 months or less remaining in their period of service. Personnel accepted for immediate employment will be separated within 72 hours of notice of approval. Other personnel will be separated not earlier than 10 days prior to the effective date of employment.

b. Authority (AR 635-200) and SPN 320 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for separation.

Section XIII. ERRONEOUS ENLISTMENTS

5-31. Erroneous enlistment. *a.* When it is discovered than an individual was erroneously enlisted because he failed to meet the qualifications for enlistment or reenlistment, the unit commander will request validation of the enlistment or discharge because of erroneous enlistment through military channels to The Adjutant General, ATTN: AGPO-SS, Department of the Army, Washington, DC 20315. All requests for validation of enlistment or discharge from an erroneous enlistment will contain the following information:

(1) Circumstances surrounding the erroneous enlistment.

(2) Reasons why validation or termination of the enlistment is requested.

(3) The enlisted person's desire for retention or separation.

(4) Conduct and efficiency ratings.

b. This section is not applicable to individuals eligible for separation under the provisions of paragraphs 5-6, 5-9, 5-32, or chapter 7 of this regulation, and paragraph 7-34*b*, AR 600-200, and individuals not meeting medical fitness standards for retention (AR 635-40).

c. Upon discovery and establishment that an enlistment is erroneous and the individual is AWOL, in desertion, or absent in the hands of civil authorities, the enlistment will be voided. Commanders specified in section VI, chapter 2, are authorized to void the enlistment. The Discharge Authority will not issue a discharge certificate nor DD Form 214. Such individual will be released from the custody and control of the Army by virtue of a void enlistment by special orders. The following entry will be made in item 38, DA Form 20 (Enlisted Qualification Record): "Released from military control by virtue of a void enlistment (cite special order number, SPN and issuing headquarters)." A copy of the special orders releasing the individual from military control will be filed as a permanent document in his DA Form 201 (Military Personnel Records Jacket, U.S. Army). For pay and allowances, see table 1-4-1, Department of Defense Military Pay and Allowances Entitlements Manual (DODPM).

5-32. ***Unfulfilled or erroneous enlistment commitments.*** *a.* Commanders specified in section VI, chapter 2, are authorized to order separation of personnel for the convenience of the Government when it is determined by Chief of Personnel Operations that—

(1) An enlistment commitment was erroneous because the individual did not meet the prerequisites for the option which must be determined prior to enlistment,

(2) An enlistment commitment was made but cannot be fulfilled.

b. Claims of unfulfilled or erroneous enlistment commitments are processed in accordance with AR 601-210 and AR 601-280. When it is determined by the Chief of Personnel Operations that an enlistment commitment was erroneous and/or cannot be fulfilled, separation may be requested as follows:

(1) Nonprior service Regular Army personnel serving on their first enlistment may request immediate separation or separation to be effective upon completion of 24 months' active military service. Individuals who were discharged from an AUS status to enlist will be separated when the active service in their prior AUS status and initial enlistment period totals 24 months' active service.

(2) Regular Army personnel serving on a second and subsequent enlistment prior to expiration of term of service for the purpose of reenlistment will be separated when active service in the current and preceding enlistment contracts equals the period stated in the previous enlistment contract.

c. Authority for separation (AR 635-200) and SPN 377 will be included in directives or orders directing the individuals to report to the appropriate transfer authority designated to accomplish transfer processing for separation.

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him to begin or resume his education. A statement to the effect that "this is the most opportune time for me to begin/resume my education" is not sufficient. Specific reasons as to why further delay would cause personal hardship must be included.

(*d*) The date on which the applicant must report to school must fall within the last 3 months of remaining service.

(2) Application for early release to attend a theological school which is not accredited by a regional accrediting association, foreign institutions, and all doubtful cases will be forwarded by the commander having discharge authority direct to The Adjutant General, ATTN: AGPO-SS, Washington, DC 20314.

(3) The effective date of early separation under this program normally will not be earlier than 10 days prior to the class starting date. The following exceptions may be made when appropriate:

★(*a*) On submitting specific evidence that the period between the separation date specified above and the class starting date is clearly insufficient, members may be separated up to 30 days prior to the day classes convene. This is not intended as authority to grant release a full 30 days prior to class starting date in every such case, but to provide reasonable latitude in justifiable cases to authorize separation on a date which will give the member adequate time to register and enter the school on time. Examples of circumstances which meet this criterion are:

1. Member is returning from overseas.

2. Member must move to the location of the educational institution.

3. The school's latest registration date, in relation to the class starting date, will work an undue hardship on the member.

(*b*) In the event late registration is permitted by the school, individuals who are ineligible for separation under the foregoing criteria may be separated on the first day within the last 3 months of service that they become eligible for separation.

(4) Individuals will be discharged, released from active duty and returned to the Army National Guard or Army Reserve, or released from active duty and transferred to the Army Reserve, as appropriate. Authority (AR 635-200) and SPN 413 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for separation.

(5) Accrued leave may not be utilized in conjunction with early separation under the provisions of this paragraph.

b. Separation to accept teaching positions.

(1) Separation will be accomplished not earlier than 10 days prior to the effective date of employment when the following conditions are met:

(*a*) Release is for the purpose of accepting a teaching position in a public school system or comparable private educational institution, or a recognized college or university.

(*b*) The date on which the applicant must report for employment must fall within the last 3 months of remaining service.

(*c*) Teaching must be the normal occupation of the individual or he shows definite intent to engage in that occupation following separation.

(*d*) Applicant has evidence of employment by a specific school specifying date employment must commence.

(*e*) Individuals returned from overseas, or individuals who are required to move their families to the locations of the educational institutions may, on submitting specific evidence that the period between the separation date specified above and the effective date of employment is insufficient, be released up to 30 days prior to the effective date of employment.

(2) Individuals will be discharged, released from active duty and returned to Army National Guard or Army Reserve, or released from active duty and transferred to the Army Reserve, as appropriate. Authority (AR 635-200) and SPN 41C for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty.

Section IX. EMPLOYMENT

5-21. Separation to accept employment. Commanders specified in section VI, chapter 2, are authorized to order early separation for the convenience of the Government of personnel enlisted, inducted, or ordered to active duty who have less than 3 months remaining in their period of service who have an opportunity for employment which is not continuously active the entire year and submit valid applications as outlined in *a* below. Applications for separation under this paragraph may be submitted not more than 60 days prior to the requested release date. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 are not eligible for separation under this program.

a. Valid applications must meet the following criteria:

(1) Applicant must have less than 3 months remaining to expiration of term of service. Accrued leave may not be utilized to extend this 3-month limitation.

(2) Applicant's services must not be essential to the mission of his assigned organization.

(3) Applicant must present evidence of a bona fide employment opportunity (includes self-employment). A notarized statement from tentative employer is acceptable evidence. The sworn statement of the military member explaining the nature and type of self-employment will be accepted. These statements are accepted only as proof of employment. The application must show that—

(*a*) Employment is not continuously active nor in full operation during the whole of a calendar year in the geographical area of the employment site. Employment that is in operation the whole of a calendar year but has peak seasons or increased periods in operations is not the nature of employment within the meaning of this program. Employment that is in operation the whole of a calendar year but income from such employment ceases during a period of the year for reasons such as climatic conditions is employment within the meaning of this program.

(*b*) Employment will not be available if an individual does not report at a specified date. In the case of farming, it may be considered that the employment is not available after expiration of the planting or harvesting seasons.

(*c*) Scheduled date of employment must fall within the last 3 months of current period of service.

(*d*) Early separation will allow unhindered participation in such employment for at least half of the employment period.

(*e*) Employment must be the normal occupation of the individual or he shows definite intent to engage in the occupation following separation. Employment for the purpose of earning money to enter school is not considered employment within the meaning of this program.

(*f*) The income derived from this employment is the primary source of income.

b. Separation will not be accomplished earlier than 10 days prior to the date the individual must report for work. The date of separation must be within the last 3 months of the individual's period of service.

c. Individuals will be discharged, released from active duty and returned to Army National Guard or Army Reserve, or released from active duty and transferred to the Army Reserve, as appropriate. Authority (AR 635-200) and SPN 414 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for separation.

Section X. TRAVEL AND FORM OF SEPARATION CERTIFICATES

5-22. Travel allowance. See Joint Travel Regulations.

5-23. Form of separation certificate to be given. *a.* Discharge certificate, based upon the character of service rendered and an Armed Forces of the United States Report of Transfer or Discharge (DD Form 214) will be issued to the individual concerned.

b. Individuals released from active duty and transferred to the Army Reserve or returned to a

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AFFIDAVIT

I, (_____) am being subjected
(Name, grade, service number, organization)
to the exercise of criminal jurisdiction of the government of _____
_____. I am presently:

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

I request that I be retained in the service beyond _____, the
(Date)
expiration date of my term of service, until such time as final action on charges against me by the foreign government has been completed.

I have been advised of my rights under Article 31, UCMJ. I have also been informed that since I am subject to the UCMJ it is possible that courts-martial charges may be preferred against me if the foreign government does not proceed with its case. I certify that this request for retention in the service is not the result of coercion, force, or threat of harm, nor have I been promised any benefits by the military authorities of the United States.

_____
(Signature of member)

c. If neither of the provisions of a above can be complied with, the case, with full details, will be referred through channels to The Adjutant General, ATTN: AGPO-SS, Department of the Army, Washington, D.C. 20315, for instructions. Care will be exercised to insure that each case is submitted prior to the date of the individual's expiration of term of service.

Section IV. SEPARATION PRIOR TO EXPIRATION OF TERM OF SERVICE

2-12 Discharge or release from active duty prior to expiration of period of service. *a.* Except as indicated in *b* and *c* below, when separation is to be accomplished prior to expiration of enlistment, period for which inducted, or ordered to active duty or active duty for training of REP 63 trainees, it will be accomplished under whichever of the following chapters of this regulation or other regulations that are appropriate by the commander as specified in section VI:

(1) Conscientious objection....AR 635-20
★(2) Physical disability.....AR 635-40
(3) Dishonorable and bad conduct.....Chapter 11
(4) Marriage, pregnancy, or parenthood.....Chapter 8
(5) Minority.....Chapter 7
(6) Dependency or hardship.....Chapter 6
(7) Misconduct (fraudulent entry, conviction by civil court, AWOL, desertion).....AR 635-206
(8) Resignation.....Chapter 9
(9) Unfitness.....AR 635-212
(10) Military Personnel Security Program.....AR 604-10
(11) Homosexuality.....AR 635-89
(12) Convenience of the Government.....Chapter 5
(13) Unsuitability.....AR 635-212
(14) Discharge and reenlistment in the Army National Guard of the United States while on duty.....AR 601-210
(15) Separation and reentry of non-regular personnel or extension of active duty.....AR 601-210
(16) Discharge for the good of the service.....Chapter 10
(17) Relief from active duty of recalled retired enlisted personnel.....AR 601-250

b. When discharge or release from active duty is to be accomplished prior to expiration of enlistment, induction, or period for which ordered to active duty or active duty for training, time lost during such term of service need not be made good, except that in cases where discharge or release for the convenience of the Government is to be accomplished under the provisions of sections VI, VII, VIII, and IX, chapter 5, the expiration of term of required service of an individual with time lost will be adjusted to include such lost time (adjusted ETS). Early discharge for the purpose of immediate reenlistment in the Regular Army under the provisions of paragraph 5-10, where the member concerned has lost time, may be accomplished only upon waiver, where required, of the disqualification for reenlistment created by loss of time as set forth in AR 601-210.

c. Enlisted personnel under sentence to dishonorable or bad conduct discharge will not be discharged or released from active duty prior to completion of appellate review, unless so directed by Headquarters, Department of the Army.

Section V. EFFECTIVE DATE OF DISCHARGE

2-13. Effective date of discharge. ★*a.* The discharge of an enlisted person for the reasons listed in (1), (2), and (3) below is effective at 2400 hours on the date of notice of discharge, and the enlisted person will be so notified.

(1) Discharge by reason of expiration of term of service.

(2) Discharge for the purpose of continuing on active duty in the same or another status.

(3) Discharge from a reserve component status under honorable conditions and is entitled to travel time.

b. Release from active duty of an enlisted person is effective at 2400 hours on the date of release when the individual—

(1) Is transferred to the Army Reserve for the purpose of completing a Reserve obligation incurred under the Universal Military Training and Service Act.

(2) Reverts to the jurisdiction of the Army Reserve or the State National Guard to complete the unexpired portion of an enlistment contract in such component.

(3) Is transferred to the temporary disability retired list under the provisions of AR 635-40, except that, in terminal cases, retirement orders will designate the specific time of the day (identified by appropriate time zone) at which retirement is effective.

c. Discharge for all reasons, other than those set forth in *a* above, is effective at time of notice to the enlisted person of discharge.

d. Notice of discharge may be either—

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

(2) Constructive, when actual delivery of the discharge certificate cannot be accomplished owing to the absence of the individual to be discharged. For example, such a situation would arise if the individual were on leave or in the hands of civil authorities. Receipt by the individual's organization at his proper station of the order directing his discharge will be deemed sufficient notice. Except when the individual was on leave when discharged, the date of receipt of the order and the reason why actual notice thereof was not given will be entered, by indorsement, on the back of the discharge certificate. If delivery of the discharge certificate cannot be made, it will be forwarded to The Commanding Officer, U.S. Army Administration Center, 9700 Page Boulevard, St. Louis, Mo. 63132, together with a statement of the reasons therefor.

2-14. Mentally incompetent. The effective date of discharge of a mentally incompetent individual may also be constructive, as when he has been placed in an institution. See AR 635-40.

him to begin or resume his education. A statement to the effect that "this is the most opportune time for me to begin/resume my education" is not sufficient. Specific reasons as to why further delay would cause personal hardship must be included.

(*d*) The date on which the applicant must report to school must fall within the last 3 months of remaining service.

(2) Application for early release to attend a theological school which is not accredited by a regional accrediting association, foreign institutions, and all doubtful cases will be forwarded by the commander having discharge authority direct to The Adjutant General, ATTN: AGPO-SS, Washington, DC 20315.

(3) The effective date of early separation under this program will not normally be earlier than 10 days prior to the class starting date. The following exceptions may be made when appropriate:

(*a*) Individuals returned from overseas, or individuals who are required to move their families to the locations of the educational institutions may, on submitting specific evidence that the period between the separation date specified above and the class starting date is insufficient, be released up to 30 days prior to the day classes convene.

(*b*) In the event late registration is permitted by the school, individuals who are ineligible for separation under the foregoing criteria may be separated on the first day within the last 3 months of service that they become eligible for separation.

(4) Individuals will be discharged, released from active duty and returned to the Army National Guard or Army Reserve, or released from active duty and transferred to the Army Reserve, as appropriate. Authority (AR 635-200) and SPN 413 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for separation.

(*b*) Accrued leave may not be utilized in conjunction with early separation under the provisions of this paragraph.

b. Separation to accept teaching positions.

(1) Separation will be accomplished not earlier than 10 days prior to the effective date of employment when the following conditions are met:

(*a*) Release is for the purpose of accepting a teaching position in a public school system or comparable private educational institution, or a recognized college or university.

(*b*) The date on which the applicant must report for employment must fall within the last 3 months of remaining service.

(*c*) Teaching must be the normal occupation of the individual or he shows definite intent to engage in that occupation following separation.

(*d*) Applicant has evidence of employment by a specific school specifying date employment must commence.

★(*e*) Individuals returned from overseas, or individuals who are required to move their families to the locations of the educational institutions may, on submitting specific evidence that the period between the separation date specified above and the effective date of employment is insufficient, be released up to 30 days prior to the effective date of employment.

(2) Individuals will be discharged, released from active duty and returned to Army National Guard or Army Reserve, or released from active duty and transferred to the Army Reserve, as appropriate. Authority (AR 635-200) and SPN 41C for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty.

★Section IX. EMPLOYMENT

5-21. Separation to accept employment. Commanders specified in section VI, chapter 2, are authorized to order early separation for the convenience of the Government of personnel enlisted, inducted, or ordered to active duty who have less than 3 months remaining in their period of service who have an opportunity for employment which is not continuously active the entire year and submit valid applications as outlined in *a* below. Applications for separation under this para-

graph may be submitted not more than 60 days prior to the requested release date. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 are not eligible for separation under this program.

a. Valid applications must meet the following criteria:

(1) Applicant must have less than 3 months remaining to expiration of term of service. Accrued leave may not be utilized to extend this 3-month limitation.

(2) Applicant's services must not be essential to the mission of his assigned organization.

(3) Applicant must present evidence of a bona fide employment opportunity (includes self-employment). A notarized statement from tentative employer is acceptable evidence. The sworn statement of the military member explaining the nature and type of self-employment will be accepted. These statements are accepted only as proof of employment. The application must show that—

(*a*) Employment is not continuously active nor in full operation during the whole of a calendar year in the geographical area of the employment site. Employment that is in operation the whole of a calendar year but has peak seasons or increased periods in operations is not the nature of employment within the meaning of this program. Employment that is in operation the whole of a calendar year but income from such employment ceases during a period of the year for reasons such as climatic conditions is employment within the meaning of this program.

(*b*) Employment will not be available if an individual does not report at a specified date. In the case of farming, it may be considered that the employment is not available after expiration of the planting or harvesting seasons.

(*c*) Scheduled date of employment must fall within the last 3 months of current period of service.

(*d*) Early separation will allow unhindered participation in such employment for at least half of the employment period.

(*e*) Employment must be the normal occupation of the individual or he shows definite intent to engage in the occupation following separation. Employment for the purpose of earning money to enter school is not considered employment within the meaning of this program.

(*f*) The income derived from this employment is the primary source of income.

b. Separation will not be accomplished earlier than 10 days prior to the date the individual must report for work. The date of separation must be within the last 3 months of the individual's period of service.

c. Individuals will be discharged, released from active duty and returned to Army National Guard or Army Reserve, or released from active duty and transferred to the Army Reserve, as appropriate. Authority (AR 635-200) and SPN 414 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for separation.

Section X. TRAVEL AND FORM OF SEPARATION CERTIFICATES

5-22. Travel allowance. See Joint Travel Regulations.

5-23. Form of separation certificate to be given. *a.* Discharge certificate, based upon the character of service rendered and an Armed Forces of the United States Report of Transfer or Discharge (DD Form 214) will be issued to the individual concerned.

b. Individuals released from active duty and transferred to the Army Reserve or returned to a Reserve component (USAR or ARNG) "For Convenience of the Government" will be furnished an Armed Forces of the United States Report of Transfer or Discharge.

c. An individual to be released from military control pursuant to paragraph 5-12, or an administrative determination that he is not currently a member of the Army cannot be legally discharged from the Army. Such individual will, instead, be released from the custody and control of the Army without being furnished a certificate of discharge of any kind or Armed Forces of the United States Report of Transfer or Discharge (DD Form 214).

c. An individual receiving an alert or orders for reassignment providing for a permanent change of station, as an individual or accompanying a unit, may not submit an application for retirement until arrival at his new duty station. However, an individual cannot be considered to have been alerted for reassignment if assigned to a unit alerted for movement when such fact cannot be disseminated to the unit's personnel. When alert of personnel is permissible, the unit commander will immediately formally announce to all personnel that the unit has been selected for movement and specify that applications for retirement will not be accepted until arrival at the new station. Until this is done, commanders of alerted units will continue to accept applications for retirement. An individual assigned to a unit deploying from an oversea area to CONUS who has submitted or who has an approved application for retirement will move with the unit providing his retirement will not be delayed. Notwithstanding the provisions of *a* and *b* above, such individuals will be retired on the date originally requested.

d. An individual who has attended a military or civilian course of instruction must complete any service obligation voluntarily incurred as a result of such instruction.

e. Except as provided below, an individual accepting a promotion to pay grades E-7, E-8, and E-9, subsequent to submitting an application for retirement, is not eligible for retirement:

(1) An individual who has completed more than 28 years active Federal service.

(2) An individual who is already eligible, through prior service, for a higher grade at time of retirement. Other than as indicated in (1) above, the acceptance of promotion constitutes withdrawal of an application for retirement. Commanders will notify Department of the Army by message to TAG, ATTN: AGPO-RE and OPO, ATTN: EPADS when an individual accepts promotion to pay grades E-7, E-8, or E-9 and application for retirement has been forwarded to Headquarters, Department of the Army.

f. An individual incurring a 2-year service obligation upon promotion to pay grades E-7, E-8, or E-9 in accordance with AR 600-200 must complete the obligated service, except as indicated in *e*(1) above.

12-11. Waivers. *a.* Exceptions to service obligations may be granted when the best interests of the service are involved and/or when substantial hardship exists or would otherwise result if the member is not retired. Requests for exceptions must be fully defined and documented. ETS in itself is not justification for exception.

b. For the purpose of this chapter, substantial hardship is defined as a situation or circumstance which imposes undue privation or suffering on the member of his immediate family. Potential loss of extremely favorable employment because of an employer's reporting deadline or attendance at an institution of higher learning may constitute a hardship.

12-12. Preparation of DA Form 2339. *a.* Each member requesting retirement will read this chapter and then, with the assistance of the personnel officer, complete Section I, DA Form 2339. Each item will be completed in full. The words "not applicable (N/A)" or "none" will be entered where appropriate. When an exception to a service obligation is requested, complete justification will be included as an inclosure to DA Form 2339.

b. The officer having custody of the applicant's personnel records will—

(1) Assist the member in preparing his application. Special attention will be given to items 6, 11, 14, and 17.

(*a*) *Item 6:* Enter the first day of desired retirement month and not the last day of the preceding month.

(*b*) *Item 11:* Enter the highest temporary grade in which the member served on active duty.

(*c*) *Item 17:* Insure that time lost during the period covered by the current service record is correctly entered.

★(2) Notify, by message, the Chief of Personnel Operations, ATTN: EPADS, the name, service number, grade and PMOS of members in grades E-7 through E-9 and those identified in figure 3-2, AR 600-200, who apply for retirement. Message will not be sent until the member has completed and signed section I, DA Form 2339.

(3) Obtain verification for other than Army service (para 12-19).

(4) Schedule the member for physical examination not earlier than 6 months prior to re-

quested retirement date (sec V). Consultations for and treatment of known medical and dental defects and conditions should be accomplished at an early date.

(5) Complete Section II, DA Form 2339. Each item will be completed in full. Enter "not applicable" or "none" where appropriate. Enter in item 30:

(*a*) SSAN.

(*b*) Date member arrived at present assignment.

(*c*) Date dependents arrived at present assignment.

(*d*) Anticipated date report of medical examination can be expected to be forwarded when application is submitted more than 6 months prior to requested retirement date. When a report of medical examination is not forwarded with an application for retirement, the personnel officer will insure that it is accomplished and forwarded not earlier than 6 months nor later than 3 months prior to the anticipated date of retirement.

(6) Forward the complete application to The Adjutant General, ATTN: AGPO-RE, Department of the Army, Washington, D.C. 20315, direct or through channels prescribed by the major commander concerned. Report of medical examination will be included with applications submitted within 6 months of requested retirement date. However, submission of retirement applications will not be delayed because of medical examination. Verification of other than Army service will also be included. In those cases where the applicant requests waiver of service obligation, commanders must comment on justification submitted and include a statement concerning essentiality of applicant to the mission of the command.

(7) Furnish any additional information as requested by The Adjutant General.

(8) Insure that the member's enlistment does not expire prior to requested retirement date. If his enlistment will expire prior to requested date of, or eligibility date for voluntary retirement, his enlistment may be extended in monthly increments to date of retirement, but not more than 11 months, under the provisions of paragraph 31*b*(2), AR 601-210. These requests will be approved and oaths of extension accomplished before retirement applications are submitted. When the individual is not eligible for extension under AR 601-210, application for exception will be forwarded to Commanding Officer, Enlistment Eligibility Activity, 9700 Page Boulevard, St. Louis, Mo. 63132, for final action.

(9) Immediately notify The Adjutant General, ATTN: AGPO-RE, of any change in a member's status or physical condition which precludes retirement. It is necessary, if a change occurs or retirement should not be accomplished, that notification reach The Adjutant General not later than 2400 hours (local time) on the date of relief from active duty cited in the retirement orders so that amendment or revocation of orders may be accomplished. If necessary, notification may be made by telephone, OXford 54561 or 72881 during duty hours (Monday through Friday: 0730 to 1600 hours) or OXford 50163 after 1600 hours, Washington, D.C., time, on the last day of the month.

12-13. Retirement orders. *a.* A member's retirement is not approved until Department of the Army Special Orders are issued.

b. Retirement orders direct relief from active duty on the last day of the month and placement on the retired list, with or without transfer to the USAR (Retired), on the first day of the next month. Relief from active duty and retirement are automatically accomplished unless the orders are amended or revoked by The Adjutant General prior to 2400 hours (local time) on the date of relief from active duty.

c. Once an order has been issued, it will not be amended or revoked except for good and sufficient reasons. Orders may not be modified, amended or revoked on or after the effective date of retirement in the absence of fraud, manifest error, mathematical miscalculation or substantial new evidence.

12-14. Date of retirement. Members retiring for service may be placed on the retired list only on the first day of the requested month, with release from active duty on the last day of the preceding month. A member will be retired on the date re-

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quested provided he is physically and otherwise qualified for retirement, or as soon thereafter as practicable.

12-15. Place of retirement. See AR 612-22, AR 612-25, and AR 612-50.

12-16. References. *Additional information* concerning retirement is contained in the following publications.

Decorations and awards	AR 672-5-1
Identification and dependents' privilege cards.	AR 606-5
Preparation of DD Form 214	AR 635-5
Records disposition	AR 635-61 and AR 640-10.
Preretirement leave	AR 630-5
Retirement ceremony	AR 600-25
Selection of home	Paragraph M4158, JTR
Transportation of dependents	Paragraph M7010, JTR
Shipment of household goods	Paragraph M8260, JTR

Section IV. COMPUTATION OF SERVICE

12-17. Service creditable for retirement. In general, years of service creditable for retirement are computed by adding all active service in the Armed Forces of the United States (10 U.S.C. 3925). All service shown below is creditable for retirement under this chapter and is creditable for basic pay purposes. For other service creditable for basic pay, see Chapter 1, Part 1, Department of Defense Military Pay and Allowances Entitlements Manual. Whenever "active Federal service" is specified, it includes active duty for training and other full-time training duty (37 U.S.C. 101 (18)). Service below is creditable for retirement if performed as a commissioned officer, commissioned warrant officer, warrant officer, Army field clerk, flight officer, or enlisted member unless otherwise specified.

a. Army.

(1) U.S. Army (Regular).

(2) Women's Army Corps.

(3) Active Federal service in the—

(*a*) Regular Army Reserve.

(*b*) Army of the United States.

(*c*) U.S. Army Reserve.

(*d*) Organized Reserve Corps.

(*e*) Officers Reserve Corps.

(*f*) Enlisted Reserve Corps.

(*g*) Army National Guard.

(*h*) Army National Guard of the United States.

(*i*) Army Nurse Corps as it existed at any time before 16 April 1947.

(4) All active service performed under an appointment under the act of 22 December 1942 (ch. 805, 56 Stat. 1072) or the act of 22 June 1944 (ch. 272, 58 Stat. 324).

(5) All active full-time service, except as a student or apprentice, with the Medical Department of the Army as a civilian employee—

(*a*) In the dietetic or physical therapy categories, if the service was performed after 6 April 1917 and before 1 April 1943, or

(*b*) In the occupational therapy category, if the service was performed before appointment in the Army Nurse Corps or the Women's Medical Specialist Corps and before 1 January 1949.

(6) Cadet, U.S. Military Academy.

(7) Women's Army Auxiliary Corps (active service performed after 13 May 1942 and before 30 September 1943).

(8) Philippine Scouts.

(9) Officer Training Camp as an enlisted member.

(10) Fraudulent enlistment, if enlistment was not voided.

(11) Civilian Conservation Corps (active duty as commissioned officer).

b. Navy.

(1) U.S. Navy (Regular).

(2) Active Federal service in the—

(*a*) U.S. Naval Reserve.

(*b*) Naval Militia.

(*c*) Naval Reserve Force.

(*d*) Navy Nurse Corps as it existed at any time before 6 April 1947.

(3) V-12 Program of World War II (service in dual status as enlisted member on active duty as midshipman in the program).

(4) Midshipman, U.S. Naval Academy.

c. Air Force.

(1) U.S. Air Force (Regular).

(2) Active Federal service in the—

(a) Air Force of the United States.

(b) U.S. Air Force Reserve.

(c) Air National Guard.

(d) Air National Guard of the United States.

(3) Aviation Cadet.

(4) Cadet, U.S. Air Force Academy.

d. Marine Corps.

(1) U.S. Marine Corps (Regular).

(2) Active Federal service in the—

(a) U.S. Marine Corps Reserve.

(b) Marine Corps Reserve Force.

e. Coast Guard.

(1) U.S. Coast Guard (Regular).

(2) Active Federal service in the U.S. Coast Guard Reserve.

(3) Midshipman, U.S. Coast Guard Academy.

f. Public Health Service. Active Federal service as a commissioned officer in the Reserve Corps of the Public Health Service.

g. Minority service. All service performed under an enlistment or induction entered into before attaining the age prescribed by law for that enlistment or induction when such service is otherwise creditable.

12–18. Periods not creditable for retirement. None of the following periods are creditable for retirement under this chapter:

a. All time required to be made up (10 U.S.C. 972). See paragraph 2-3.

b. Periods of service voided by the Government other than those voided by reason of minority.

c. Time in a nonpay (noncreditable) status under the Missing Persons Act (56 Stat. 143, as amended by act of 29 August 1957) (71 Stat. 491); (50 U.S.C. App 1002).

d. Service in a Reserve component not on—

(1) Active duty.

(2) Active duty for training.

(3) Other full-time training duty.

12–19. Verification of other than Army service. Each member will be interviewed when he completes 18 years service for basic pay to determine if he has service in addition to Army service. Verification of such service will consist of certified statements of service and other official statements furnished from one of the addresses below. Statements will contain all dates of active duty, active duty for training or other full-time training duty, and all time lost. The original or certified copies will be forwarded as inclosure(s) to an application for retirement.

a. Navy. Military Personnel Records Center, GSA (Navy), 9700 Page Boulevard, St. Louis, Mo. 63132.

b. Air Force. Military Personnel Records Center, GSA (Air Force), 9700 Page Boulevard, St. Louis, Mo. 63132.

c. Marine Corps. Military Personnel Records Center, GSA (Marine Corps), 9700 Page Boulevard, St. Louis, Mo. 63132.

d. Coast Guard. Commandant, U.S. Coast Guard, Washington, D.C. 20226.

e. National Guard. Adjutant General of the State concerned.

Section V. REPORT OF MEDICAL EXAMINATION

12–20. General. *a.* The purpose of the retirement medical examination is a means of identifying conditions which may require attention, and to record as accurately as possible the state of health of the individual, as a means of protecting the interests of the individual and the Government. Medical examinations will be accomplished not earlier than 6 months nor later than 3 months prior to scheduled retirement. No member will be retired unless he undergoes the prescribed medical examination.

b. A report of medical examination of the scope prescribed in chapter 10, and appendix IX, AR 40–501, will serve as a basis for determining whether a member is medically fit for retirement, requires medical care, or referral to medical or physical evaluation boards for further processing under the provisions of AR 40–3 and AR 635–40. All such reports of medical examination, or medical board proceedings not referred to a physical evaluation board must be reviewed and approved in the office of The Surgeon General, Headquarters, Department of the Army, prior to retirement.

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12-21. Medical examination reports. *a.* A medical examination report for retirement will consist of the originals of the following:

(1) Report of Medical Examination (Standard Form 88) and

(2) Report of Medical History (Standard Form 89) and

(3) Electrocardiogram properly mounted and identified on Clinical Record—Electrocardiographic Record (Standard Form 520) and

(4) Report of any consultation(s) accomplished, or

(5) Complete report of medical board proceedings accomplished under the provisions of AR 40-3, Medical Board Proceedings (DA Form 8-118) Clinical Record—Narrative Summary (Standard Form 502), Report of Medical Examination (Standard Form 88).

b. One copy of the complete report of medical examination or medical board proceedings will be filed in Health Records Jacket (DD Form 722). Additional copies will be placed in the Health Record Jacket for distribution by the transfer activity in accordance with AR 635-61.

c. Any additional consultations or examinations deemed necessary by The Surgeon General will be accomplished with the least possible delay as directed by The Adjutant General.

12-22. Members hospitalized. Commanders having custody of personnel records, in coordination with hospital commanders, will furnish the following information or reports to The Adjutant General, ATTN: AGPO-RE.

a. If the member is hospitalized, or hospitalization is imminent, prior to the retirement application being forwarded to Department of the Army, the forwarding indorsement will include:

(1) The date of hospitalization (actual or anticipated).

(2) Name of the medical facility.

(3) Diagnosis and prognosis.

(4) Probable date of disposition.

(5) Probability or fact that referral to a physical evaluation board is or is not required (AR 635-40).

b. If the member is hospitalized after retirement application has been forwarded to the Department of the Army, information specified in *a* above will be furnished as soon as possible after member is admitted to the hospital.

c. When maximum benefit of hospitalization is attained and the member—

(1) Does not appear before a medical board, a Report of Medical Examination (SF 88) and a Report of Medical History (SF 89) together with a copy of Clinical Record—Narrative Summary (SF 502) which outlines in detail the diagnosis and treatment for which the individual was hospitalized will be submitted. In cases where the Report of Medical Examination and Report of Medical History had previously been submitted only a copy of the Clinical Record—Narrative Summary (SF 502) is required.

(2) Appears before a medical board which does not recommend consideration by a physical evaluation board, the original of the medical board proceedings will be forwarded.

(3) Is referred to a physical evaluation board by a medical board, he will be processed in accordance with AR 635-40. A report of such referral will be made to The Adjutant General.

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★CHAPTER 12

RETIREMENT FOR LENGTH OF SERVICE

Section I. GENERAL

12-1. Purpose. This chapter establishes procedures for implementation of laws and policies governing voluntary retirement of enlisted personnel of the Regular Army by reason of length of service.

12-2. Scope. *a.* The provisions of this chapter govern the retirement of Regular Army enlisted personnel, male or female, who are retiring in their Regular Army enlisted status.

b. Prior service enlisted personnel serving on active duty as officers, who are not qualified for retirement in their commissioned status, may qualify for retirement under this chapter. For procedures, see section VII, AR 135-173.

Section II. STATUTORY AUTHORITY

12-3. General provisions of laws governing retirement. *a.* In general, laws governing retirement of enlisted members of the Regular Army provide that—

(1) The individual must be an enlisted member of the Regular Army on active duty at the time of retirement (10 U.S.C. 3914 and 3917).

(2) Retirement will be in the active duty grade in which serving at the time of retirement (10 U.S.C. 3961).

(3) Years of service for retirement are computed by adding all active service in the Armed Forces and service computed under Title 10, United States Code, section 3683 (10 U.S.C. 3925).

(4) The date of retirement is uniformly the first day of the month following the month in which the individual is released from active duty (5 U.S.C. 8301).

b. See chapter 3, AR 37-104-1 concerning retired pay.

12-4. 20-year retirement law (10 U.S.C. 3914). *a.* An enlisted member of the Regular Army who has completed 20, but less than 30 years of active Federal service in the Armed Forces of the United States and who has completed all required service obligations at the time of retirement may, upon his request and at the discretion of the Secretary of the Army, be retired. He then becomes a member of the Army Reserve (Retired) and remains in that status until his active service prior to retirement and the period served in Army Reserve (Retired) after retirement equals 30 years. He will perform such active duty as may be prescribed by law.

b. An enlisted member who holds a current commission in the U.S. Army Reserve will be transferred to the Retired Reserve in the status he elects. Dual status in the U.S. Army Reserve is not authorized and once retirement is accomplished pursuant to an election of the member, election may not be changed. Transfer to the Retired Reserve to complete obligated service in an enlisted status vacates commissioned status in the U.S. Army Reserve.

12-5. 30-year retirement law (10 U.S.C. 3917). An enlisted member of the Regular Army who has completed at least 30 years of active Federal service in the Armed Forces of the United States will, upon his request, be placed on the retired list.

12-6. Advancement on the retired list (10 U.S.C. 3964). *a.* Members retired with less than 30 years active Federal service are considered for advancement on the retired list to the grade equal to the highest temporary grade satisfactorily held on active duty in the U.S. Army, as determined by the Secretary of the Army, when active service prior to retirement plus service on the retired list totals 30 years. Upon completion of 30 years service, the military personnel records of each mem-

ber who held a higher grade than that in which retired are reviewed to determine if his service in the higher grade was satisfactory. Members advanced to a higher grade will be notified of such advancement by the The Adjutant General.

b. Members retired after completion of 30 years active Federal service are advanced on the retired list, concurrently with retirement, to the highest temporary grade satisfactorily held on active duty in the U.S. Army, as determined by the Secretary of the Army.

c. Members advanced to a higher commissioned grade may apply to the Secretary of the Army within 3 months of advancement for restoration on the retired list to former enlisted status (10 U.S.C. 3965).

Section III. REQUIREMENTS AND PROCEDURES FOR RETIREMENT

12-7. Applying for retirement. *a.* Request for retirement will be submitted in triplicate on DA Form 2339 (Application for Voluntary Retirement).

b. Once an application for retirement is submitted, it may not be withdrawn unless extenuating circumstances justify an exception. Requests for withdrawal of retirement applications will be fully documented and submitted through the same channels as the original application for retirement. Applications may not be withdrawn if travel has been performed in connection with retirement.

12-8. Final authority. The Adjutant General has the authority to approve or disapprove requests for voluntary retirement. However, applications which are incomplete or do not contain necessary documentation may be returned to the applicant for correction or additional information.

12-9. Eligibility. *a.* Members who have completed 19 or more years active Federal service may apply for retirement 12 months prior to desired retirement date provided all applicable service obligations have been completed. Applications submitted less than 3 months in advance of desired retirement date will include reason(s) for the delay or an explanation of the emergency or hardship which precluded earlier submission.

b. Retirement of applicants who are in critical positions may be deferred by Headquarters, Department of the Army, until a replacement can be made available through operations of the normal requisitioning cycle. Forwarding indorsements on requests for retirement wherein deferment is recommended will contain a justification for such deferment.

c. An individual receiving an alert which includes nomination for assignment, or orders for reassignment providing for a permanent change of station, as an individual or accompanying a unit, may not submit an application for retirement until arrival at his new duty station. An individual submitting an application for retirement after arrival at his new duty station may request retirement effective on or after completion of 12 months in the new duty assignment. An individual whose dependents travel at Government expense will be required to serve a minimum of 12 months in the new duty assignment from the date of arrival of dependents.

d. When military requirements dictate, an individual may be selected for assignment after submission of a request for retirement. However, in such cases, the requirement in paragraph 12-10*a* and *b* relative to completion of 12 months in the new duty assignment after the individual's arrival or the arrival of his dependents is waived. Assignment instructions received for personnel who have requested retirement and which do not specifically state that the assignment is made under the provisions of this subparagraph will be verified with the Chief of Personnel Operations prior to issuing orders. Request for verification will be made by message (ATTN: EPADS, for personnel in grades E-7 through E-9, and special category personnel as defined in table 3-2, AR 600-200; and ATTN: EPADO-D for all other enlisted personnel. Message will state facts and circumstances, to include date of assignment instructions; assignment authority, effective date of retirement and DA retirement order reference if issued.

12-10. Service obligations (applicable to individuals retiring under 10 U.S.C. 3914). *a.* An individual will serve at least 1 year in his current assignment prior to date of retirement.

b. An individual whose dependents travel at Government expense must serve a minimum of 1 year in the new station after arrival of his dependents.

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1-13. Limitations on administrative discharge and board hearings. *a.* Discharges pursuant to this regulation should not be based upon conduct which has already been considered at a prior administrative or judicial proceeding and disposed of in a manner indicating that discharge is not warranted. Accordingly, administrative discharges under the provisions of AR 604-10, 635-89, 635-206, and 635-212 are subject to the following limitations:

(1) No member will be considered for administrative discharge because of conduct which has been the subject of judicial proceedings resulting in an acquittal or action having the effect thereof. The determination whether an action has the effect of an acquittal will be determined solely by Headquarters, Department of the Army, in accordance with the exception procedure set forth in *b*(3) below.

(2) No member will be considered for administrative discharge because of conduct which has been the subject of administrative proceedings resulting in a final determination that the member should be retained in the service.

(3) No member will be considered for administrative discharge because of conduct which was considered by a general court-martial if a sentence to a punitive discharge was authorized but was not adjudged, or was disapproved or suspended on review by the convening authority or any appellate agency, and remains suspended.

b. The limitations set forth in *a* above, are not applicable when—

(1) Substantial new evidence,, fraud, or collusion is discovered, which was not known at the time of the original proceeding, despite the exercise of due diligence, and which will probably produce a result significantly less favorable for the member at a new hearing.

(2) Subsequent conduct by the member warrants considering him for discharge. Such conduct need not independently justify the member's discharge, but must be sufficiently serious to raise a question as to the member's potential for further useful military service. However, this exception does not permit further consideration of conduct of which the member has been absolved in a prior final factual determination by an administrative or judicial body.

(3) An express exception has been granted by Headquarters, Department of the Army, pursuant to a request by a convening authority through channels that, due to the unusual circumstances of the case, administrative separation should be accomplished.

c. No convening authority will direct discharge if a board recommends retention, nor will he authorize the issuance of a discharge of less favorable character than that recommended by the board. However, a convening authority may direct retention when discharge is recommended, or he may issue a discharge of a more favorable character than that recommended.

d. If, in his review of a case in which separation has been recommended by the board, the convening authority notes a defect in the proceedings which he deems to be harmless, he will take such final action as he deems appropriate, subject to *c* above. With respect to substantial defects, he may take one of the following actions:

(1) Direct retention.

(2) If the board has failed to make findings or recommendations required by the applicable regulations, return the case to the same board for compliance with the regulations concerned.

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

(4) If the board committed an error which materially prejudiced a substantial right of the respondent, the convening authority may set aside the findings and recommendations and refer the case to a new board for a rehearing.

No member of the new board shall have served on a prior board which considered any of the same matter against the respondent. The new board may be furnished the evidence properly considered by the first board, to include extracts from its record of testimony of those witnesses not deemed by the convening authority to be reasonably available to testify at the rehearing. Additional admissible evidence may be furnished to or obtained by the new board. The convening authority may, upon due notice to the respondent, incorporate new allegations based on subsequent conduct of the respondent. Unless the new board considers substantial additional evidence unfavorable to the respondent, the convening authority may not approve any portion of the findings and recommendations of the new board which is less favorable to the member than the action of the first board.

(5) No more than one rehearing may be directed without approval from Headquarters, Department of the Army.

Section IV. DETERMINING RETENTION OR SEPARATION OR SUSPENSION

1-14. Retention or separation or suspension. In determining whether a member should be retained or be administratively separated, the individual's entire military record, including records of nonjudicial punishment imposed during a prior enlistment or period of service, all records of conviction by courts-martial and any other factors which are material and relevant, may be evaluated. Commanding officers, investigating officers, administrative discharge boards, and other agencies charged with making such determinations will consider records of nonjudicial punishment imposed during a prior enlistment or period of service only if such records of punishment would have, under the particular circumstances of the case, a direct and strong probative value in determining whether retention or administrative separation is appropriate.

a. Cases in which the circumstances may warrant use of such records ordinarily will be limited to those involving patterns of conduct which would become manifest only over an extended period of time.

b. When a record of nonjudicial punishment imposed during a current enlistment or period of service is considered, isolated incidents and events which are remote in time, or have no probative value in determining whether retention or separation should be accomplished, will have minimal influence on the determination.

c. If a decision is made that a member should be administratively separated, section III of this chapter applies in determining the type of discharge.

1-15. Suspension of execution of approved discharge. *a.* In order to afford a highly deserving member a probationary period to demonstrate successful rehabilitation prior to expiration of his enlistment or period of obligated service, the discharge authority or higher authority may suspend execution of an approved discharge for a period not to exceed 6 months. During the period of suspension, the member will be afforded an opportunity to demonstrate that he is capable of behaving properly under varying conditions during the probationary period and that he can perform his assigned duties efficiently.

★*b.* Upon satisfactory completion of the probationary period, the authority who suspended the discharge will cancel execution of the approved discharge. If the individual has been transferred to the command of another discharge authority, the discharge will be cancelled by the new discharge authority or higher authority.

c. If there is additional misconduct on the part of the member during the probationary period or actions which constitute substandard performance of duty or demonstrate characteristics of unsuitability, the commander con-

cerned or the convening authority, whichever is appropriate, will take one of the following actions:

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

(2) Vacate suspension of the approved discharge when the member has been beyond military control for 15 days or more and discharge him in absentia.

(3) Advise the enlisted person in writing that vacation action is being considered and the reasons which warrant such consideration. The enlisted person will be given an opportunity to furnish information in his own behalf or decline to make any statement. The commander taking the action will consider any information the individual submits in his own behalf and will—

(*a*) Vacate suspension of approved discharge and execute discharge, or

(*b*) Continue to suspend execution of the approved discharge.

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2-15. When retained in service awaiting trial or result of trial. When an individual is retained in service as prescribed in paragraph 2-4, the effective date of his discharge or release from active duty depends upon the result of his trial or the disposition made of the case. Examples are given below.

a. An individual who has previously lost no time which he is required to make good under title 10, United States Code, section 972, is confined awaiting trial will, if acquitted subsequent to expiration of term of service date, be discharged or released from active duty within 5 days after date of announcement of acquittal, and will be regarded as having been retained in service for the convenience of the Government.

b. An individual who is confined awaiting trial will, if convicted and sentenced to either confinement only, or confinement and forfeiture only, be discharged on the adjusted expiration date of term of service. The adjusted ETS date will be computed by adding to the original ETS date all time lost prior to and including the original ETS date.

2-16. Absent without leave or in hands of civil authorities. Discharge of an individual who is absent without leave or who has been convicted by the civil authorities is governed by AR 635-206, except for those individuals who have been sentenced to a dishonorable or bad conduct discharge. However, when discharge under the provisions of AR 635-89; sections V, VI, or VII of AR 635-206; or AR 635-212 has been ordered by competent authority, and the individual concerned, while in the continental United States or area of residence, absents himself without leave or is absent in the hands of civil authorities subsequent to the date discharge is approved by the appropriate authority or subsequent to the issuance of discharge orders, the discharge may be executed notwithstanding such absence. Discharge Certificate, Armed Forces of the United States Report of Transfer or Discharge (DD Form 214), and orders will be dispatched by certified mail, with return receipt requested, to individual to the address provided for that purpose. If the forms are returned unclaimed, or for any other reason prove undeliverable, they will be forwarded, along with report of action, to the Commanding Officer, U.S. Army Administration Center, 9700 Page Boulevard, St. Louis, Mo. 63132, for file with the individual's records. Distribution of DD Forms 214 will be made in accordance with AR 635-5.

Section VI. AUTHORITY TO ORDER SEPARATION AND ACCOMPLISH SEPARATION

2-17. Authority to order discharge or release *from active duty prior to expiration period of* service. Authority is granted to the following commanders to order discharge or release from active duty of enlisted individuals prior to expiration of enlistment, induction, or period for which ordered to active duty:

a. Discharge or release from active duty not including general courts-martial authority. Commanders of all units and installations (including class II installations) which are commanded by, or are under the normal command of general officer; commanders of Army hospitals under the command jurisdiction of The Surgeon General of the Army; commanders of personnel centers, training centers, oversea replacement depots, transportation terminal commands, and all active installations having an authorized strength of 4,000 or more personnel. The above commanders are not authorized to delegate discharge authority to subordinate commanders without prior approval of the Secretary of the Army.

★*b. Discharge involving general court-martial authority.* Commanders exercising general court-martial jurisdiction are authorized to order discharge under AR 635-89, AR 635-206, AR 635-212, and chapters 10 and 11 of this regulation. This authority may be delegated, except for chapter 11 of this regulation, to a general officer in command who has a judge advocate on his staff for cases arising in that command. Every action taken pursuant to such a delegation will state the authority therefor.

c. Authority to order discharge or release from active duty of enlisted personnel at class II installations. In the absence of prior instructions, commanders of class II installations not having transfer activities or authority to issue PCS orders will contact the appropriate field commander or service for issuance of orders in connection with the release from active duty.

d. Discharge involving special court-martial authority. Commanders exercising special court-

martial jurisdiction are authorized to order discharge for unsuitability under AR 635-212.

e. Discharge of an enlisted woman for pregnancy. Commanders of all units and installations which are commanded by, or are under the normal command of general officers *and colonels*, and other commanders as specified in paragraph 2-17 are authorized to discharge for pregnancy under section III, chapter 8.

2-18. Expiration of term of service. Separation will be accomplished by the transfer facility processing the member for separation (see AR 635-10), pursuant to the discharge order issued by the appropriate commander.

2-19. Reason and authority for separation. The specific reason and authority for separation entered in item 11c, DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) will be entered as shown in AR 635-5.

2-20. Action by commanders having discharge authority. Commanders having discharge authority directing discharge or release from active duty of an enlisted person will comply with the provisions of AR 635-10.

is unable to present last Armed Forces of the United States Report of Transfer or Discharge (DD Form 214), the applicant will contact the appropriate service direct for verification of prior active service from the following:

(*a*) For personnel with prior service in the Army, Commanding Officer, U.S. Army Personnel Services Support Center, ATTN: AGPE-V, Fort Benjamin Harrison, IN 46249.

(*b*) For personnel with prior service in the Air Force, Director, U.S. Air Force Records Center, 9700 Page Boulevard, St. Louis, MO 63132.

(*c*) For personnel with prior service in the Navy, Officer in Charge, Discharged Enlisted Personnel Records Branch, U.S. Naval Record Management Center, 9700 Page Boulevard, St. Louis, MO 63132.

(*d*) For personnel with prior service in the Marine Corps, Commandant, United States Marine Corps, Washington, DC 20380.

(*e*) For personnel with prior service in the Coast Guard, Commandant, United States Coast Guard, Washington, DC 20226.

(2) In order that service claimed may be readily identified, request for verification of prior service will contain the exact name under which the individual served, service number, organization from which last discharged, and type of discharge claimed. If exact dates of service are not known, approximate dates will be given.

c. Combination of the provisions of this paragraph with the provisions of other early separation programs to effect separation prior to completion of a minimum of 24 months' total combined service is not authorized.

d. ACDUTRA prior to induction is not creditable toward completion of this period of service.

e. Personnel separated under the provisions of this section will be discharged or released from active duty and transferred to the Army Reserve to complete the Reserve obligation imposed by the Universal Military Training and Service Act, as appropriate. The characterization of a discharge issued under this section will be either honorable or general.

f. Authority (AR 635-200) and SPN 415 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty, as appropriate.

Section VII. SEPARATION OF ENLISTED PERSONNEL WITH LESS THAN 3 MONTHS REMAINING TO SERVE

★**5-4. Oversea returnees.** Commanders specified in section VI, chapter 2, are authorized to order separation for convenience of the Government of enlisted personnel returned to the United States, possession of the United States, or area of residence in which enlisted, inducted, or ordered to active duty after completing, or having credit for completing, the normal oversea tour in the appropriate area as set forth below.

a. Unless individuals inducted under the Universal Military Training and Service Act elect to remain on active duty and volunteer for immediate entry on active duty as reservists under the provisions of chapter 4, AR 601-210, they will be separated from active duty and transferred to the Army Reserve or discharged, as appropriate, upon arrival in the United States or area of residence, if upon arrival they have the following amount of active duty or less remaining on their current tour:

(1) Returnees from a long tour area—30 days.

(2) Returnees from a short tour area—150 days.

b. Unless members of the Regular Army and of the Reserve components elect to immediately extend their enlistments voluntarily or continue on active duty under the provisions of chapter 4, AR 601-210, they will be discharged or released from active duty and be returned to former Army National Guard or Army Reserve status, or released from active duty and transferred to the Army Reserve, as appropriate, upon arrival in the United States or area of residence, if upon arrival they have the following amount of active duty or less remaining before expiration of terms of enlistments or periods for which ordered to active duty:

(1) Returnees from a long tour area—30 days.

(2) Returnees from a short tour area—150 days.

c. Enlisted personnel in the United States or area of residence on leave or TDY from oversea organizations who, upon completion of such leave or TDY, will have less than 60 days before ETS, will be discharged or released, as appropriate. Those on such TDY will be discharged or released only if the oversea commander does not indicate a desire to have the individuals returned upon completion of TDY. Those who desire to extend immediately their periods of active duty or enlistments or to enlist or reenlist immediately in the Regular Army in accordance with appropriate regulations will be permitted to do so at the time of processing indicated in (2) below.

(1) Affected individuals will be reassigned to a transfer activity nearest their home for transfer processing. Transfer processing will not be accomplished prior to completion of leave or TDY. Records and allied papers will be forwarded to such transfer activity.

(2) Affected individuals will be instructed that upon completion of leave or TDY they will report to the transfer activity to which assigned for transfer processing.

d. This paragraph is not to be construed as authority for early return. It authorizes separation for the purpose stated only, in order to preclude nonproductive reassignments for short periods of time.

e. Authority (AR 635-200) and SPN 411 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity for discharge or release from active duty, as appropriate.

5-15. Separation of personnel assigned to installations or units scheduled for inactivation or permanent change of station. Except as indicated in *c* below, enlisted personnel of all components, assigned to units scheduled for permanent change of station or to installations scheduled for inactivation and who cannot be effectively utilized within other units at the same station will be separated from service as set forth below. In the event of conflict with paragraph 5-14, concerning returnees from a long tour area, the provisions of this paragraph will apply.

a. Those having 90 days or less to serve beyond effective date of inactiviation or change of station may be separated from active duty at the discretion of the unit commander provided individual desires separation. Separation will be accomplished during the 30-day period preceding the effective date of inactivation or change of station.

b. Those whose normal expiration of term of service expires during the 90-day period preceding the effective date of inactivation or change of station may be separated at the discretion of the unit commander any time during the 90-day period provided the individual desires separation.

c. Combination of the provisions of this paragraph with other separation programs so as to effect separation more than 90 days prior to normal expiration of term of service is not authorized.

d. Oversea commanders returning personnel to the United States for separation under this authority may add to normal travel time required to return individuals from the theater to the United States to the aforementioned 90 days. However, care will be taken to insure that individuals do not arrive in the United States with more than 90 days remaining in their period of service. This paragraph is not to be construed as authority for early return. It authorizes separation for the purpose stated

only, in order to preclude nonproductive reassignments for short periods of time.

e. Authority (AR 635-200) and SPN 701 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to acomplish transfer processing for discharge or release from active duty, as appropriate.

5-16. Enlisted personnel eliminated from service academies. Individuals who are eliminated from cadet for midshipman status at service academies because of academic failure, resignation, or reasons other than physical disqualifications, will be discharged if they have completed their service obligation, or released from active duty and returned to the Army National Guard or Army Reserve, or transferred to the Army Reserve to fulfill their Reserve obligations, provided they have less than 3 months remaining in the period for which enlisted or ordered to active duty. Authority (AR 635-200) and SPN 420 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity. The authority contained in this paragraph shall not preclude the Secretary of the Army from transferring a cadet to the Army Reserve and ordering him to active duty, as authorized by title 10, United States Code, section 4348(b).

5-17. Reserve component personnel ordered to ACDUTRA under Reserve Enlistment Program. Commanders of training installations are authorized to release Reserve component personnel ordered to ACDUTRA under Reserve Enlistment Program of 1963 upon completion of MOS training when training is completed prior to the period of time specified in ACDUTRA orders provided a minimum period of 4 months' ACDUTRA has been completed. Authority (AR 635-200) and SPN 764 for separation will be included in orders issued effecting early release from ACDUTRA.

5-18. Early relief from ACDUTRA because of emergency conditions. REP 63 trainees will be considered for early relief from initial tours of ACDUTRA based on eligibility for leave for cogent reasons such as death or serious illness of a member of the reservist's immediate family. Commanders of training activities, including Army service schools, may authorize early relief from ACDUTRA in lieu of granting leave, if the reservist has completed at least 4 months' ACDUTRA and the training benefits which will result from return to the training center upon completion of leave are not substantial enough to justify return to duty in lieu of early relief from ACDUTRA.

5-19. Separation of enlisted members of medical holding detachments. Commanders specified in section VI, chapter 2, are authorized to order separation for the convenience of the Government of enlisted personnel, other than Reserve component personnel, ordered to active duty for training under the Reserve Enlistment program of 1963, assigned to medical holding detachments as set forth below. In the event of conflict with paragraph 5-14 concerning returnees from long tour area, the provisions of this paragraph will apply.

a. Any enlisted person, other than in *b* below, assigned to a medical holding detachment who signifies he does not intend to enlist or reenlist may be separated upon completion of hospitalization provided he has less than 3 months to serve prior to expiration of term of service.

a.1. Any enlisted person returned from a short tour area for hospitalization and who signifies that he does not intend to enlist or reenlist may be separated if he has 150 days or less remaining on his current tour of service at the time of release from the medical facility.

b. Authority (AR 635-200) and SPN 412 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity for discharge or release from active duty, as appropriate.

Section VIII. EARLY SEPARATION TO ATTEND SCHOOL OR TO ACCEPT TEACHING POSITIONS

5-20. Separation to attend school or to accept teaching positions. Enlisted personnel may be discharged, released from active duty or active duty for training for the convenience of the Government in order to enter or return to school or to accept teaching positions when their services are not essential to the mission of their assigned organization. Commanders specified in section VI,

chapter 2, are authorized to order the separation for the convenience of the Government of enlisted personnel (other than Reserve component personnel on active duty for training) who have less than 3 months remaining in their required period of service. REP 63 enlistees are not eligible for separation under the provisions of this section.

a. Separation to enter or return to school.

★(1) Separation will be effected not earlier than the appropriate date specified in (3) below when the following conditions are met:

(*a*) The school must be a recognized institution of higher education at which course of instruction in which the individual has requested enrollment leads to an associate, baccalaureate, or higher degree. A recognized institution is one listed in part III of Education Directory published by the U.S. Department of Health, Education, and Welfare which is accredited by a regional accrediting association and whose credits are accepted by accredited institutions.

(*b*) Application includes the following information:

1. A statement by an appropriate school official (Registrar, Dean of Admissions, etc.) that the applicant has been accepted for enrollment without qualification commencing with a specific school term in a full-time course of instruction leading to an associate, baccalaureate, or higher degree. The statement will include the latest date on which the applicant must report to the school in person for registration in order to meet school's requirement for attendance.

2. A statement, signed by the individual concerned (after he has been informed of the provisions of Article 3(b), 31(b), and 83, Uniform Code of Military Justice), as follows: "I understand that if I am separated from the Armed Forces by means of either a knowingly false representation in regard to any of the qualifications or disqualifications prescribed by law, regulation, or orders for such separation, or by deliberate concealment of any disqualification for separation, I shall be subject to courts-martial jurisdiction under the Uniform Code of Military Justice, Article 3(b), for violation of the Uniform Code of Military Justice, Article 83, for prosecution in a United States District Court for violation of Title 18, United States Code, Section 1001, or other applicable statutes."

3. A statement from the applicant that he has made payment of the entrance fee or that he is able and willing to do so.

4. Applicant clearly establishes that the specific school term for which he seeks release is academically the most opportune time for him to begin or resume his education and that delay of enrollment until normal expiration of term of service would cause undue handicap.

(*c*) The date on which the applicant must report to school must fall within the last 3 months of remaining service.

(2) Application for early release to attend a theological school which is not accredited by a regional accrediting association, foreign institutions, and all doubtful cases will be forwarded by the commander having discharge authority direct to The Adjutant General, ATTN: AGPO-SS, Washington, DC 20315.

★(3) The effective date of early separation from service under this program will not be earlier than 15 days prior to the day classes convene for the term for which registering, with the following exceptions:

(*a*) Where the last registration date for the school term for which registering precedes the day classes convene by 5 or more days, the effective date of separation will not be earlier than 10 days prior to the last registration date.

(*b*) In the event late registration is permitted by the school, individuals who are not eligible for separation under the foregoing criteria may be separated on the first day within the last 3 months of service that they become eligible for separation.

(4) Individuals will be discharged, released from active duty and returned to the Army National Guard or Army Reserve, or released from active duty and transferred to the Army Reserve, as appropriate. Authority (AR 635-200) and SPN 413 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for separation.

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★(5) In this connection, accrued leave may not be utilized in conjunction with early separation under the provisions of this paragraph.

b. Separation to accept teaching positions.

(1) Separation will be accomplished not earlier than 10 days prior to the effective date of employment when the following conditions are met:

(*a*) Release is for the purpose of accepting a teaching position in a public school system or comparable private educational institution, or a recognized college or university.

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(b) The date on which the applicant must report for employment must fall within the last 3 months of remaining service.

(c) Teaching must be the normal occupation of the individual or he shows definite intent to engage in that occupation following separation.

(d) Applicant has evidence of employment by a specific school specifying date employment must commence.

(2) Individuals will be discharged, released from active duty and returned to Army National Guard or Army Reserve, or released from active duty and transferred to the Army Reserve, as appropriate. Authority (AR 635-200) and SPN 41C for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty.

Section IX. SEASONAL EMPLOYMENT

5-21. Separation or out-processing to accept employment of a seasonal nature. Commanders specified in section VI, chapter 2, are authorized to order early separation for the convenience of the Government of personnel enlisted, inducted, or ordered to active duty who have less than 3 months remaining in their period of service who submit valid applications evidencing an opportunity to participate in employment of a seasonal nature. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 are not eligible for separation under this program.

a. As used in this regulation, the term "employment of a seasonal nature" refers to employment that is not continuously active nor in full operation during the whole of a calendar year in the geographical area of the employment site.

b. Valid applications must meet the following criteria:

(1) Applicant (other than REP 63 trainee) must have less than 3 months remaining to expiration of term of service. Accrued leave may not be utilized to extend this 3-month limitation.

(2) Applicant's services must not be essential to the mission of his assigned organization.

(3) Evidence of employment (includes self employment) opportunity to show that—

(a) Employment is not continuously active nor in full operation during the whole of a calendar year in the geographical area of the employment site.

(b) Scheduled date of employment must fall within the last 3 months of current period of service.

(c) Early separation will allow unhindered participation in such employment for at least half of the "season."

(d) The employment must be the normal occupation of the individual or he shows definite intent to engage in that occupation following separation.

(e) Employment must provide primary source of income.

c. Separation will not be accomplished earlier than 10 days prior to the date the individual must report for work. In the event that the "season" has already commenced, separation may be accomplished on the first day (within the last 3 months of service) the individual becomes eligible for separation.

d. Doubtful cases will be forwarded through channels to The Adjutant General, Department of the Army, ATTN: AGPO-SS, Washington, D.C. 20315. Each command having discharge authority may exercise independent judgment as to whether the case is doubtful and, if appropriate, may take final action.

e. Requests for release from ACDUTRA more than 15 days early to accept seasonal employment will be forwarded to The Adjutant General, Department of the Army, ATTN: AGPO-SS, Washington, D.C. 20315. Forwarding indorsement will furnish the date Advanced Individual Training is to be, or was completed.

f. Individuals will be discharged, released from active duty and returned to Army National Guard or Army Reserve, or released from active duty and transferred to the Army Reserve, as appropriate. Authority (AR 635-200) and SPN 414 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty.

Section X. TRAVEL AND FORM OF SEPARATION CERTIFICATES

5-22. Travel allowance. See Joint Travel Regulations.

5-23. Form of separation certificate to be given.

a. Discharge certificate, based upon the character of service rendered and an Armed Forces of the United States Report of Transfer or Discharge (DD Form 214) will be issued to the individual concerned.

b. Individuals released from active duty and transferred to the Army Reserve or returned to a Reserve component (USAR or ARNG) "For Convenience of the Government" will be furnished an Armed Forces of the United States Report of Transfer or Discharge.

c. An individual to be released from military control pursuant to paragraph 5-12, or an administrative determination that he is not currently a member of the Army cannot be legally discharged from the Army. Such individual will, instead, be released from the custody and control of the Army without being furnished a certificate of discharge of any kind or Armed Forces of the United States Report of Transfer or Discharge (DD Form 214).

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★Section XI. SOLE SURVIVING SONS

5-24. Separation of sole surviving sons. Commanders specified in section VI, chapter 2, are authorized to order discharge for the convenience of the Government of enlisted men who become sole surviving sons during a period of enlistment, induction, order to active duty or active duty for training under the Reserve Enlistment Program of 1963.

a. As used in this regulation, the definition of a sole surviving son is the only remaining son in a family of which, because of hazards incident to service in the Armed Forces of the United States, the father, or one or more sons or daughters—

(1) Have been killed; or

(2) Have died as a result of wounds, accident, or disease; or

(3) Are permanently 100 percent physically disabled (to include 100 percent mental disability) as determined by the Veterans Administration or one of the military services, and are hospitalized on a continuing basis and not gainfully employed by virtue of such disability.

b. Individuals who qualify for discharge under *a(3) above*, shall be required to complete at least 6 months of active duty prior to discharge in order to qualify for a veteran's exemption under the provisions of 50 App. U.S.C. 456(b)(3).

c. All applications submitted will include the following evidence:

(1) Name, rank, service number, branch of service (i.e., Army, Navy, Marine Corps, Coast Guard, or Air Force), relationship and date of death or disability of the family member upon which request is based.

(2) Veterans Administration Claim Number, if appropriate.

(3) Name, age, and sex of other family members.

d. See AR 614-75 for offices to contact to obtain verification of status of other family members, when appropriate.

e. An individual whose application meets the criteria in *a* above will be discharged, except that Army National Guard personnel will be released from active duty or active duty for training and returned to the control of the appropriate State National Guard authorities for discharge. A copy of the approved application for discharge will be furnished to the adjutant general of the State.

f. Authority (AR 635-200) and SPN 229 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty or active duty for training.

5-25. When discharge is not authorized. Discharge for the convenience of the Government based upon being a sole surviving son is not authorized during a period of war or national emergency hereafter declared by the Congress.

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Section XII. EMPLOYMENT WITH A LEGALLY ESTABLISHED LAW ENFORCEMENT AGENCY (APPLICABLE ONLY IN CONUS AND STATES OF ALASKA AND HAWAII)

5-26. Separation to accept employment as a public police officer. Commanders specified in section VI, chapter 2, are authorized to order separation for the convenience of the Government of enlisted personnel who have 3 months or less remaining in their periods of service and who submit valid application for separation evidencing employment with a legally established law enforcement agency of a city, county, State or Federal Government. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 are not eligible for separation under this program.

5-27. Definitions. For the purpose of this regulation the following definitions apply:

a. Public police officer. An individual employed by legally established law enforcement agencies of city, county, State or Federal governments. This specifically excludes private or corporate police organizations and elective police positions in local political jurisdictions.

b. Bona fide offer of employment. An employment offer certified by an appropriate official of a city, county, State, or Federal police agency that the applicant has passed established applicant requirements and has been accepted for entrance into a police academy, police training school or immediate employment as a public police officer.

★**5-28. Submission of application.** Application for separation may be submitted up to 6 months prior to applicant's expiration of term of service. Oversea personnel serving in a long-tour area who will complete their oversea tour and whose DEROS is within 3 months of the expiration of their term of service are eligible to apply. An application for separation will include the following information:

a. A bona fide offer of employment as a public police officer with the date such employment is to commence, and

b. A statement signed by the individual concerned (after he has been informed of the provisions of Articles 3(b), and 83, Uniform Code of Military Justice), as follows: "I understand that if I am separated from the Armed Forces by means of either a knowingly false representation in regard to any of the qualifications or disqualifications prescribed by law, regulation, or orders for such separation, or by deliberate concealment of any disqualification for separation, I shall be subject to courts-martial jurisdiction under the Uniform Code of Military Justice, Article 3(b), for violation of the Uniform Code of Military Justice, Article 83, or prosecution in a U.S. district court for violation of Title 18, United States Code, Section 1001, or other applicable statutes."

5-29. When separation is not authorized. Separation from active military service is not authorized when—

a. An individual is assigned to a unit scheduled for oversea deployment and is in an otherwise deployable status, or

b. An individual has signed a statement of intent to reenlist, or

c. AR 600-31 applies.

★**5-30. Separation action.** *a.* Personnel may be separated when they have 3 months or less remaining in their period of service. Personnel accepted for immediate employment will be separated within 72 hours of notice of approval. Other personnel will be separated not earlier than 10 days prior to the effective date of employment.

b. Authority (AR 635-200) and SPN 320 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for separation.

Section XIII. ERRONEOUS ENLISTMENTS

5-13. Erroneous enlistment. *a.* When it is discovered than an individual was erroneously enlisted because he failed to meet the qualifications for enlistment or reenlistment, the unit commander will request validation of the enlistment or discharge because of erroneous enlistment through military channels to The Adjutant General, ATTN: AGPO-SS, Department of the Army, Washington, DC 20315. All requests for validation of enlistment or discharge from an erroneous

enlistment will contain the following information:

(1) Circumstances surrounding the erroneous enlistment.

(2) Reasons why validation or termination of the enlistment is requested.

(3) The enlisted person's desire for retention or separation.

(4) Conduct and efficiency ratings.

b. This section is not applicable to individuals eligible for separation under the provisions of paragraphs 5-6, 5-9, 5-32, or chapter 7 of this regulation, and paragraph 7-34*b*, AR 600-200, and individuals not meeting medical fitness standards for retention (AR 635-40).

c. Upon discovery and establishment that an enlistment is erroneous and the individual is AWOL, in desertion, or absent in the hands of civil authorities, the enlistment will be voided. Commanders specified in section VI, chapter 2, are authorized to void the enlistment. The Discharge Authority will not issue a discharge certificate nor DD Form 214. Such individual will be released from the custody and control of the Army by virtue of a void enlistment by special orders. The following entry will be made in item 38, DA Form 20 (Enlisted Qualification Record): "Released from military control by virtue of a void enlistment (cite special order number, SPN and issuing headquarters)." A copy of the special orders releasing the individual from military control will be filed as a permanent document in his DA Form 201 (Military Personnel Records Jacket, U.S. Army). For pay and allowances, see table 1-4-1, Department of Defense Military Pay and Allowances Entitlements Manual (DODPM).

5-32. Unfulfilled or erroneous enlistment commitments. *a.* Commanders specified in section VI, chapter 2, are authorized to order separation of personnel for the convenience of the Government when it is determined by Chief of Personnel Operations that—

(1) An enlistment commitment was erroneous because the individual did not meet the prerequisites for the option which must be determined prior to enlistment,

(2) An enlistment commitment was made but cannot be fulfilled.

b. Claims of unfulfilled or erroneous enlistment commitments are processed in accordance with AR 601-210 and AR 601-280. When it is determined by the Chief of Personnel Operations that an enlistment commitment was erroneous and/or cannot be fulfilled, separation may be requested as follows:

(1) Nonprior service Regular Army personnel serving on their first enlistment may request immediate separation or separation to be effective upon completion of 24 months' active military service. Individuals who were discharged from an AUS status to enlist will be separated when the active service in their prior AUS status and initial enlistment period totals 24 months' active service.

(2) Regular Army personnel serving on a second and subsequent enlistment prior to expiration of term of service for the purpose of reinlistment will be separated when active service in the current and preceding enlistment contracts equals the period stated in the previous enlistment contract.

c. Authority for separation (AR 635-200) and SPN 377 will be included in directives or orders directing the individuals to report to the appropriate transfer authority designated to accomplish transfer processing for separation.

by the Allotments and Deposits Operations, Finance Center, U.S. Army.

(6) Selective Service number.

(7) Date of current enlistment or entry on active duty. (In the case of Reserve component personnel, both will be included.)

(8) Prior service.

(9) Whether the applicant is under charges, in confinement, under investigation for separation by reason of homosexuality or under the military personnel security program, or is being processed for discharge or retirement for physical disability.

★*c.* Commanders of military installations in the United States, except Armed Forces Examining and Entrance Stations and Recruiting Main Stations, will accept applications for separation because of dependency or hardship from enlisted personnel temporarily in the United States from an oversea assignment. Personnel will be attached when on leave to an activity at the installation awaiting the final decision on their application for separation. The Adjutant General, ATTN: AGPO-SS, and the individual's parent oversea unit will be notified. When the separation of an individual is approved, the oversea command will be notified and requested to advise whether the provisions of AR 600-31 are applicable and, if not, to issue orders relieving the individual from assignment, and to forward the orders and personnel records by air mail in order that separation can be accomplished. When the separation of an individual on leave is disapproved, the individual will be released from an attached status and reverted to an emergency leave status, if previously on emergency leave, or ordinary leave status for return to his home station. The oversea commander will be notified and the application submitted while on leave will be forwarded to the individual's oversea unit to become part of his records.

6-7. Evidence required. *a.* The evidence required for dependency or hardship separation normally will be in affidavit form. The evidence must substantiate dependency or hardship conditions upon which the application for separation is based.

b. The evidence required will include affidavits or statements submitted by or in behalf of the individual's dependents and by at least two disinterested persons or agencies having firsthand knowledge of the circumstances. If dependency or hardship is the result of disability of a member of the individual's family, a physician's certificate should be furnished showing specifically when such disability occurred, the nature thereof, and prognosis for recovery. There also will be furnished the names, ages, occupations, home addresses, and monthly incomes of other members of the applicant's family. The affidavits of disinterested individuals and agencies should include reasons within their knowledge that these members of the family can or cannot aid in the financial or physical care of the dependents concerned for the period the enlisted person has remaining to serve on his current tour of duty.

6-8. Procedure. *a.* Upon receipt of a written application, together with the required supporting evidence from an individual, the commanders specified in section VI, chapter 2, will—

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

(2) Procure any additional information that may be necessary to determine the validity of the request. The services of the American National Red Cross may be utilized when the information contained in the application is not sufficient to base a decision to approve or disapprove the request (para 6-9).

(3) Take final action to approve or disapprove the application except in cases wherein *b* below, applies.

b. When an application for separation is submitted by an individual who was inducted into the military service under the Universal Military Training and Service Act, or who is serving in an initial enlistment, the following procedure will apply:

(1) If the application does not contain conclusive evidence upon which to base a clear-cut decision that release is or is not warranted, the application and supporting evidence will be forwarded by letter to the Director of Selective Service of the State in which the individual's local board of jurisdiction is located. The letter will request a statement as to whether the circumstances presented in the application would result in deferment on the basis of undue and genuine hardship to the individual's dependents if he were being considered for induction. The letter to the State Director of Selective Service will also include the enlisted person's Selective Service number, and in dependency cases when the inductee or reservist has no allotment for claimed dependency, a state-

ment that a determination of dependency for benefits under Dependents' Assistance Act of 1950 (sec A, chap. 2, part 2, AR 37-104) was or was not requested and denied by the Allotments and Deposits Operations, Finance Center, U.S. Army. It is not mandatory in any way that the officer having discharge authority follow the recommendation of the State Director of Selective Service, but when such statement is received it will be considered in relation to other supporting evidence. When the need arises, the recommendation of the State Director may be disclosed. If a report by the American National Red Cross is appropriate, it will be handled as prescribed in paragraph 6-9*b*(3). All subsequent applications for hardship or dependency discharge from the same inductee or enlistee also will be referred to Selective Service. Recommendations made by the Selective Service System become part of the application for separation and will be placed in an individual's Military Personnel Records Jacket, U.S. Army.

(2) At the discretion of the commanders having discharge authority, the procedure described in (1) above may be followed even though the application indicates that the release from active military service is warranted.

c. All commanders taking action on applications of individuals for dependency or hardship separation under this regulation will insure the expeditious handling of applications. In the event the individual is transferred to another major command (including overseas) after submission of his request for separation but before final action has been taken thereon, the application will be processed to completion, including final decision, in the command in which submitted. The commander who had discharge authority over the enlisted person in the losing area will notify him properly at his new address of the final action taken on the application and will forward the application, including final decision, to the major commander in the gain-

ing area, who will take the action necessary to comply with the decision.

d. Applications upon which final action has been taken will become part of the records of the enlisted person concerned.

6-9. Service of American National Red Cross. *a.* Requests for supplemental factual information pertaining to applications for discharge of release of individuals because of dependency or hardship may be made to the American National Red Cross. Such requests originating within military agencies will be restricted to specific information in those cases where it appears probable separation is warranted.

b. The following procedures will be followed when military agencies request assistance from the American National Red Cross:

(1) The military agency requesting assistance will prepare a brief containing sufficient information to identify the applicant for separation. The brief will also include the name, address, and relationship of the dependent or dependents regarding whom the information is desired.

(2) If there is a Red Cross representative serving the organization or installation concerned, the brief, together with a request for the specific information will be forwarded to the representative.

(3) If there is no Red Cross representative serving the organization or installation, the request will be sent to the appropriate area office.

American National Red Cross area offices are listed below:

NATIONAL HEADQUARTERS—17th and D Streets, N.W., Washington, D.C., 20006*

Hawaii

Insular Chapters:
American Samoa
Canal Zone
Virgin Islands
Guam
Puerto Rico

EASTERN AREA—615 North St. Asaph Street, Alexandria, Va., 22314

Connecticut
Delaware
District of Columbia
Indiana—Dearborn and Ohio Co., Franklin Co., and Switzerland Co. Chapters
Kentucky—Boone Co., Campbell Co., Kenton Co. and the following chapters: Boyd Co., Greenup Co., Lewis Co., Bracken Co., Grant Co., Gallatin Co., Mason Co., Owen Co., and Pendleton Co.
Maine
Maryland
Massachusetts
New Hampshire
New Jersey
New York
North Carolina—U.S. Coast Guard, Elizabeth City and the following chapters: Camden Co., Chowan Co., Currituck Co., Gates Co., Pasquotank Co., and Perquimans Co.
Ohio
Pennsylvania
Rhode Island
Vermont
Virginia
West Virginia

SOUTHEASTERN AREA—1955 Monroe Drive, N.E., Atlanta, Ga., 30324

Alabama
Arkansas (*except* Miller Co. and Little River Co.)
Florida
Georgia
Kentucky (*except* Boone Co., Campbell Co., Kenton Co.,

*Alaska, Hawaii, and insular chapters are communicated with directly through postal or commercial cable facilities, chapters should follow instructions in Handbook for Home Service**Workers (ARC 1295) when indicated.

**Name changed to SERVICE TO MILITARY FAMILIES.

and the following chapters:
Boyd Co., Bracken Co., Daviess Co.,)
Indiana—Clark Co., Crawford Co., Harrison Co., and New Albany- Floyd Co. chapters
Kentucky:
Gallatin Co., Grant Co., Greenup Co., Hancock Co., Henderson Co., Lewis Co., Mason Co., Owen Co., Pendleton Co., Sturgis Co., Union Co., and Webster Co.
Louisiana
Mississippi
North Carolina (*except* U.S. Coast Guard, Elizabeth City and the following chapters; Camden Co., Chowan Co., Currituck Co., Gates Co., Pasquotank Co., and Perquimans Co.)
South Carolina
Tennessee

MIDWESTERN AREA—4050 Lindell Blvd., St. Louis, Mo., 63108

Arkansas—Miller Co., and Little River Co.
Illinois
Indiana (*except* Clark Co., Crawford Co., Dearborn Co., Ohio Co., Franklin Co., Harrison Co., New Albany-Floyd Co., and Switzerland Co. chapters)
Iowa
Kansas
Kentucky—Daviess Co., Hancock Co., Henderson Co., Sturgis Co., Union Co. and Webster Co. chapters
Michigan
Minnesota
Missouri
Nebraska
North Dakota
Oklahoma
South Dakota
Texas
Wisconsin
Wyoming—Crook Co., Weston Co.

WESTERN AREA—1550 Sutter Street, San Francisco, California, 94101

Alaska
Arizona
California
Colorado
Idaho
Montana
Nevada
New Mexico
Oregon
Utah
Washington
Wyoming (*except* Crook Co., and Weston Co.)

(4) The contents of reports furnished by the Red Cross will not be disclosed to the enlisted person or his family.

(5) When dependency or hardship application is forwarded to a State Director of Selective Service as provided in paragraph 6–8*b*, Red Cross reports will not be included as evidence. Excerpts of pertinent information from Red Cross reports may be furnished, insuring that identification of sources of information used by the Red Cross will not be disclosed.

c. Enlisted personnel or their dependents may, on their own initiative, request local chapters of the American National Red Cross to assist in obtaining necessary evidence to substantiate applications for separation. The American National Red Cross does not, however, make formal report to military agencies unless requested to do so by appropriate military commanders.

6–10. Types of separation. *a.* Enlisted personnel will be discharged or released from active military service in accordance with section I, chapter 2.

b. ARNGUS trainees will be relieved from active duty for training for hardship and dependency reasons and returned to the control of

ATTN: AGPO-SS, Department of the Army, Washington, D.C., 20315, as to her refusal. The certification of pregnancy from the physician on duty at an Armed Forces medical treatment facility will be attached to the report.

(*b*) An enlisted woman having 18 or more years' active Federal service but less than 20 years, will be afforded the opportunity of requesting waiver of discharge in order to be retained on active duty. The request for waiver of discharge will be made immediately after certification of pregnancy. The request for waiver will be forwarded through military channels to The Adjutant General, ATTN: AGPO-SS, Department of the Army, Washington, D.C., 20315, for final determination. The following will be included in the request for waiver and forwarding comments:

1. A statement signed by the enlisted woman as follows: "I certify I will apply for retirement from the Army upon completion of 20 years' active Federal service notwithstanding my (extension) (reenlistment)."

2. Proper medical verification and history to include estimated confinement date.

3. The enlisted woman's conduct and efficiency ratings.

4. The WAC unit officer's recommendation.

5. A statement giving circumstances which will indicte that the child will not hinder the enlisted woman's performance of duty, and continuation on active duty will not result in neglect of the child.

6. Date and period of enlistment.

7. Total length of active Federal service.

8. Request for leave of absence (including request for accrued leave and request for excess leave) to cover the prenatal period and at least 6 weeks following birth of the child. (For purposes of this regulation, the prenatal period begins upon verification of pregnancy.) Leave required in excess of that which is accrued to the applicant will be requested under the provisions of paragraph 21, AR 630-5. (Advanced leave will not, under any circumstances, be granted.) Pending receipt from Headquarters, Department of the Army, of discharge instructions or approval of waiver and excess leave, the unit commander will grant the ordinary leave. In the event the enlisted woman has less than 21 days' accrued leave, the appropriate commander will authorize leave in accordance with the provisions of paragraph 21*b*, AR 630-5, effective upon termination of individual's ordinary leave. The intent of these provisions is to provide for the assumption of a leave status by the enlisted woman upon verification of pregnancy or as soon thereafter as possible.

(*c*) When an enlisted woman's current term of service expires prior to the date she will complete 20 years' active Federal service, one of the following will be included in the request for waiver:

1. Request for extension of enlistment when an enlisted woman will require no more than 11 months' service subsequent to expiration of current period of service to qualify for retirement.

2. Request for discharge and reenlistment, *1* above, is not appropriate. In the event the individual is not otherwise qualified for reenlistment, a request for waiver of such disqualification will be included.

(4) Nothing contained herein will act as a bar to a commander taking disci-

plinary or elimination action under other regulations if circumstances warrant.

8-9. Responsibility of WAC unit officer.★ *a.* The WAC unit commander will direct the enlisted woman whose physical condition indicates the possibility of pregnancy to report at once to a physician on duty at an Armed Forces medical treatment facility for diagnosis. The WAC unit commander will also initiate discharge proceedings immediately upon medical certification of pregnancy or recent termination.

b. Every assistance will be given by the unit commander or a designated officer of the Women's Army Corps to the enlisted woman. The enlisted woman will be counseled by a WAC officer concerning all the rights, privileges, and benefits to be obtained as a result of her military service. She will also be assisted in contacting administering agencies for aid and advice in applying for such rights, benefits, and privileges. If the enlisted woman desires, the officer will refer her to a representative of the American National Red Cross or to other appropriate agencies for assistance.

8-10. Medical examination and diagnosis. *a.* Examination for pregnancy will be conducted as a complete medical examination. Standard Forms 88 and 89 will be utilized. When such examination results in a determination of pregnancy or of recent termination of pregnancy, no additional medical examination is required prior to discharge, provided discharge from the service is accomplished within the 6-month period specified in paragraph 10-17*a*(2), chapter 10, AR 40-501, and there is no change in the enlisted woman's medical condition other than her pregnancy.

★*b.* The diagnosis will be certified by a physician on duty at an Armed Forces medical treatment facility as soon as possible. This does not preclude observation of the enlisted woman for a reasonable period of time in which to insure that the diagnosis is correct. In establishing the diagnosis, the physician may utilize biological or other tests for pregnancy without cost to the patient.

8-11. Discharge action. *a.* The interval between diagnosis and discharge will be held to a minimum. For personnel stationed within the United States, discharge normally will not be later than 7 days after receipt of certified diagnosis. Personnel arriving in CONUS from an oversea tour will be processed for discharge in accordance with paragraph 5*f*, AR 635-61. The discharge will be accomplished without reference to a medical or physical evaluation board unless this procedure is required for reason other than pregnancy.

b. Discharge will not be accomplished within an oversea command unless the enlisted woman's home is located there. Return travel of personnel to the United States will be expedited and normally will be by air rather than surface means.

★*c.* The enlisted woman may remain on duty in the interval prior to discharge if, in the opinion of the physician, her physical condition permits and if the WAC unit commander deems it appropriate.

d. If, during the processing for discharge under another chapter or regulation, an enlisted woman is found to be pregnant, she will not be discharged under this regulation except as indicated in *e* below. Discharge will be accomplished under the chapter or regulation under which separation processing was initiated. In such cases, a notation of pregnancy will be made on Standard Form 88.

★*e.* An enlisted woman under investigation, court-martial charges, or sentence of court-martial who is certified by a physician on duty at an Armed Forces medical treatment facility to be pregnant may be discharged under this chapter only with the written consent of the commander exercising general courts-martial jurisdiction over the enlisted woman.

f. Commanders of U.S. Army oversea replacement stations may retain an enlisted woman en route overseas to establish whether she is pregnant in those cases where the enlisted woman either claims that she is pregnant or when her physical condition indicates such possibility.

8-12. Type of certificate to be furnished and authority for discharge. *a.* An honorable or general discharge certificate will be furnished,

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★Section XII. EMPLOYMENT WITH A LEGALLY ESTABLISHED LAW ENFORCEMENT AGENCY (APPLICABLE ONLY IN CONUS AND STATES OF ALASKA AND HAWAII)

5-26. Separation to accept employment as a public police officer. Commanders specified in section VI, chapter 2, are authorized to order separation for the convenience of the Government of enlisted men who have 3 months or less remaining in their periods of service and who submit valid application for separation evidencing employment with a legally established law enforcement agency of a city, county, State or Federal Government. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 are not eligible for separation under this program.

5-27. Definitions. For the purpose of this regulation the following definitions apply:

a. Public police officer. An individual employed by legally established law enforcement agencies of city, county, State or Federal governments. This specifically excludes private or corporate police organizations and elective police positions in local political jurisdictions.

b. Bona fide offer of employment. An employment offer certified by an appropriate official of a city, county, State, or Federal police agency that the applicant has passed established applicant requirements and has been accepted for entrance into a police academy, police training school or immediate employment as a public police officer.

5-28. Submission of application. Application for separation may be submitted up to 6 months prior to applicant's expiration of term of service. An application for separation will include the following information:

a. A bona fide offer of employment as a public police officer with the date such employment is to commence, and

b. A statement signed by the individual concerned (after he has been informed of the provisions of Articles 3(b), and 83, Uniform Code of Military Justice), as follows: "I understand that if I am separated from the Armed Forces by means of either a knowingly false representation in regard to any of the qualifications or disqualifications prescribed by law, regulation, or orders for such separation, or by deliberate concealment of any disqualification for separation, I shall be subject to courts-martial jurisdiction under the Uniform Code of Military Justice, Article 3(b), for violation of the Uniform Code of Military Justice, Article 83, or prosecution in a U.S. district court for violation of Title 18, United States Code, Section 1001, or other applicable statutes."

5-29. When separation is not authorized. Separation from active military service is not authorized when—

a. An individual is assigned to a unit scheduled for oversea deployment and is in an otherwise deployable status, or

b. An individual has signed a statement of intent to reenlist, or

c. AR 600-31 applies.

5-30. Separation action. *a.* Separation will be accomplished not earlier than 10 days prior to the effective date of employment and the date of separation is within 3 months of the applicant's expiration of term of service.

b. Authority (AR 635-200) and SPN 320 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for separation.

★Section XIII. ERRONEOUS ENLISTMENTS

5-31. Erroneous enlistment. *a.* When it is discovered than an individual was erroneously enlisted because he failed to meet the qualifications for enlistment or reenlistment, the unit commander will request validation of the enlistment or discharge because of erroneous enlistment through military channels to The Adjutant General, ATTN: AGPO-SS, Department of the Army, Washington, D.C. 20315. All requests for validation of enlistment or discharge from an erroneous enlistment will contain the following information:

(1) Circumstances surrounding the erroneous enlistment.

(2) Reasons why validation or termination of the enlistment is requested.

(3) The enlisted person's desire for retention or separation.

(4) Conduct and efficiency ratings.

★*b.* This section is not applicable to individuals eligible for separation under the provisions of paragraphs 5-6, 5-9, 5-32, or chapter 7 of this regulation, and paragraph 7-34*b*, AR 600-200, and individuals not meeting medical fitness standards for retention (AR 635-40).

c. Upon discovery and establishment that an enlistment is erroneous and the individual is AWOL, in desertion, or absent in the hands of civil authories, the enlistment will be voided. Commanders specified in section VI, chapter 2, are authorized to void the enlistment. The Discharge Authority will not issue a discharge certificate nor DD Form 214. Such individual will be released from the custody and control of the Army by virtue of a void enlistment by special orders. The following entry will be made in item 38, DA Form 20 (Enlisted Qualification Record): "Released from military control by virtue of a void enlistment (cite special order number, SPN and issuing headquarters)." A copy of the special orders releasing the individual from military control will be filed as a permanent document in his DA Form 201 (Military Personnel Records Jacket, U.S. Army). For pay and allowances, see table 1-4-1, Department of Defense Military Pay and Allowances Entitlements Manual (DODPM).

★**5-32. Unfulfilled or erroneous enlistment commitments.** *a.* Commanders specified in section VI, chapter 2, are authorized to order separation of personnel for the convenience of the Government when it is determined by Chief of Personnel Operations that—

(1) An enlistment commitment was erroneous because the individual did not meet the prerequisites for the option which must be determined prior to enlistment,

(2) An enlistment commitment was made but cannot be fulfilled.

b. Claims of unfulfilled or erroneous enlistment commitments are processed in accordance with AR 601-210 and AR 601-280. When it is determined by the Chief of Personnel Operations that an enlistment commitment was erroneous and/or cannot be fulfilled, separation may be requested as follows:

(1) Nonprior service Regular Army personnel serving on their first enlistment may request immediate separation or separation to be effective upon completion of 24 months' active military service. Individuals who were discharged from an AUS status to enlist will be separated when the active service in their prior AUS status and initial enlistment period totals 24 months' active service.

(2) Regular Army personnel serving on a second and subsequent enlistment prior to expiration of term of service for the purpose of reenlistment will be separated when active service in the current and preceding enlistment contracts equals the period stated in the previous enlistment contract.

c. Authority for separation (AR 635-200) and SPN 377 will be included in directives or orders directing the individuals to report to the appropriate transfer authority designated to accomplish transfer processing for separation.

CHAPTER 2

SEPARATION OF ENLISTED PERSONNEL

Section I. ELIGIBILITY FOR SEPARATION

2-1. Statutory authority. Title 10, United States Code, section 3811, provides that no enlisted member of the Army may be discharged before his term expires except—

a. As prescribed by the Secretary of the Army.

b. By sentence of a general or special court-martial.

c. As otherwise provided by law.

2-2. Discharge or release from the Active Army upon termination of enlistment, period of induction, and other periods of active duty or active duty for training. *a.* The periods of military service required of all members of the Army will be in accordance with applicable laws. Periods for which enlistment is authorized are set forth in NGR 25-1, AR 140-111, and AR 601-210. Periods for which individuals are inducted or ordered to active duty are prescribed by law.

★*b.* The following aliens will not be separated prior to the full period for which enlisted or inducted purely as a matter of convenience, except as provided in paragraph 5-2:

(1) Aliens who enlisted in the Regular Army for a period of 3 years (see section 328, Act of 27 June 1952 (66 Stat. 249; 8 U.S.C. 1439) for requirements as to naturalization).

(2) Aliens who were enlisted or inducted in the Army for a period of 24 months active duty and who were in the United States at the time of enlistment or induction (see section 4, Act of 24 October 1962 (76 Stat. 1247; 8 U.S.C. 1254)).

If performance or conduct does not justify their retention, they will be processed for separation under appropriate regulations.

c. Personnel who are physically unfit for retention (chap. 3, AR 40-501) but who were accepted for, or continued in, military service under the provisions of AR 635-40 or similar directives, will not be separated by reason of expiration of term of service unless processing for separation by reason of physical disability is waived.

d. Subject to the provisions of section V of this chapter an individual enlisted, inducted, or ordered to active duty normally will be discharged, or released from active duty, on the date upon which he completes the period for which enlisted, inducted, or ordered to active duty. However, an individual other than those listed in *b* above, whose term of service expires or who otherwise becomes eligible for discharge or release from active duty on a Saturday, Sunday, or legal holiday, may, with his consent, be discharged or released to or transferred to the Army Reserve on the last working day prior to normal date of discharge or release. Individuals whose rate of pay is subject to change on a Saturday, Sunday, or legal holiday upon which they would be separated will not be discharged until their normal separation date unless they request otherwise. Individuals who are eligible for early release on a Saturday, Sunday, or legal holiday under early release separation criteria in chapter 5 will not be discharged or released from active duty on the last working day prior to the Saturday, Sunday, or legal holiday unless the basic service requirement of the particular early separation authority concerned is met. Release from active duty will be dated as of the release or discharge. Personnel released from active duty and transferred to the Army Reserve upon completion of the term of service for which inducted or ordered into active Federal service, or released to their Reserve component upon completion of active duty, will not be discharged until completion of their Reserve obligation.

e. AR 135-90 defines the various service obligations incurred by military personnel upon initial entry into military service and prescribes the methods of fulfillment.

f. A noncitizen who incurred a Reserve obligation upon induction into military service but who at time of release from active duty fails or refuses to give a mailing address within the United States, Puerto Rico, the Virgin Islands, Guam, or the Canal Zone, but gives only an address in a foreign country as a permanent mailing address (item 33, DD Form 214, Armed Forces of the United States Report of Transfer or Discharge), thus showing his intention to reside permanently

outside the United States, is not eligible for transfer to the Army Reserve. He will be discharged upon and by reason of having completed the period of service for which inducted, but will be advised prior to such discharge that it may permanently bar him from United States citizenship.

g. Members of the Army National Guard of the United States and the Army Reserve ordered to active duty for a period in excess of 90 days will, upon release from active duty, revert to control of the appropriate Reserve component.

h. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 will be out-processed in accordance with AR 612-200.

i. Individuals serving as cadets in military academies whose expiration of enlisted term of service occurs while individual is serving in such capacity will be discharged or released, as appropriate.

j. An enlisted person who at the time of entry on active duty held an appointment as an Army Reserve commissioned or warrant officer, or who while on active duty accepts appointment, and such appointment is still current, will not be transferred to the Army Reserve in his enlisted status but will be discharged. Special orders discharging the individual will be prepared as prescribed in AR 310-10 and will indicate that the individual is transferred to the Army Reserve in his commissioned or warrant grade. Discharge to enter another military status does not terminate the individual's military service obligation incurred under title 10, United States Code, subsection 651a.

Section II. DISCHARGE, RELEASE FROM ACTIVE DUTY, OR RELEASE FROM ACTIVE DUTY FOR TRAINING AFTER EXPIRATION OF PERIOD OF ACTIVE DUTY OR ACTIVE DUTY FOR TRAINING

2-3. Time lost to be made good. Every individual in active Federal service who renders himself unable for more than 1 day to perform duty will be liable, after a return to full duty status, to serve for such period as is necessary to complete his full term of service or obligation, exclusive of such time lost.

a. Lost time in the sense of this regulation refers to periods of more than 1 day during which an individual on active duty is unable to perform duty because of—

(1) Desertion.

(2) Absence without proper authority.

(3) Confinement under sentence.

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

(5) Intemperate use of drugs or alcoholic liquor.

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

b. Time lost during an enlistment will be made good at the end of the enlistment period, except that, when an enlistment is extended by law, time lost will be made good at the end of the extension. This requirement may be waived by Headquarters, Department of the Army. Recommendations for waiver of time lost will be submitted to The Adjutant General, Department of the Army, ATTN: AGPO-SS, Washington, D.C. 20315, in unusual circumstances, when the discharge authority considers that because of extenuating circumstances waiver of time lost is in the best interest of the individual and the Government.

c. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 (trainees performing

only, in order to preclude nonproductive reassignments for short periods of time.

e. Authority (AR 635-200) and SPN 701 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty, as appropriate.

5-16. Enlisted personnel eliminated from service academies. Individuals who are eliminated from cadet or midshipman status at service academies because of academic failure, resignation, or reasons other than physical disqualifications, will be discharged if they have completed their service obligation, or released from active duty and returned to the Army National Guard or Army Reserve, or transferred to the Army Reserve to fulfill their Reserve obligations, provided they have less than 3 months remaining in the period for which enlisted or ordered to active duty. Authority (AR 635-200) and SPN 420 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity. The authority contained in this paragraph shall not preclude the Secretary of the Army from transferring a cadet to the Army Reserve and ordering him to active duty, as authorized by title 10, United States Code, section 4348(b).

5-17. Reserve component personnel ordered to ACDUTRA under Reserve Enlistment Program. Commanders of training installations are authorized to release Reserve component personnel ordered to ACDUTRA under Reserve Enlistment Program of 1963 upon completion of MOS training when training is completed prior to the period of time specified in ACDUTRA orders provided a minimum period of 4 months' ACDUTRA has been completed. Authority (AR 635-200) and SPN 764 for separation will be included in orders issued effecting early release from ACDUTRA.

5-18. Early relief from ACDUTRA because of emergency conditions. REP 63 trainees will be considered for early relief from initial tours of ACDUTRA based on eligibility for leave for cogent reasons such as death or serious illness of a member of the reservist's immediate family. Commanders of training activities, including Army service schools, may authorize early relief from ACDUTRA in lieu of granting leave, if the reservist has completed at least 4 months' ACDUTRA and the training benefits which will result from return to the training center upon completion of leave are not substantial enough to justify return to duty in lieu of early relief from ACDUTRA.

5-19. Separation of enlisted members of medical holding detachments. Commanders specified in section VI, chapter 2, are authorized to order separation for the convenience of the Government of enlisted personnel, other than Reserve component personnel, ordered to active duty for training under the Reserve Enlistment Program of 1963, assigned to medical holding detachments as set forth below. In the event of conflict with paragraph 5-14 concerning returnees from long tour area, the provisions of this paragraph will apply.

a. Any enlisted person, other than in *b* below, assigned to a medical holding detachment who signifies he does not intend to enlist or reenlist may be separated upon completion of hospitalization provided he has less than 3 months to serve prior to expiration of term of service.

a.1. Any enlisted person returned from a short tour area for hospitalization and who signifies that he does not intend to enlist or reenlist may be separated if he has 150 days or less remaining on his current tour of service at the time of release from the medical facility.

b. Authority (AR 635-200) and SPN 412 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity for discharge or release from active duty, as appropriate.

Section VIII. EARLY SEPARATION TO ATTEND SCHOOL OR TO ACCEPT TEACHING POSITIONS

5-20. Separation to attend school or to accept teaching positions. Enlisted personnel may be discharged, released from active duty or active duty for training for the convenience of the Government in order to enter or return to school or to accept teaching positions when their services are not essential to the mission of their assigned organization. Commanders specified in section VI, chapter 2, are authorized to order the separation for the convenience of the Government of enlisted

personnel (other than Reserve component personnel on active duty for training) who have less than 3 months remaining in their required period of service. REP 63 enlistees are not eligible for separation under the provisions of this section.

a. Separation to enter or return to school.

★(1) Separation will be effected not earlier than 15 days prior to the first day of school term for which registered when the following conditions are met:

(*a*) The school must be a recognized institution of higher education at which course of instruction in which the individual has requested enrollment leads to an associate, baccalaureate, or higher degree. A recognized institution is one listed in Part III of Education Directory published by the U.S. Department of Health, Education, and Welfare which is accredited by a regional accrediting association and whose credits are accepted by accredited institutions.

(*b*) Application includes the following information:

1. A statement by an appropriate school official (Registrar, Dean of Admissions, etc.) that the applicant has been accepted for enrollment without qualification commencing with a specific school term in a full-time course of instruction leading to an associate, baccalaureate, or higher degree. The statement will include the latest date on which the applicant must report to the school in person for registration in order to meet school's requirement for attendance.

2. A statement, signed by the individual concerned (after he has been informed of the provisions of Articles 3(b), 31(b), and 83, Uniform Code of Military Justice), as follows: "I understand that if I am separated from the Armed Forces by means of either a knowingly false representation in regard to any of the qualifications or disqualifications prescribed by law, regulation, or orders for such separation, or by deliberate concealment of any disqualification for separation, I shall be subject to courts-martial jurisdiction under the Uniform Code of Military Justice, Article 3(b), for violation of the Uniform Code of Military Justice, Article 83, for prosecution in a United States District Court for violation of Title 18, United States Code, Section 1001, or other applicable statutes."

3. A statement from the applicant that he has made payment of the entrance fee or that he is able and willing to do so.

4. Applicant clearly establishes that the specific school term for which he seeks release is academically the most opportune time for him to begin or resume his education and that delay of enrollment until normal expiration of term of service would cause undue handicap.

(*c*) The date on which the applicant must report to school must fall within the last 3 months of remaining service.

(2) Application for early release to attend a theological school which is not accredited by a regional accrediting association, foreign institutions, and all doubtful cases will be forwarded by the commander having discharge authority direct to The Adjutant General, ATTN: AGPO-SS, Washington, DC 20315.

★(3) The effective date of early separation from service under this program will not be earlier than 15 days prior to the first day of the school term for which registered. In the event late registration is permitted by the school, separation may be accomplished on the first day (within the last 3 months of service) the individual becomes eligible for separation. In this connection, accrued leave may not be utilized in conjunction with early separation under the provisions of this paragraph.

(4) Individuals will be discharged, released from active duty and returned to the Army National Guard or Army Reserve, or released from active duty and transferred to the Army Reserve, as appropriate. Authority (AR 635-200) and SPN 413 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for separation.

b. Separation to accept teaching positions.

(1) Separation will be accomplished not earlier than 10 days prior to the effective date of employment when the following conditions are met:

(*a*) Release is for the purpose of accepting a teaching position in a public school system or comparable private educational institution, or a recognized college or university.

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has been proper over a reasonable period of time subsequent to the conviction(s), he may be considered for an honorable discharge (*c* and *d* above).

(3) A member's service may be characterized as general by the commanding officer authorized to take such action or higher authority when the member is eligible for or is subject to separation and it has been determined, under the prescribed standards, that such separation is warranted.

f. Undesirable discharge. An undesirable discharge is an administrative separation from the service under conditions other than honorable. It may be issued for unfitness, misconduct, homosexuality, or for security reasons.

(1) *Special considerations.* In any case in which an undesirable discharge is authorized by regulation a member may be awarded an honorable or general discharge, as appropriate, if, during the current or a prior enlistment or period of service or voluntary or involuntary extension of either, he has been awarded a personal decoration, or if warranted by the particular circumstances of a specific case.

(2) *Consideration required.* Commanders and members of boards of officers responsible for recommending discharges to be furnished, and commanders having responsibility for determining finally the type of discharge to be issued, are urged to consider all facets of a particular case involving discharge in order that a fair decision will result.

1-10. Issuance of an undesirable discharge. An undesirable discharge will be directed only by a commander exercising general court-martial jurisdiction, or by higher authority, based upon the approved recommendation of a board of officers, unless the member waives the board or resigns, or requests discharge for the good of the service. Prior to such action, the following procedures and safeguards must be observed:

a. A member who is under military control will be notified in writing that his discharge has been recommended pursuant to a specific regulation, and of the specific allegations on which the proposed action is based, and advised that he has the following rights:

(1) To present his case before an administrative discharge board.

(2) To be represented by appointed counsel (para 1-3*i*); military counsel of his own choice, provided such counsel is reasonably available; or civilian counsel at his own expense.

(3) To submit statements in his own behalf.

(4) To waive the above rights in writing. The member will be given an opportunity and a reasonable time (not less than 48 hours) to consult with counsel ((2) above) prior to waiving the above rights. If he elects to waive these rights, the member shall personally sign a written waiver. His counsel shall sign as a witness, indicating whether he is qualified under Article 27(b)(1) of the Uniform Code of Military Justice, if he is not a member of the Judge Advocate General's Corps. If the member refuses counsel, his waiver must explicitly state that fact.

b. If a member waives his rights, the discharge authority may disapprove the waiver and refer the case to an administrative discharge board, or direct retention on active duty, or direct discharge by reason of unfitness, misconduct, homosexuality, or security. If discharge is directed, the type of certificate will be specified.

c. A member unable to appear in person before an administrative discharge board by reason of confinement by civil authorities will be advised (by registered mail) of the proposed discharge action, the type of discharge certificate that may be issued, and the fact that action has been suspended to give him the opportunity to exercise the following rights:

(1) To request appointment of a military counsel or employ civilian counsel at his own expense to represent him and, in his absence, present his case before an administrative discharge board.

(2) To submit statements in his own behalf.

(3) To waive the foregoing rights, either in writing or by declining to reply to the letter of notification within 30 days from the date of receipt.

d. A member beyond military control by reason of unauthorized absence of more than 1 year may be issued an undesirable discharge in absentia under AR 635-206. Notification of the imminent discharge action and the effective date thereof will be sent by registered mail to the record address of the member or the next of kin, as appropriate. Separation of members of the Reserve components will be subject to the limitations of Title 10, U.S.C. 1163.

e. A member who submits a resignation or re-

questa discharge for the good of the service may be issued an undesirable discharge without board action provided he has been afforded the opportunity (not less than 48 hours) to consult with counsel (*a*(2) above), and provided that the member certifies in writing his understanding that he will receive a discharge under other than honorable conditions and that he understands the adverse nature of such a discharge and the possible consequences thereof. The member must personally sign his written resignation or request for discharge. His counsel shall sign as a witness, indicating whether he is qualified under Article 27(b)(1) of the Uniform Code of Military Justice, if he is not a member of the Judge Advocate General's Corps. If the member refuses all counsel (*a*(2) above), his resignation or request for discharge must explicitly state that fact.

1-11. Determination of character of service. *a.* In all cases requiring an administrative discharge board or waiver thereof, the discharge of an enlisted member will be characterized by the officer authorized to approve such a separation or by higher authority. In all other cases, the character of separation will be determined by the immediate commanding officer of the last unit to which the member was assigned or attached prior to his separation processing at the transfer facility, except when otherwise directed by higher authority. The officer characterizing the service will—

(1) Review the individual's military record and determine the character of separation to be awarded in accordance with governing criteria.

(2) Enter in the "Remarks" section of the Enlisted Qualifications Record (DA Form 20) the character of separation to be issued upon separation.

b. Commanders of transfer activities will examine each enlisted qualification record of personnel undergoing transfer processing and will issue the type of discharge ordered by the discharge authority (section VI, chapter 2) with the characterization determined by the appropriate officer (*a* above).

c. The commanders of transfer activities will change neither the type nor character of separation except in those instances when the member's conduct, subsequent to the determination by the discharge authority and the characterization by the appropriate officer (*a* above), warrants a change in type or character of separation. When no administrative discharge board is convened, the commander of the transfer activity may issue an honorable or general discharge. Appropriate entries will be made in the individual's enlisted qualification record with the reason for the determination or characterization by the commander of the transfer activity.

★1-12. Periodic explanation. At such time as the Articles of the Uniform Code of Military Justice are explained pursuant to 10 U.S.C. 937, a comprehensive and careful explanation will be given of the types of discharge certificates, their bases for issue, and the possible effects of various certificates on reenlistment, civilian employment, veterans' benefits, and related matters. Section 937, 10 U.S.C. requires that the explanation be given to each enlisted member at the time of his entrance on active duty (or within 6 days thereafter), after completion of 6 months' active duty, and again at the time of reenlistment. For an explanation of veterans' entitlements, see Incidents of Discharge Chart (DA Graphic Training Aid 21-2-1, 1965). At the time of the required explanation, DA Pam 635-2 will be issued to each individual, and Training Film 21-3947 will be shown to each individual. The pamphlet and film will be used as aids to instruction but not as substitutes for instruction. Since the initial explanation will probably be the first military instruction received by the new soldier, it is especially incumbent on commanders of U.S. Army Reception Stations and training centers, as appropriate, to insure that it is presented expertly and comprehensively. Failure on the part of the member to receive or understand the explanation, however, will in no event be considered a defense in an administrative discharge proceeding or a bar thereto.

only, in order to preclude nonproductive reassignments for short periods of time.

e. Authority (AR 635-200) and SPN 701 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty, as appropriate.

5-16. Enlisted personnel eliminated from service academies. Individuals who are eliminated from cadet or midshipman status at service academies because of academic failure, resignation, or reasons other than physical disqualifications, will be discharged if they have completed their service obligation, or released from active duty and returned to the Army National Guard or Army Reserve, or transferred to the Army Reserve to fulfill their Reserve obligations, provided they have less than 3 months remaining in the period for which enlisted or ordered to active duty. Authority (AR 635-200) and SPN 420 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity. The authority contained in this paragraph shall not preclude the Secretary of the Army from transferring a cadet to the Army Reserve and ordering him to active duty, as authorized by title 10, United States Code, section 4348(b).

5-17. Reserve component personnel ordered to ACDUTRA under Reserve Enlistment Program. Commanders of training installations are authorized to release Reserve component personnel ordered to ACDUTRA under Reserve Enlistment Program of 1963 upon completion of MOS training when training is completed prior to the period of time specified in ACDUTRA orders provided a minimum period of 4 months' ACDUTRA has been completed. Authority (AR 635-200) and SPN 764 for separation will be included in orders issued effecting early release from ACDUTRA.

5-18. Early relief from ACDUTRA because of emergency conditions. REP 63 trainees will be considered for early relief from initial tours of ACDUTRA based on eligibility for leave for cogent reasons such as death or serious illness of a member of the reservist's immediate family. Commanders of training activities, including Army service schools, may authorize early relief from ACDUTRA in lieu of granting leave, if the reservist has completed at least 4 months' ACDUTRA and the training benefits which will result from return to the training center upon completion of leave are not substantial enough to justify return to duty in lieu of early relief from ACDUTRA.

5-19. Separation of enlisted members of medical holding detachments. Commanders specified in section VI, chapter 2, are authorized to order separation for the convenience of the Government of enlisted personnel, other than Reserve component personnel, ordered to active duty for training under the Reserve Enlistment Program of 1963, assigned to medical holding detachments as set forth below. In the event of conflict with paragraph 5-14 concerning returnees from long tour area, the provisions of this paragraph will apply.

a. Any enlisted person, other than in *b* below, assigned to a medical holding detachment who signifies he does not intend to enlist or reenlist may be separated upon completion of hospitalization provided he has less than 3 months to serve prior to expiration of term of service.

a.1. Any enlisted person returned from a short tour area for hospitalization and who signifies that he does not intend to enlist or reenlist may be separated if he has 150 days or less remaining on his current tour of service at the time of release from the medical facility.

b. Authority (AR 635-200) and SPN 412 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity for discharge or release from active duty, as appropriate.

Section VIII. EARLY SEPARATION TO ATTEND SCHOOL OR TO ACCEPT TEACHING POSITIONS

5-20. Separation to attend school or to accept teaching positions. Enlisted personnel may be discharged, released from active duty or active duty for training for the convenience of the Government in order to enter or return to school or to accept teaching positions when their services are not essential to the mission of their assigned organization. Commanders specified in section VI, chapter 2, are authorized to order the separation for the convenience of the Government of enlisted

personnel (other than Reserve component personnel on active duty for training) who have less than 3 months remaining in their required period of service. REP 63 enlistees are not eligible for separation under the provisions of this section.

a. Separation to enter or return to school.

(1) Separation will be effected not earlier than 10 days prior to school registration date when the following conditions are met:

★(*a*) The school must be a recognized institution of higher education at which course of instruction in which the individual has requested enrollment leads to an associate, baccalaureate, or higher degree. A recognized institution is one listed in Part III of Education Directory published by the U.S. Department of Health, Education, and Welfare which is accredited by a regional accrediting association and whose credits are accepted by accredited institutions.

(*b*) Application includes the following information:

★*1.* A statement by an appropriate school official (Registrar, Dean of Admissions, etc.) that the applicant has been accepted for enrollment without qualification commencing with a specific school term in a full-time course of instruction leading to an associate, baccalaureate, or higher degree. The statement will include the latest date on which the applicant must report to the school in person for registration in order to meet school's requirement for attendance.

2. A statement, signed by the individual concerned (after he has been informed of the provisions of Articles 3(b), 31(b), and 83, Uniform Code of Military Justice), as follows: "I understand that if I am separated from the Armed Forces by means of either a knowingly false representation in regard to any of the qualifications or disqualifications prescribed by law, regulation, or orders for such separation, or by deliberate concealment of any disqualification for separation, I shall be subject to courts-martial jurisdiction under the Uniform Code of Military Justice, Article 3(*b*), for violation of the Uniform Code of Military Justice, Article 83, for prosecution in a United States District Court for violation of Title 18, United States Code, Section 1001, or other applicable statutes."

3. A statement from the applicant that he has made payment of the entrance fee or that he is able and willing to do so.

4. Applicant clearly establishes that the specific school term for which he seeks release is academically the most opportune time for him to begin or resume his education and that delay of enrollment until normal expiration of term of service would cause undue handicap.

(*c*) The date on which the applicant must report to school must fall within the last 3 months of remaining service.

★(2) Application for early release to attend a theological school which is not accredited by a regional accrediting association, foreign institutions, and all doubtful cases will be forwarded by the commander having discharge authority direct to The Adjutant General, ATTN: AGPO-SS, Washington, D.C. 20315.

★(3) The effective date of early separation from service under this program will not be earlier than 10 days prior to date of registration prescribed by the educational institution. The initial registration date will be used to determine date of separation when the applicant meets the 3 months' criteria unless the applicant's services are essential to the mission of his assigned organization which would warrant using a later date of registration. In the event late registration is permitted by the school, separation may be accomplished on the first day (within the last 3 months of service) the individual becomes eligible for separation. In this connection, accrued leave may not be utilized in conjunction with early separation under the provisions of this paragraph.

(4) Individuals will be discharged, released from active duty and returned to the Army National Guard or Army Reserve, or released from active duty and transferred to the Army Reserve, as appropriate. Authority (AR 635-200) and SPN 413 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for separation.

b. Separation to accept teaching positions.

(1) Separation will be accomplished not earlier than 10 days prior to the effective date of employment when the following conditions are met:

(*a*) Release is for the purpose of accepting a teaching position in a public school system or comparable private educational institution, or a recognized college or university.

is unable to present last Armed Forces of the United States Report of Transfer or Discharge (DD Form 214), the applicant will contact the appropriate service direct for verification of prior active service from the following:

(*a*) For personnel with prior service in the Army, Commanding Officer, U.S. Army Personnel Services Support Center, ATTN: AGPE-V, Fort Benjamin Harrison, Ind. 46249.

(*b*) For personnel with prior service in the Air Force, Director, U.S. Air Force Records Center, 9700 Page Boulevard, St. Louis, Mo. 63132.

(*c*) For personnel with prior service in the Navy, Officer in Charge, Discharged Enlisted Personnel Records Branch, U.S. Naval Record Management Center, 9700 Page Boulevard, St. Louis, Mo. 63132.

(*d*) For personnel with prior service in the Marine Corps, Commandant, United States Marine Corps, Washington, D.C. 20380.

(*e*) For personnel with prior service in the Coast Guard, Commandant, United States Coast Guard, Washington, D.C. 20226.

(2) In order that service claimed may be readily identified, request for verification of prior service will contain the exact name under which the individual served, service number, organization from which last discharged, and type of discharge claimed. If exact dates of service are known, approximate dates will be given.

c. Combination of the provisions of this paragraph with the provisions of other early separation programs to effect separation prior to completion of a minimum of 24 months' total combined service is not authorized.

d. ACDUTRA prior to induction is not creditable toward completion of this period of service.

e. Personnel separated under the provisions of this section will be discharged or released from active duty and transferred to the Army Reserve to complete the Reserve obligation imposed by the Universal Military Training and Service Act, as appropriate. The characterization of a discharge issued under this section will be either honorable or general.

f. Authority (AR 635-200) and SPN 415 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty, as appropriate.

Section VII. SEPARATION OF ENLISTED PERSONNEL WITH LESS THAN 3 MONTHS REMAINING TO SERVE

5-14. Oversea returnees. Commanders specified in section VI, chapter 3, are authorized to order separation for convenience of the Government of enlisted personnel returned to the United States, possession of the United States, or area of residence in which enlisted, inducted, or ordered to active duty after serving overseas, as set forth below.

a. Unless individuals inducted under the Universal Military Training and Service Act elect to remain on active duty and volunteer for immediate entry on active duty as reservists under the provisions of chapter 4, AR 601-210, they will be separated from active duty and transferred to the Army Reserve or discharged, as appropriate, upon arrival in the United States or area of residence, if upon arrival they have the following amount of active duty or less remaining on their current tour:

(1) Returnees from a long tour area—30 days.

★(2) Returnees from a short tour area—150 days.

b. Unless members of the Regular Army and of the Reserve components elect to immediately extend their enlistments voluntarily or continue on active duty under the provisions of chapter 4, AR 601-210, they will be discharged or released from active duty and be returned to former Army National Guard or Army Reserve status, or released from active duty and transferred to the Army Reserve, as appropriate, upon arrival in the United States or area of residence, if upon arrival they have the following amount of active duty or less remaining before expiration of terms of enlistments or periods for which ordered to active duty:

(1) Returnees from a long tour area—30 days.

★(2) Returnees from a short tour area—150 days.

c. Enlisted personnel in the United States

or area of residence on leave or TDY from oversea organizations who, upon completion of such leave or TDY, will have less than 60 days before ETS, will be discharged or released, as appropriate. Those on such TDY will be discharged or released only if the oversea commander does not indicate a desire to have the individuals returned upon completion of TDY. Those who desire to extend immediately their periods of active duty or enlistments or to enlist or reenlist immediately in the Regular Army in accordance with appropriate regulations will be permitted to do so at the time of processing indicated in (2) below.

(1) Affected individuals will be reassigned to a transfer activity nearest their home for transfer processing. Transfer processing will not be accomplished prior to completion of leave or TDY. Records and allied papers will be forwarded to such transfer activity.

(2) Affected individuals will be instructed that upon completion of leave or TDY they will report to the transfer activity to which assigned for transfer processing.

d. This paragraph is not to be construed as authority for early return. It authorizes separation for the purpose stated only, in order to preclude nonproductive reassignments for short periods of time.

e. Authority (AR 635-200) and SPN 411 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity for discharge or release from active duty, as appropriate.

5-15. Separation of personnel assigned to installations or units scheduled for inactivation or permanent change of station. Except as indicated in *c* below, enlisted personnel of all components, assigned to units scheduled for permanent change of station or to installations scheduled for inactivation and who cannot be effectively utilized within other units at the same station will be separated from service as set forth below. In the event of conflict with paragraph 5-14, concerning returnees from a long tour area, the provisions of this paragraph will apply.

a. Those having 90 days or less to serve beyond effective date of inactivation or change of station may be separated from active duty at the discretion of the unit commander provided individual desires separation. Separation will be accomplished during the 30-day period preceding the effective date of inactivation or change of station.

b. Those whose normal expiration of term of service expires during the 90-day period preceding the effective date of inactivation or change of station may be separated at the discretion of the unit commander any time during the 90-day period provided the individual desires separation.

c. Combination of the provisions of this paragraph with other separation programs so as to effect separation more than 90 days prior to normal expiration of term of service is not authorized.

d. Oversea commanders returning personnel to the United States for separation under this authority may add to normal travel time required to return individuals from the theater to the United States to the aforementioned 90 days. However, care will be taken to insure that individuals do not arrive in the United States with more than 90 days remaining in their period of service. This paragraph is not to be construed as authority for early return. It authorizes separation for the purpose stated

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CHAPTER 10
DISCHARGE FOR THE GOOD OF THE SERVICE

10-1. When tendered. An individual whose conduct has rendered him triable by court-martial under circumstances which could lead to a bad conduct or dishonorable discharge may submit a request for discharge for the good of the service in lieu of trial. An individual who is under a suspended sentence of a punitive discharge may likewise submit a request for discharge for the good of the service.

10-2. Personal decision. Commanders will insure that there is no element of coercion in submitting a request for discharge for the good of the service. The member will be given a reasonable time (not less than 48 hours) to consult with counsel (para 1-10*a*(2)) and to consider the wisdom of submitting such a request for discharge. If he elects to submit the request, the member will personally sign the written request, certifying that he understands that he may receive a discharge under other than honorable conditions and that he understands the adverse nature of such a discharge and the possible consequences thereof. The member's counsel shall sign as a witness, indicating whether he is qualified under Article 27(*b*)(1) of the Uniform Code of Military Justice, if he is not a member of The Judge Advocate General's Corps. If the member refuses all counsel (para 1-10*a*(2)), his request for discharge must explicitly state that fact.

10-3. Preparation and forwarding. *a.* A request for discharge for the good of the service will be submitted as shown in figure 2.

b. The request for discharge will be forwarded through channels to the officer who has general courts-martial jurisdiction over the individual concerned. Commanders through whom the request for discharge is forwarded will recommend either approval or disapproval with the reasons for the recommendation; if approval is recommended, the type discharge to be issued also will be recommended.

c. The following data will accompany the request for discharge:

(1) A copy of the court-martial charges.

(2) Report of a medical examination as prescribed in chapter 10, AR 40-501.

(3) A complete copy of all reports of investigation.

(4) Any statement, documents, or other matter considered by the commanding officer in arriving at his conclusion and making his recommendation.

(5) A statement of any reasonable ground for belief that the individual is, or was at the time of his misconduct, mentally defective, deranged, or abnormal. When appropriate, evaluation by a psychiatrist will be included.

d. When an individual is under a suspended sentence of discharge, a copy of the court-martial orders, or a summary of facts which relate to the conduct upon which the request for discharge is predicated, will be forwarded.

10-4. Medical examination. An individual who submits a request for discharge for the good of the service will undergo a medical examination of the scope prescribed in chapter 10, AR 40-501. The report of medical examination will accompany the request for discharge.

★10-5. Discharge authority. Commanders exercising general courts-martial jurisdiction are authorized to approve requests for discharge for the good of the service and to order the discharge of individuals or to disapprove such requests. This authority may be delegated as specified in paragraph 2-17*b*.

★10-6. Discharge certificate issued. An undesirable discharge certificate normally will be furnished an individual who is discharged for the good of the service. However, the discharge authority may direct an honorable or general discharge, if warranted. The reason and authority for discharge (item 11c, DD Form 214) will be—"For the good of the service, SPN 246."

S/S C11 21 May 1969

CHAPTER 2

SEPARATION OF ENLISTED PERSONNEL

Section I. ELIGIBILITY FOR SEPARATION

2-1. Statutory authority. Title 10, United States Code, section 3811, provides that no enlisted member of the Army may be discharged before his term expires except—

a. As prescribed by the Secretary of the Army.

b. By sentence of a general or special court-martial.

c. As otherwise provided by law.

2-2. Discharge or release from the Active Army upon termination of enlistment, period of induction, and other periods of active duty or active duty for training. *a.* The periods of military service, required of all members of the Army, will be in accordance with applicable laws. Periods for which enlistment is authorized are set forth in NGR 25-1, AR 140-111, and AR 601-210. Periods for which individuals are inducted or ordered to active duty are prescribed by law.

b. The following aliens will not be separated prior to the full period for which enlisted or inducted purely as a matter of convenience (see para 5-2):

(1) Aliens who enlisted in the Regular Army for a period of 3 years (see section 328, Act of 27 June 1952 (66 Stat. 249; 8 U.S.C. 1439) for requirements as to naturalization).

(2) Aliens who were enlisted or inducted in the Army for a period of 24 months active duty and who were in the United States at the time of enlistment or induction (see section 4, Act of 24 October 1962 (76 Stat. 1247; 8 U.S.C. 1254)).

If performance or conduct does not justify their retention, they will be processed for separation under appropriate regulations.

★*c.* Personnel who are physically unfit for retention (chapter 3, AR 40-501) but who were accepted for, or continued in, military service under the provisions of AR 635-40 or similar directives, will not be separated by reason of expiration of term of service unless processing for separation by reason of physical disability is waived.

d. Subject to the provisions of section V of this chapter an individual enlisted, inducted, or ordered to active duty normally will be discharged, or released from active duty, on the date upon which he completes the period for which enlisted, inducted, or ordered to active duty. However, an individual other than those listed in *b* above, whose term of service expires or who otherwise becomes eligible for discharge or release from active duty on a Saturday, Sunday, or legal holiday, may, with his consent, be discharged or released to or transferred to the Army Reserve on the last working day prior to normal date of discharge or release. Individuals whose rate of pay is subject to change on a Saturday, Sunday, or legal holiday upon which they would be separated, will not be discharged until their normal separation date unless they request otherwise. Individuals who are eligible for early release on a Saturday, Sunday, or legal holiday under early release separation criteria in chapter 5 will not be discharged or released from active duty on the last working day prior to the Saturday, Sunday, or legal holiday unless the basic service requirement of the particular early separation authority concerned is met. Release from active duty will be dated as of the release or discharge. Personnel released from active duty and transferred to the Army Reserve upon completion of the term of service for which inducted or ordered into active Federal service, or released to their Reserve component upon completion of active duty, will not be

discharged until completion of their Reserve obligation.

e. AR 135-90 defines the various service obligations incurred by military personnel upon initial entry into military service and prescribes the methods of fulfillment.

f. A noncitizen who incurred a Reserve obligation upon induction into military service but who at time of release from active duty fails or refuses to give a mailing address within the United States, Puerto Rico, the Virgin Islands, Guam, or the Canal Zone, but gives only an address in a foreign country as a permanent mailing address (item 33, DD Form 214, Armed Forces of the United States Report of Transfer or Discharge), thus showing his intention to reside permanently outside the United States, is not eligible for transfer to the Army Reserve. He will be discharged upon and by reason of having completed the period of service for which inducted, but will be advised prior to such discharge that it may permanently bar him from United States citizenship.

g. Members of the Army National Guard of the United States and the Army Reserve ordered to active duty for a period in excess of 90 days will, upon release from active duty, revert to control of the appropriate Reserve component.

h. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 will be out-processed in accordance with AR 612-200.

i. Individuals serving as cadets in military academies whose expiration of enlisted term of service occurs while individual is serving in such capacity, will be discharged or released, as appropriate.

j. An enlisted person who at the time of entry on active duty held an appointment as an Army Reserve commissioned or warrant officer, or who while on active duty accepts appointment, and such appointment is still current, will not be transferred to the Army Reserve in his enlisted status but will be discharged. Special orders discharging the individual will be prepared as prescribed in AR 310-10 and will indicate that the individual is transferred to the Army Reserve in his commissioned or warrant grade. Discharge to enter another military status does not terminate the individual's military service obligation incurred under Title 10, United States Code, subsection 651a.

Section II. DISCHARGE, RELEASE FROM ACTIVE DUTY, OR RELEASE FROM ACTIVE DUTY FOR TRAINING AFTER EXPIRATION OF PERIOD OF ACTIVE DUTY OR ACTIVE DUTY FOR TRAINING

2-3. Time lost to be made good. Every individual in active Federal service who renders himself unable for more than 1 day to perform duty will be liable, after a return to full duty status, to serve for such period as is necessary to complete his full term of service or obligation, exclusive of such time lost.

a. Lost time in the sense of this regulation refers to periods of more than 1 day during which an individual on active duty is unable to perform duty because of—

(1) Desertion.
(2) Absence without proper authority.
(3) Confinement under sentence.
(4) Confinement while awaiting trial or disposition of individual's case, if trial results in conviction.
(5) Intemperate use of drugs or alcoholic liquor.
(6) Disease or injury, the result of individual's own misconduct.

b. Time lost during an enlistment will be made good at the end of the enlistment period, except that, when an enlistment is extended by law, time lost will be made good at the end of the extension. This requirement may be waived by Headquarters, Department of the Army. Recommendations for waiver of time lost will be submitted to The Adjutant General, Department of the Army, ATTN: AGPO-SS, Washington, D.C. 20315, in unusual circumstances, when the discharge authority considers that because of extenuating circumstances waiver of time lost is in the best interest of the individual and the Government.

c. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 (trainees performing

2-15 When retained in service awaiting trial or result of trial. When an individual is retained in service as prescribed in paragraph 2-4, the effective date of his discharge or release from active duty depends upon the result of his trial or the disposition made of the case. Examples are given below.

a. An individual who has previously lost no time which he is required to make good under title 10, United States Code, section 972, is confined awaiting trial will, if acquitted subsequent to expiration of term of service date, be discharged or released from active duty within 5 days after date of announcement of acquittal, and will be regarded as having been retained in service for the convenience of the Government.

b. An individual who is confined awaiting trial will, if convicted and sentenced to either confinement only, or confinement and forfeiture only, be discharged on the adjusted expiration date of term of service. The adjusted ETS date will be computed by adding to the original ETS date all time lost prior to and including the original ETS date.

★**2-16. Absent without leave or in hands of civil authorities.** Discharge of an individual who is absent without leave or who has been convicted by the civil authorities is governed by AR 635-206, except for those individuals who have been sentenced to a dishonorable or bad conduct discharge. However, when discharge under the provisions of AR 635-89, sections V, VI, or VII of AR 635-206, or AR 635-212 has been ordered by competent authority, and the individual concerned, while in the continental United States or area of residence, absents himself without leave or is absent in the hands of civil authorities subsequent to the date discharge is approved by the appropriate authority or subsequent to the issuance of discharge orders, the discharge may be executed notwithstanding such absence. Discharge Certificate, Armed Forces of the United States Report of Transfer or Discharge (DD Form 214), and orders will be dispatched by certified mail, with return receipt requested, to individual to the address provided for that purpose. If the forms are returned unclaimed, or for any other reason prove undeliverable, they will be forwarded, along with report of action, to The Commanding Officer, U.S. Army Administration Center, 9700 Page Boulevard, St. Louis, Mo. 63132, for file with the individual's records. Distribution of DD Forms 214 will be made in accordance with AR 635-5.

Section VI. AUTHORITY TO ORDER SEPARATION AND ACCOMPLISH SEPARATION

2-17. Authority to order discharge or release from active duty prior to expiration period of service. Authority is granted to the following commanders to order discharge or release from active duty of enlisted individuals prior to expiration of enlistment, induction, or period for which ordered to active duty:

★*a.* Discharge or release from active duty not including general courts-martial authority. Commanders of all units and installations (including class II installations) which are commanded by, or are under the normal command of general officer; commanders of Army hospitals under the command jurisdiction of The Surgeon General of the Army; commanders of personnel centers, training centers, oversea replacement depots, transportation terminal commands, and all active installations having an authorized strength of 4,000 or more personnel. The above commanders are not authorized to delegate discharge authority to subordinate commanders without prior approval of the Secretary of the Army.

★*b. Discharge involving general courts-martial authority.* Commanders exercising general courts-martial jurisdiction are authorized to order discharge under AR 635-89, AR 635-206, AR 635-212, and chapters 10 and 11 of this regulation.

c. Authority to order discharge or release from active duty of enlisted personnel at class II installations. In the absence of prior instructions, commanders of class II installations not having transfer activities or authority to issue PCS orders will contact the appropriate field commander or service for issuance of orders in connection with the release from active duty.

d. Discharge involving special court-martial authority. Commanders exercising special court-

martial jurisdiction are authorized to order discharge for unsuitability under AR 635-212.

e. Discharge of an enlisted woman for pregnancy. Commanders of all units and installations which are commanded by, or are under the normal command of general officers *and colonels*, and other commanders as specified in paragraph 2-17 are authorized to discharge for pregnancy under section III, chapter 8.

2-18. Expiration of term of service. Separation will be accomplished by the transfer facility processing the member for separation (see AR 635-61), pursuant to the discharge order issued by the appropriate commander.

2-19. Reason and authority for separation. The specific reason and authority for separation entered in item 11c, DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) will be entered as shown in AR 635-5.

2-20. Action by commanders having discharge authority. Commanders having discharge authority directing discharge or release from active duty of an enlisted person will comply with the provisions of AR 635-61.

only, in order to preclude nonproductive reassignments for short periods of time.

e. Authority (AR 635-200) and SPN 701 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty, as appropriate.

5-16. Enlisted personnel eliminated from service academies. Individuals who are eliminated from cadet or midshipman status at service academies because of academic failure, resignation, or reasons other than physical disqualifications, will be discharged if they have completed their service obligation, or released from active duty and returned to the Army National Guard or Army Reserve, or transferred to the Army Reserve to fulfill their Reserve obligations, provided they have less than 3 months remaining in the period for which enlisted or ordered to active duty. Authority (AR-635-200) and SPN 420 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity. The authority contained in this paragraph shall not preclude the Secretary of the Army from transferring a cadet to the Army Reserve and ordering him to active duty, as authorized by title 10, United States Code, section 4348(b).

5-17. Reserve component personnel ordered to ACDUTRA under Reserve Enlistment Program. Commanders of training installations are authorized to release Reserve component personnel ordered to ACDUTRA under Reserve Enlistment Program of 1963 upon completion of MOS training when training is completed prior to the period of time specified in ACDUTRA orders provided a minimum period of 4 months' ACDUTRA has been completed. Authority (AR 635-200) and SPN 764 for separation will be included in orders issued effecting early release from ACDUTRA.

5-18. Early relief from ACDUTRA because of emergency conditions. REP 63 trainees will be considered for early relief from initial tours of ACDUTRA based on eligibility for leave for cogent reasons such as death or serious illness of a member of the reservist's immediate family. Commanders of training activities, including Army service schools, may authorize early relief from ACDUTRA in lieu of granting leave, if the reservist has completed at least 4 months' ACDUTRA and the training benefits which will result from return to the training center upon completion of leave are not substantial enough to justify return to duty in lieu of early relief from ACDUTRA.

5-19. Separation of enlisted members of medical holding detachments. Commanders specified in section VI, chapter 2, are authorized to order separation for the convenience of the Government of enlisted personnel, other than Reserve component personnel, ordered to active duty for training under the Reserve Enlistment Program of 1963, assigned to medical holding detachments as set forth below. In the event of conflict with paragraph 5-14, concerning returnees from long tour area, the provisions of this paragraph will apply.

★ *a.* Any enlisted person, other than in *b* below, assigned to a medical holding detachment who signifies he does not intend to enlist or reenlist may be separated upon completion of hospitalization provided he has less than 3 months to serve prior to expiration of term of service.

★ *a.1.* Any enlisted person returned from a short tour area for hospitalization and who signifies that he does not intend to enlist or reenlist may be separated if he has 150 days or less remaining on his current tour of service at the time of release from the medical facility.

b. Authority (AR 635-200) and SPN 412 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity for discharge or release from active duty, as appropriate.

Section VIII. EARLY SEPARATION TO ATTEND SCHOOL OR TO ACCEPT TEACHING POSITIONS

5-20. Separation to attend school or to accept teaching positions. Enlisted personnel may be discharged, released from active duty or active duty for training for the convenience of the Government in order to enter or return to school or to accept teaching positions when their services are not essential to the mission of their assigned organization. Commanders specified in section VI, chapter 2, are authorized to order the separation for the convenience of the Government of enlisted personnel (other than Reserve component personnel on active duty for training) who have less than 3 months remaining in their required period of service. REP 63 enlistees are not eligible for separation under the provisions of this section.

a. Separation to enter or return to school.

(1) Separation will be effected not earlier than 10 days prior to school registration date when the following conditions are met:

★(*a*) The school must be a recognized institution of higher education at which the course of instruction in which the individual has requested enrollment leads to an associate, baccalaureate, or higher degree. A "recognized institution" is one listed in part III of Education Directory published by the United States Department of Health, Education, and Welfare whose credits are accepted by accredited institutions.

(*b*) Application includes the following information:

1. A statement by an appropriate school official (Registrar, Dean of Admissions, etc.) that the applicant has been accepted for enrollment without qualification commencing with a specific school term in a full-time course of instruction leading to a baccalaureate or higher degree. The statement will include the latest date on which the applicant must report to the school in person for registration in order to meet school's requirement for attendance.

2. A statement, signed by the individual concerned (after he has been informed of the provisions of Articles 3(b), 31(b), and 83, Uniform Code of Military Justice), as follows: "I understand that if I am separated from the Armed Forces by means of either a knowingly false representation in regard to any of the qualifications or disqualifications prescribed by law, regulation, or orders for such separation, or by deliberate concealment of any disqualification for separation, I shall be subject to courts-martial jurisdiction under the Uniform Code of Military Justice, Article 3(b), for violation of the Uniform Code of Military Justice, Article 83, for prosecution in a United States District Court for violation of Title 18, United States Code, Section 1001, or other applicable statutes."

3. A statement from the applicant that he has made payment of the entrance fee or that he is able and willing to do so.

4. Applicant clearly establishes that the specific school term for which he seeks release is academically the most opportune time for him to begin or resume his education and that delay of enrollment until normal expiration of term of service would cause undue handicap.

(*c*) The date on which the applicant must report to school must fall within the last 3 months of remaining service.

(2) Application for early release to attend a theological school not listed in part III of the Education Directory, foreign institutions, and all doubtful cases will be forwarded by the commander having discharge authority direct to The Adjutant General, ATTN: AGPO-SS, Washington, D.C. 20315.

(3) The effective date of early separation from service under this program will not be earlier than 10 days prior to date of registration prescribed by the educational institution. In the event late registration is permitted by the school, separation may be accomplished on the first day (within the last 3 months of service) the individual becomes eligible for separation. Personnel arriving in the United States from oversea stations for release under this program may be released upon arrival if they have less than 3 months remaining in their

current period of service. In this connection, accrued leave may not be utilized in conjunction with early separation under the provisions of this paragraph.

(4) Individuals will be discharged, released from active duty and returned to the Army National Guard or Army Reserve, or released from active duty and transferred to the Army Reserve, as appropriate. Authority (AR 635-200) and SPN 413 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for separation.

b. Separation to accept teaching positions.

(1) Separation will be accomplished not earlier than 10 days prior to the effective date of employment when the following conditions are met:

(*a*) Release is for the purpose of accepting a teaching position in a public school system or comparable private educational institution, or a recognized college or university.

(*b*) The date on which the applicant must report for employment must fall within the last 3 months of remaining service.

(*c*) Teaching must be the normal occupation of the individual or he shows definite intent to engage in that occupation following separation.

(*d*) Applicant has evidence of employment by a specific school specifying date employment must commence.

(2) Individuals will be discharged, released from active duty and returned to Army National Guard or Army Reserve, or released from active duty and transferred to the Army Reserve, as appropriate. Authority (AR 635-200) and SPN 41C for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty.

Section IX. SEASONAL EMPLOYMENT

5-21. Separation or out-processing to accept employment of a seasonal nature. Commanders specified in section VI, chapter 2, are authorized to order early separation for the convenience of the Government of personnel enlisted, inducted, or ordered to active duty who have less than 3 months remaining in their period of service who submit valid applications evidencing an opportunity to participate in employment of a seasonal nature. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 are not eligible for separation under this program.

a. As used in this regulation, the term "employment of a seasonal nature" refers to employment that is not continuously active nor in full operation during the whole of a calendar year in the geographical area of the employment site.

b. Valid applications must meet the following criteria:

(1) Applicant (other than REP 63 trainee) must have less than 3 months remaining to expiration of term of service. Accrued leave may not be utilized to extend this 3-month limitation.

(2) Applicant's services must not be essential to the mission of his assigned organization.

(3) Evidence of employment (includes self employment) opportunity to show that—

(*a*) Employment is not continuously active nor in full operation during the whole of a calendar year in the geo-

graphical area of the employment site.

(*b*) Scheduled date of employment must fall within the last 3 months of current period of service.

(*c*) Early separation will allow unhindered participation in such employment for at least half of the "season."

(*d*) The employment must be the normal occupation of the individual or he shows definite intent to engage in that occupation following separation.

(*e*) Employment must provide primary source of income.

c. Separation will not be accomplished earlier than 10 days prior to the date the individual must report for work. In the event that the "season" has already commenced, separation may be accomplished on the first day (within the last 3 months of service) the individual becomes eligible for separation.

d. Doubtful cases will be forwarded through channels to The Adjutant General, Department of the Army, ATTN: AGPO-SS, Washington, D.C., 20315. Each command having discharge authority may exercise independent judgment as to whether the case is doubtful and, if appropriate, may take final action.

e. Requests for release from ACDUTRA more than 15 days early to accept seasonal employment will be forwarded to The Adjutant General, Department of the Army, ATTN: AGPO-SS, Washington, D.C., 20315. Forwarding indorsement will furnish the date Advanced Individual Training is to be, or was completed.

f. Individuals will be discharged, released from active duty and returned to Army National Guard or Army Reserve, or released from active duty and transferred to the Army Reserve, as appropriate. Authority (AR 635-200) and SPN 414 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty.

Section X. TRAVEL AND FORM OF SEPARATION CERTIFICATES

5-22. Travel allowance. See Joint Travel Regulations.

5-23. Form of separation certificate to be given. *a.* Discharge certificate, based upon the character of service rendered and an Armed Forces of the United States Report of Transfer or Discharge (DD Form 214) will be issued to the individual concerned.

b. Individuals released from active duty and transferred to the Army Reserve or returned to a Reserve component (USAR or ARNG) "For Convenience of the Government" will be furnished an Armed Forces of the United States Report of Transfer or Discharge.

c. An individual to be released from military control pursuant to paragraph 5-12, or an administrative determination that he is not currently a member of the Army cannot be legally discharged from the Army. Such individual will, instead, be released from the custody and control of the Army without being furnished a certificate of discharge of any kind or Armed Forces of the United States Report of Transfer or Discharge (DD Form 214).

★Section XII. EMPLOYMENT WITH A LEGALLY ESTABLISHED LAW ENFORCEMENT AGENCY (APPLICABLE ONLY IN CONUS AND STATES OF ALASKA AND HAWAII)

5-26. Separation to accept employment as a public police officer. Commanders specified in section VI, chapter 2, are authorized to order separation for the convenience of the Government of enlisted men who have 3 months or less remaining in their periods of service and who submit valid applications for separation evidencing employment with a legally established law enforcement agency of a city, county, State or Federal Government. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 are not eligible for separation under this program.

5-27. Definitions. For the purpose of this regulation the following definitions apply:

a. Public police officer. An individual employed by legally established law enforcement agencies of city, county, State or Federal governments. This specifically excludes private or corporate police organizations and elective police positions in local political jurisdictions.

b. Bona fide offer of employment. An employment offer certified by an appropriate official of a city, county, State or Federal police agency, that the applicant has passed established applicant requirements and has been accepted for entrance into a police academy, police training school or immediate employment as a public police officer.

5-28. Submission of application. Application for separation may be submitted up to 6 months prior to applicant's expiration of term of service. An application for separation will include the following information:

a. A bona fide offer of employment as a public police officer with the date such employment is to commence, and

b. A statement signed by the individual concerned (after he has been informed of the provisions of Articles 3(b), and 83, Uniform Code of Military Justice), as follows: "I understand that if I am separated from the Armed Forces by means of either a knowingly false representation in regard to any of the qualifications or disqualifications prescribed by law, regulation, or orders for such separation, or by deliberate concealment of any disqualification for separation, I shall be subject to courts-martial jurisdiction under the Uniform Code of Military Justice, Article 3(b), for violation of the Uniform Code of Military Justice, Article 83, or prosecution in a United States District Court for violation of Title 18, United States Code, Section 1001, or other applicable statutes."

5-29. When separation is not authorized. Separation from active military service is not authorized when—

a. An individual is assigned to a unit scheduled for oversea deployment and is in an otherwise deployable status, or

b. An individual has signed a statement of intent to reenlist, or

c. AR 600-31 applies.

5-30. Separation action. *a.* Separation will be accomplished not earlier than 10 days prior to the effective date of employment and the date of separation is within 3 months of the applicant's expiration of term of service.

b. Authority (AR 635-200) and SPN 320 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for separation.

★Section XIII. ERRONEOUS ENLISTMENTS

5-31. Erroneous enlistment. *a.* When it is discovered that an individual was erroneously enlisted because he failed to meet the qualifications for enlistment or reenlistment, the unit commander will request validation of the enlistment or discharge because of erroneous enlistment through military channels to The Adjutant General, ATTN: AGPO-SS, Department of the Army, Washington, D.C. 20315. All requests for validation of enlistment or discharge from an erroneous enlistment will contain the following information:

(1) Circumstances surrounding the erroneous enlistment.

(2) Reasons why validation or termination of the enlistment is requested.

(3) The enlisted person's desire for retention or separation.

(4) Conduct and efficiency ratings.

b. This section is not applicable to individuals eligible for separation under the provisions of paragraphs 5-6, 5-9, or chapter 7 of this regulation, and subparagraph 7-34*b*, AR 600-200, and individuals not meeting medical fitness standards for retention (AR 635-40).

c. Upon discovery and establishment that an enlistment is erroneous and the individual is AWOL, in desertion, or absent in the hands of civil authorities, the enlistment will be voided. Commanders specified in section VI, chapter 2, are authorized to void the enlistment. The Discharge Authority will not issue a discharge certificate nor DD Form 214. Such individual will be released from the custody and control of the Army by virtue of a void enlistment by special orders. The following entry will be made in item 38, DA Form 20 (Enlisted Qualification Record): "Released from military control by virtue of a void enlistment (cite special order number, SPN and issuing headquarters)". A copy of the special orders releasing the individual from military control will be filed as a permanent document in his DA Form 201 (Military Personnel Records Jacket, U.S. Army). For pay and allowances, see table 1-4-1, Department of Defense Military Pay and Allowances Entitlements Manual (DODPM).

5-32. Nonfulfillment of enlistment commitment. *a.* Commanders specified in section VI, chapter 2, are authorized to order separation of personnel for the convenience of the Government when it is determined that an enlistment/reenlistment commitment cannot be fulfilled and commitment is not waived.

b. Claims of broken enlistment commitments are processed in accordance with AR 601-210 and AR 601-280. Upon receipt of such claims, the Office of Personnel Operations, Department of the Army, determines whether an enlistment/reenlistment commitment has been made; and, if made, whether it has or can be fulfilled. The determination made by OPO is filed as a permanent document in an individual's DA Form 201 (Military Personnel Records Jacket, U.S. Army).

c. When it is determined by OPO that an enlistment has been made and cannot be fulfilled, separation may be requested as follows:

(1) Regular Army personnel serving on their first enlistment may request separation to be effective upon completion of 24 months active military service. Individuals who were discharged from an AUS status to enlist will be separated when the active service in their prior AUS status and initial enlistment period totals 24 months active service.

(2) Regular Army personnel serving on a second and subsequent enlistment may request separation to be effective as follows:

(*a*) Personnel who were discharged from an initial enlistment prior to ETS for the purpose of reenlistment will be separated when the active service in the initial enlistment and second enlistment totals 24 months.

(*b*) Personnel who were discharged at expiration of term of service from a prior enlistment and reenlisted for an option may be separated at any time during the current period of enlistment.

d. Authority for discharge (AR 635-200) and SPN 377 will be included in directives or orders directing the individuals to report to the appropriate transfer authority designated to accomplish transfer processing for separation.

CHAPTER 10
DISCHARGE FOR THE GOOD OF THE SERVICE

★**10-1. When tendered.** An individual whose conduct has rendered him triable by court-martial under circumstances which could lead to a bad conduct or dishonorable discharge may submit a request for discharge for the good of the service in lieu of trial. An individual who is under a suspended sentence of a punitive discharge may likewise submit a request for discharge for the good of the service.

10-2. Personal decision. Commanders will insure that there is no element of coercion in submitting a request for discharge for the good of the service. The member will be given a reasonable time (not less than 48 hours) to consult with counsel (para 1-10*a*(2)) and to consider the wisdom of submitting such a request for discharge. If he elects to submit the request, the member will personally sign the written request, certifying that he understands that he may receive a discharge under other than honorable conditions and that he understands the adverse nature of such a discharge and the possible consequences thereof. The member's counsel shall sign as a witness, indicating whether he is qualified under Article 27(*b*)(1) of the Uniform Code of Military Justice, if he is not a member of The Judge Advocate General's Corps. If the member refuses all counsel (para 1-10*a* (2)), his request for discharge must explicity state that fact.

10-3. Preparation and forwarding. *a.* A request for discharge for the good of the service will be submitted as shown in figure 2.

b. The request for discharge will be forwarded through channels to the officer who has general courts-martial jurisdiction over the individual concerned. Commanders through whom the request for discharge is forwarded will recommend either approval or disapproval with the reasons for the recommendation; if approval is recommended, the type discharge to be issued also will be recommended.

c. The following data will accompany the request for discharge:

(1) A copy of the court-martial charges.

(2) Report of a medical examination as prescribed in chapter 10, AR 40-501.

(3) A complete copy of all reports of investigation.

(4) Any statement, documents, or other matter considered by the commanding officer in arriving at his conclusion and making his recommendation.

(5) A statement of any reasonable ground for belief that the individual is, or was at the time of his misconduct, mentally defective, deranged, or abnormal. When appropriate, evaluation by a psychiatrist will be included.

d. When an individual is under a suspended sentence of discharge, a copy of the court-martial orders, or a summary of facts which relate to the conduct upon which the request for discharge is predicated, will be forwarded.

10-4. Medical examination. An individual who submits a request for discharge for the good of the service will undergo a medical examination of the scope prescribed in chapter 10, AR 40-501. The report of medical examination will accompany the request for discharge.

10-5. Discharge authority. Commanders exercising general courts-martial jurisdiction are authorized to approve requests for discharge for the good of the service and to order

the discharge of individuals or to disapprove such requests.

★**10-6. Discharge certificate issued.** An undesirable discharge certificate will normally be furnished an individual who is discharged for the good of the service. However, the discharge authority may direct an honorable or general discharge, if warranted (sec II, chap. 2). The reason and authority for discharge (item 11c, DD Form 214) will be—"For the good of the service, SPN 246."

S/S C10 25 April 1969

CHAPTER 5

SEPARATION FOR CONVENIENCE OF THE GOVERNMENT

Section I. GENERAL

5-1. Scope. This chapter sets forth the conditions under which enlisted personnel may be discharged, released from active duty or active duty for training, or released from military control, for the convenience of the Government.

5-2. Exclusion from applicability. The provisions of this chapter are not applicable to aliens described in *a* and *b* below, except for the purpose of immediate enlistment or reenlistment, to accept appointment and entry on active duty as a commissioned or warrant officer, to be released to Reserve components to fulfill a Reserve obligation, or unless authorized by the Secretary of the Army.

a. Aliens who enlisted in the Regular Army for a period of 3 years (see section 328, Act of 27 June 1952 (66 Stat. 249; 8 U.S.C. 1439) for requirements as to naturalization).

b. Aliens who were enlisted or inducted in the Army for a period of 24 months' active duty and who were in the United States at the time of enlistment or induction (see section 4, Act of 24 October 1962 (76 Stat. 1247; 8 U.S.C. 1254)).

Section II. SECRETARIAL AUTHORITY

5-3. Authority. The separation of enlisted personnel for the convenience of the Government is the prerogative of the Secretary of the Army and will be accomplished only by his authority. Except as delegated by this regulation or by special Department of the Army directives, the discharge or release of any enlisted member of the Army for the convenience of the Government will be in the Secretary's discretion with issuance of an honorable or general discharge certificate as determined by him. Such authority may be given either in an individual case or by an order applicable to all cases specified in such order.

Section III. CATEGORIES FOR WHICH DISCHARGE IS AUTHORIZED

5-4. Order to active duty as a commissioned or warrant officer. Commanders specified in section VI, chapter 2, are authorized to order the discharge of enlisted personnel for the convenience of the Government for the purpose of being ordered to active duty as a commissioned or warrant officer in any of the Armed Forces of the United States. Prior to such discharge, the discharging authority will be in possession of documentary evidence from the proper authority that the individual has been tendered an appointment as a commissioned or warrant officer and will be ordered to active duty if discharged from his enlisted status. Authority (AR 635-200) and appropriate SPN for separation as indicated below will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designed to accomplish transfer processing for discharge.

a. For the purpose of being ordered to active duty as a Reserve officer of the Army. SPN 214.

b. For the purpose of being ordered to active duty as a Reserve warrant officer. SPN 215.

c. For the purpose of being ordered to active duty in any of the Armed Forces (other than the Army) of the United States. SPN 217.

★**5-5. Erroneous induction.** *a.* Enlisted personnel erroneously inducted in the Army will be released from custody and control of the Army except where an individual procured his induction by fraud or where conduct subsequent to induction clearly establishes that the individual is barred from demanding release from the Army. This paragraph is not applicable to individuals who may be processed under paragraphs 5-6*b* and 5-9.1 of this regulation and AR 635-206.

b. An individual claiming erroneous induction because of denial of a procedural right as provided

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by the Military Selective Service Act of 1967, may submit a request for release from custody and control of the Army. All requests for release will be forwarded to commanders specified in section VI, chapter 2, and by them, to the Director, Selective Service System, Washington, D.C. 20435, for his recommendation. Upon return of a case from the Director of Selective Service, a commander specified in section VI, chapter 2, will—

(1) Disapprove the request for release when the individual was not denied a procedural right, or

(2) Forward the request for release together with the recommendation from the Director of Selective Service when the individual was denied a procedural right to The Adjutant General, Department of the Army, ATTN: AGPO-SS, Washington, D.C. 20315.

c. Upon discovery that an individual was erroneously inducted through an error made at the Armed Forces Examining and Entrance Station (AFEES) and prior to the individual's departure from that station, the AFEES commander will release the individual from the custody and control of the Army by virtue of a void induction by Special Order. No discharge certificate or DD Form 214 will be furnished. Distribution of the Special Order will be as follows:

(1) One copy furnished the individual.

(2) One copy to the State Director of Selective Service for the State in which the individual's local board is located.

(3) One copy to Commanding General, U.S. Army Recruiting Command, ATTN: RCAO, Hampton, Va. 23369.

d. After an individual has departed the Armed Forces Examining and Entrance Station and it is discovered that an individual was erroneously inducted through Army error, the unit commander will report the fact in letter form together with the circumstances of the erroneous induction through channels to The Adjutant General, ATTN: AGPO-SS, Department of the Army, Washington, D.C. 20315. The unit commander will include in his report whether the individual has at any time contested his induction. Upon direction of Headquarters, Department of the Army, an individual will be released by virtue of a void induction by special orders. Individuals released from custody and control of the Army will not be furnished a discharge certificate or DD Form 214. The following entry will be made in item 38, DA Form 20 (Enlisted Qualification Record): "Released from military control by virtue of a void induction (cite Special Order number, SPN and issuing headquarters)". Special Orders releasing an individual from military control will be distributed as follows:

(1) One copy furnished the individual.

(2) One copy will be filed as a permanent document in his DA Form 201 (Military Personnel Records Jacket, U.S. Army).

(3) One copy to the State Director of Selective Service for the State in which the individual's local board is located.

(4) One copy to CG, USAREC, ATTN: RCAO, Hampton, Va. 23369.

(5) One copy to the AFEES commander where individual was inducted.

e. For pay and allowances, see table 1-4-1, Department of Defense Military Pay and Allowances Entitlements Manual (DODPM).

★5-6. Discharge of aliens not lawfully admitted in the United States. *a.* Commanders specified in section VI, chapter 2, are authorized to dispose of cases involving aliens not lawfully admitted to or residing illegally in the United States, who did not conceal their true citizenship status at time of enlistment. Such individuals will be reported to the nearest office of the Immigration and Naturalization Service. Upon receipt of information that these individuals are subject to deportation proceedings at this time, or upon discharge from the service, or that their custody is desired by the immigration officials, they will be reported to the commander having discharge authority who will order the discharge for the convenience of the Government. Commanders responsible for accomplishing transfer processing will notify immigration officials of the discharge action so that they may take the individual into custody, if they so desire. The discharge certificate furnished (honorable or general) will be that to which the service rendered by the individual after enlistment entitles him to receive. Authority (para 5-6, AR 635-200) and SPN 311 will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit

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sonnel section designated to accomplish transprocessing for discharge.

b. Aliens inducted in the Army who were not lawfully admitted or who were residing illegally in the United States and who did not conceal their true citizenship status at time of induction will be reported to the nearest office of the Immigration and Naturalization Service. Upon receipt of information that these individuals are subject to deportation proceedings at this time, or upon discharge from the service, or that their custody is desired by the immigration officials, they will be reported through channels to The Adjutant General, Department of the Army, ATTN: AGPO-SS, Washington, D.C. 20315. This report will be in letter form and will include whether the individual has ever contested his induction. Upon direction of Headquarters, Department of the Army, an individual will be released from custody and control of the Army by virtue of a void induction or discharged. An individual released from custody and control of the Army by virtue of a void induction will not be issued a discharge certificate or DD Form 214. The following entry will be made in item 38, DA Form 20 (Enlisted Qualification Record): "Released from military control by virtue of a void induction (cite Special Order number, SPN and issuing headquarters)". Special orders releasing an individual from military control will be distributed as provided in paragraph 5-5*d*. For pay and allowances, see table 1-4-1, Department of Defense Military Pay and Allowances Entitlements Manual (DODPM). Commanders responsible for issuing special orders will notify immigration officials of the release or discharge action so that they may take the individual into custody, if they so desire.

5-7. Discharge of members of the Reserve components on active duty. Commanders specified in section VI, chapter 2, are authorized to order discharge of those members of the Reserve components on active duty who are precluded from attaining eligibility for retirement with pay as provided by Title 10, U.S.C. 1331. Commanders will examine the facts of the applicants' ability to complete the service required for retirement under cited law. In those cases in which personnel cannot complete the required service before further enlistment in the Reserve component is barred because of age, either under Federal or State law, discharge, if requested by the individual, will be directed. Authority (AR 635-200) and SPN 812 will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

5-8. Discharge of individuals serving in unspecified enlistments. *a.* Enlisted personnel referred to in (1) and (2) below, who do not submit an application for retirement will be discharged after serving 6 years in an unspecified enlistment. Commanders specified in section VI, chapter 2, are authorized to order the discharge of these individuals.

(1) Those who have completed 30 years' active Federal service. Authority (AR 635-200) and SPN 418 will be included in directives or orders directing individual to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

(2) Those who have completed 20 or more years active Federal service and are 55 years of age. Authority (AR 635-200) and SPN 419 will be included in directives or orders directing individual to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

b. Commanders specified in section VI, chapter 2, may recommend discharge of enlisted personnel who are under 55 years of age and who have served 6 years in an unspecified enlistment, when—

(1) Such individuals have completed 20 years' active Federal service.

(2) It would be in the best interest of the service that such individuals be discharged.

c. Recommendation for discharge will be forwarded to The Adjutant General, Department of the Army, ATTN: AGPO-SS.

d. Authority (AR 635-200) and SPN 41D will be included in directives or orders directing the individual to report to the transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

★5-9. Discharge of personnel who did not meet the medical fitness standards (other than inductees). *a.* Discharge of personnel (other than inductees) who did not meet the medical fitness standards for enlistment. Commanders specified in section VI, chapter 2, are authorized to order

discharge of individuals who were not medically qualified under procurement medical fitness standards when accepted for initial enlistment. Eligibility for discharge will be governed by the following:

(1) A medical board finding that the individual has a medical condition which—

(*a*) Would have permanently disqualified him for entry in the military service had it been detected at that time, and

(*b*) Does not disqualify him from retention in the military service under the provisions of chapter 3, AR 40-501.

(2) A request for discharge will be submitted by the individual to his unit commander within 4 months from the date of initial entry on active duty or initial entry on active duty for training under the Reserve Enlistment Program of 1963. An individual found to meet the requirements of *a*(1) above, who elects to complete the period of service for which enlisted will be required to submit a written statement set forth in paragraph 54*c*(3), AR 40-3.

b. Application for discharge will be processed promptly, and separation will be accomplished within 72 hours following approval by the discharge authority.

c. Authority for discharge (AR 635-200) and SPN 375 will be included in directive or orders directing the individuals to report to the appropriate transfer authority.

d. Members who do not meet retention medical fitness standards will be processed under the provisions of AR 635-40.

e. This paragraph is not to be used as a substitute for unsuitability separations in cases of character and behavior disorders, which will continue to be processed under the provisions of AR 635-212.

★5-9.1. Inductees who did not meet the medical fitness standards at time of induction. *a*. Individuals inducted in the Army who, at the time, did not meet the medical fitness standards for induction will be released from custody and control of the Army by virtue of a void induction unless—

(1) Their induction was procured by fraud on their part (see AR 635-206).

(2) They meet the medical fitness standards for retention and sign a statement acknowledging eligibility for release from military control but desire retention.

b. Commanding officers specified in section VI, chapter 2, are authorized to release from custody and control of the Army by virtue of a void induction an individual who did not meet medical fitness standards at time of induction unless he requests retention.

c. When an individual claims erroneous induction or it is clearly indicated that an individual did not meet medical fitness standards for induction, he will be examined by a physician who will determine whether the individual met the medical fitness standards for induction and whether he now meets the standards for retention. The examining physician will report his findings on Standard Form 88 with an appropriate recommendation for disposition in item 77. The medical treatment facility commander will indicate final approval of the recommended disposition by affixing his signature in item 82 of the SF 88. The individual's unit commander will be provided a copy of the approved findings.

d. Upon the finding that the individual did meet medical fitness standards for induction, he will be retained.

e. Upon finding that the individual did not meet the medical fitness standards for induction, the unit commander will forward Standard Form 88 through channels to commanders specified in section VI, chapter 2. A commander specified in section VI, chapter 2, will—

(1) Retain the individual when he meets the medical retention standards and agrees to be retained as a member of the Army. When a decision has been made to retain the individual in the service, a notation will be made in his Enlisted Qualification Record (DA Form 20) indicating the individual has been retained and such retention constitutes a validation of the erroneous induction. After such action, no further cognizance of, or action with respect to, the erroneous induction will be taken, or

(2) Release the individual from custody and control of the Army by virtue of a void induction.

f. Requests for release from the Army by virtue of a void induction, written statements for retention in the Army, and copies of special orders releasing individuals from custody and control of

the Army will be filed as permanent documents in a DA Form 201 (Military Personnel Records Jacket, U.S. Army).

g. Individuals whose inductions are void will be released from the custody and control of the Army by special orders. The discharge authority will issue a DD Form 214. The following entry will be made in Item 38, DA Form 20: Released from military control by virtue of a void induction (cite special order number, SPN 376, and issuing headquarters). For pay and allowances, see table 1-4-1, DODPM. DD Form 214 will be completed in accordance with AR 635-5 except for items 11a, 11c, 13a, 15, and 16. The entry in the foregoing items will be as follows:

(1) *Item 11a.* Released from military control by reason of a void induction.

(2) *Item 11c.* AR 635-200, SPN 376, Voidance of Induction.

(3) *Item 13a.* Character of service will be honorable or under honorable conditions as indicated in section III, chapter 1.

(4) *Item 15.* NA.

(5) *Item 16.* NA.

★5-10. Discharge for the purpose of immediate enlistment or reenlistment. Unit commanders are authorized to order discharge of enlisted personnel for the convenience of the Government for the reasons set forth below. Individuals being discharged from their present status as provided in this paragraph will be reenlisted on the day following discharge. The discharge certificate will not be delivered to the individual until after reenlistment is accomplished.

a. Discharge is authorized for Regular Army personnel, other than personnel on initial enlistment, to permit their reenlistment for a term of 3 or more years provided they apply for and are qualified for reenlistment. Authority (AR 635-200) and SPN 313 will be included in directives or orders directing separation. Discharge may be accomplished—

(1) At any time during the last 90 days of current enlistment.

(2) For the purpose of—

(*a*) Meeting length-of-service requirement for attendance at service schools, attendance at a civilian education institution in accordance with AR 350-200, or to attend Army Officer Candidate School.

(*b*) Assignment to an oversea tour of duty.

1. When the amount of service remaining in current enlistment is not sufficient to complete a prescribed foreign service tour in the oversea command to which an individual is to be assigned, the discharge and reenlistment are to be accomplished when the oversea assignment is evident.

2. In the case of personnel serving overseas to complete a normal tour when the length of service remaining in current enlistment is insufficient for that purpose, the discharge and reenlistment are to be accomplished immediately upon application of the individual.

(*c*) Assignment to National Guard, Reserve Officer's Training Corps, United States Army Reserve, instructorship at service schools, or recruiting duty when the amount of service remaining in current enlistment is less than 12 months. Discharge and reenlistment are to be effected when such assignment is evident.

(*d*) Meeting length-of-service requirement of individuals selected for assignment to U.S. Military missions to accomplish travel to place of assignment, complete tour with the mission, and return to the United States in time to complete separation processing by the expiration date of their enlistment. Discharge and reenlistment will be accomplished prior to departure from home station.

(*e*) Meeting length-of-service requirement for oversea movement of dependents. Discharge and reenlistment of this category of individuals will be accomplished prior to departure from home station.

b. Discharge is authorized to permit immediate enlistment or reenlistment in the Regular Army upon completion of 8 months' active Federal service on their current term of service of individuals in (1), (2), and (3) below, who apply for and are qualified for enlistment or reenlistment. Authority (AR 635-200) and SPN 313 will be included in directives or orders directing separation.

(1) Regular Army personnel serving on their first enlistment.

(2) Army of the United States personnel inducted into service under the Military Selective Service Act of 1967.

(3) Personnel of the Army National Guard of the United States and the United States Army Reserve ordered to active duty.

c. Discharge is authorized for the purpose of immediate enlistment in the Regular Army of REP 63 ACDUTRA trainees who apply for and are qualified for enlistment upon completion of the period for which ordered to ACDUTRA. Authority (AR 635-200) and SPN 313 will be included in directives or orders directing separation.

d. Discharge is authorized for Army of the United States personnel inducted into service, regardless of time served in active Federal service, to permit enlistment in the Regular Army for the purpose of attending Army Officer Candidate School. Authority (para 5-10, AR 635-200) and SPN 427 will be included in directives or orders directing separation.

e. Commanders responsible for U.S. Army Reception Station processing are authorized to discharge inductees for the convenience of the Government to permit immediate enlistment in the Regular Army prior to their entry into BCT for school courses of 20 weeks' duration or longer.

(1) Authority (para 5-10, AR 635-200) and SPN 425 will be included in directives or orders directing separation of inductees to enlist for warrant officer flight training.

(2) Authority (para 5-10, AR 635-200) and SPN 426 will be included in directives or orders directing separation of inductees to enlist to attend critical MOS schools.

★**5-10.1. Separation for failure to complete Army Officer Candidate School.** *a.* Enlisted personnel who were formerly inductees and who enlisted in the Regular Army under the provisions of paragraph 2-15, AR 350-50, and who, for any reason, withdraw, fail to satisfactorily complete Army Officer Candidate training, or are not commissioned, may apply for discharge not earlier than 60 days prior to and to be effective upon completion of 3 years' total active Federal service.

b. Commanders specified in section VI, chapter 2, are authorized to order the separation for the convenience of the Government of such personnel.

c. Authority (para 5-10.1, AR 635-200) and SPN 428 will be included in directives or orders directing separation.

Section IV. NATIONAL HEALTH, SAFETY, OR INTEREST

5-11. National health, safety, or interest. Enlisted personnel may apply for separation from active military service on the basis of importance to national health, safety, or interest. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 are not eligible for separation under this section.

a. General. This policy is applicable to situations where the critical need for the services of an individual in a civilian capacity from the viewpoint of health, safety, or general welfare outweighs the need of the Nation for the individual in an active military status. Normally, favorable action on requests for separation under the provisions of this policy will be made only when it is clearly determined that—

(1) Application is motivated by critical national or community interest and not for the personal benefit of the applicant.

CHAPTER 8

DISCHARGE OF ENLISTED WOMEN—MARRIAGE, PREGNANCY, OR PARENTHOOD

Section I. GENERAL

8-1. Scope. This chapter establishes policy, sets forth procedures, and provides authority for discharge of enlisted women by reason of marriage, pregnancy, or parenthood.

8-2. Authority to discharge. Commanders specified in section VI, chapter 2, are authorized to approve the discharge of enlisted women under this chapter.

Section II. MARRIAGE

8-3. Enlisted or reenlisted prior to 1 July 1965. An enlisted woman who enlisted or reenlisted prior to *1 July 1965* may be discharged by reason of marriage at her own request providing she meets the following requirements:

a. Served on active duty for not less than 1 year subsequent to basic training and any additional specialist training received prior to her first duty assignment.

b. Completed the period of service subsequent to attendance at a service school required by AR 600-200.

c. Completed 1 year of her current oversea tour in the oversea command.

8-4. Enlisted or reenlisted on or after 1 July 1965 and prior to 20 June 1966. An enlisted woman who enlisted or reenlisted *on or after 1 July 1965 or prior to 20 June 1966* may be discharged by reason of marriage at her own request providing she meets the following requirements:

a. The applicant is not—

(1) Assigned to a duty station which is sufficiently close to her husband's location to permit establishment of a joint household.

(2) Serving on either an extension of an enlistment or on a reenlistment which has been entered into after her marriage.

b. The applicant has—

(1) Been denied reassignment, requested in accordance with AR 614-6, to a duty station sufficiently close to her husband's location to permit establishment of a joint household.

(2) Completed the longest of the following applicable minimum service periods:

(*a*) 12 months from date of assignment at current duty station.

(*b*) If the member has attended a service school or ATC Course prior to first duty assignment:

1. 18 months from date of completion for courses of 20 weeks or less duration.

2. 24 months from date of completion for courses of more than 20 weeks duration.

(*c*) If the member has attended a service school subsequent to first permanent duty assignment, the specific period of service required by AR 600-200.

8-5. Delay discharge. Commanders specified in section VI, chapter 2, may delay the discharge for a period not to exceed 120 days from date of request if such action will materially contribute to a more orderly replacement process.

8-6. Type of certificate to be furnished and authority for discharge. *a.* An honorable or general discharge certificate will be furnished in accordance with section III, chapter 1.

b. Authority (sec II, chap. 8, AR 635-200) and SPN 220 will be included in directive or orders directing the individual to report to the appropriate transfer activity.

8-7. When not eligible for discharge. *a.* Women enlisting or reenlisting *on or after 20 June 1966* are not eligible for discharge solely for reason of marriage.

b. Women will not be eligible for discharge solely for reason of marriage during war or national emergency declared by the Congress.

Section III. PREGNANCY

8-8. Requirement for discharge. *a.* Discharge will be accomplished at the earliest practicable date when—

(1) It has been determined by a physician on duty at an Armed Forces medical treatment facility that an enlisted woman is pregnant.

(2) It has been determined by a physician on duty at an Armed Forces medical treatment facility that an enlisted woman has been pregnant at any time during the present enlistment.

(3) The enlisted woman gives birth to a child during present enlistment.

b. Exceptions to the above are as follows:

(1) If a legitimate pregnancy is terminated without live issue prior to the effective date of discharge or the child dies prior to the effective date of discharge, the enlisted woman may request waiver for discharge in order to be retained on active duty. The request for waiver will be forwarded through military channels to The Adjutant General, ATTN: AGPO-SS, Department of the Army, Washington, D.C. 20315, for final determination. The request will be accompanied by proper verification and history. The following information will be included in the forwarding comments:

(*a*) The enlisted woman's conduct and efficiency ratings.

(*b*) The WAC unit officer's recommendation.

(*c*) The circumstances involved.

★(2) When medical examination discloses conditions, in addition to pregnancy, which require medical treatment and/or hospitalization, the enlisted woman will be retained until such time as maximum benefits of hospitalization have been attained. If it appears that the enlisted woman may be permanently physically disabled for any reason, the case will be processed under AR 635-40.

(3) When it has been determined by a physician on duty at an Armed Forces medical treatment facility that a lawfully married enlisted woman is pregnant and the woman has 18 or more years' active Federal service as of the date of certification of pregnancy, the enlisted woman may request waiver of discharge and retention on active duty or request retirement, if otherwise eligible, as indicated below. Processing of such applications will be expedited.

(*a*) An enlisted woman having 20 years' active Federal service will be afforded the opportunity to submit an application for retirement to be effective immediately. The application for retirement together with the Report of Medical Examination (SF 88) will be submitted in accordance with AR 635-230. When an enlisted woman refuses to apply for retirement, a report will be forwarded to The Adjutant General,

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the Army will be filed as permanent documents in a DA Form 201 (Military Personnel Records Jacket U.S. Army).

g. Individuals whose inductions are void will be released from the custody and control of the Army by special orders. The discharge authority will issue a DD Form 214. The following entry will be made in Item 38, DA Form 20: Released from military control by virtue of a void induction (cite special order number, SPN 376, and issuing headquarters). For pay and allowances, see table 1-4-1, DODPM. DD Form 214 will be completed in accordance with AR 635-5 except for items 11a, 11c, 13a, 15, and 16. The entry in the foregoing items will be as follows:

(1) *Item 11a.* Released from military control by reason of a void induction.

(2) *Item 11c.* AR 635-200, SPN 376, Voidance of Induction.

(3) *Item 13a.* Character of service will be honorable or under honorable conditions as indicated in section III, chapter 1.

(4) *Item 15.* NA.

(5) *Item 16.* NA.

5-10. Discharge for the purpose of immediate enlistment or reenlistment. Unit commanders are authorized to order discharge of enlisted personnel for the convenience of the Government, for the reasons set forth below. Individuals being discharged from their present status as provided in this paragraph will be reenlisted on the day following discharge. The discharge certificate will not be delivered to the individual until after reenlistment is accomplishd. Authority (AR 635-200) and SPN 313 for separation will be included in directives or orders directing separation.

a. Discharge is authorized for Regular Army personnel, other than personnel or initial enlistment, to permit their reenlistment for a term of 3 or more years provided they apply for and are qualified for reenlistment. Discharge may be accomplished—

(1) At any time during the last 90 days of current enlistment.

(2) For the purpose of—

(*a*) Meeting length-of-service requirement for attendance at service schools, attendance at a civilian education institution in accordance with AR 350-200, or to attend Army Officer Candidate School.

(*b*) Assignment to an oversea tour of duty.

1. When the amount of service remaining in current enlistment is not sufficient to complete a prescribed foreign service tour in the oversea command to which an individual is to be assigned, the discharge and reenlistment are to be accomplished when the oversea assignment is evident.

2. In the case of personnel serving overseas to complete a normal tour when the length of service remaining in current enlistment is insufficient for that purpose, the discharge and reenlistment are to be accomplished immediately upon application of the individual.

(*c*) Assignment to National Guard, Reserve Officer's Training Corps, Army Reserve, instructorship at service schools, or recruiting duty when the amount of service remaining in current enlistment is less than 12 months. Discharge and reenlistment are to be effected when such assignment is evident.

(*d*) Meeting length-of-service requirement of individuals selected for assignment to U.S. Military missions to accomplish travel to place of assignment, complete tour with the mission, and return to the United States in time to complete separation processing by the expiration date of their enlistment. Discharge and reenlistment will be accomplished prior to departure from home station.

(*e*) Meeting length-of-service requirement for oversea movement of dependents. Discharge and reenlistment of this category of individuals will be accomplished prior to departure from home station.

b. Discharge is authorized to permit immediate enlistment or reenlistment in the Regular Army upon completion of 8 months' active Federal service on their current term of service of individuals in (1), (2), and (3) below, who apply for and are qualified for enlistment or reenlistment.

(1) Regular Army personnel serving on their first enlistment.

(2) Army of the United States personnel inducted into service under the Military Selective Service Act of 1967.

(3) Personnel of the Army National Guard of the United States and the Army Reserve ordered to active duty.

c. Discharge is authorized for the purpose of immediate enlistment in the Regular Army of

c. Discharge is authorized for the purpose of immediate enlistment in the Regular Army of REP 63 ACDUTRA trainees who apply for and are qualified for enlistment upon completion of the period for which ordered to ACDUTRA. Authority (AR 635-200) and SPN 313 will be included in directives or orders directing separation.

d. Discharge is authorized for Army of the United States personnel inducted into service, regardless of time served in active Federal service, to permit enlistment in the Regular Army for the purpose of attending Army Officer Candidate School. Authority (para 5-10, AR 635-200) and SPN 427 will be included in directives or orders directing separation.

e. Commanders responsible for U.S. Army Reception Station processing are authorized to discharge inductees for the convenience of the Government to permit immediate enlistment in the Regular Army prior to their entry into BCT for school courses of 20 weeks' duration or longer.

(1) Authority (para 5-10, AR 635-200) and SPN 425 will be included in directives or orders directing separation of inductees to enlist for warrant officer flight training.

(2) Authority (para 5-10, AR 635-200) and SPN 426 will be included in directives or orders directing separation of inductees to enlist to attend critical MOS schools.

★**5-10.1. Separation for failure to complete Army Officer Candidate School.** *a.* Enlisted personnel who were formerly inductees and who enlisted in the Regular Army under the provisions of paragraph 2-15, AR 350-50, and who, for any reason, withdraw, fail to satisfactorily complete Army Officer Candidate training, or are not commissioned, may apply for discharge not earlier than 60 days prior to and to be effective upon completion of 3 years' total active Federal service.

b. Commanders specified in section VI, chapter 2, are authorized to order the separation for the convenience of the Government of such personnel.

c. Authority (para 5-10.1, AR 635-200) and SPN 428 will be included in directives or orders directing separation.

Section IV. NATIONAL HEALTH, SAFETY, OR INTEREST

5-11. National health, safety, or interest. Enlisted personnel may apply for separation from active military service on the basis of importance to national health, safety, or interest. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 are not eligible for separation under this section.

a. General. This policy is applicable to situations where the critical need for the services of an individual in a civilian capacity from the viewpoint of health, safety, or general welfare outweighs the need of the Nation for the individual in an active military status. Normally, favorable action on requests for separation under the provisions of this policy will be made only when it is clearly determined that—

(1) Application is motivated by critical national or community interest and not for the personal benefit of the applicant.

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AFFIDAVIT

I, (_____) am being subjected
(Name, grade, service number, organization)
to the exercise of criminal jurisdiction of the government of _____ _____. I am presently:

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

I request that I be retained in the service beyond _____, the
(Date)
expiration date of my term of service, until such time as final action on charges against me by the foreign government has been completed.

I have been advised of my rights under Article 31, UCMJ. I have also been informed that since I am subject to the UCMJ it is possible that court-martial charges may be preferred against me if the foreign government does not proceed with its case. I certify that this request for retention in the service is not the result of coercion, force, or threat of harm, nor have I been promised any benefits by the military authorities of the United States.

_____
(Signature of member)

c. If neither of the provisions of *a* above can be complied with, the case, with full details, will be referred through channels to The Adjutant General, ATTN: AGPO-SS, Department of the Army, Washington, D.C. 20315, for instructions. Care will be exercised to insure that each case is submitted prior to the date of the individual's expiration of term of service.

Section IV. SEPARATION PRIOR TO EXPIRATION OF TERM OF SERVICE

2-12 Discharge or release from active duty prior to expiration of period of service. *a.* Except as indicated in *b* and *c* below, when separation is to be accomplished prior to expiration of enlistment, period for which inducted, or ordered to active duty or active duty for training of REP 63 trainees, it will be accomplished under whichever of the following chapters of this regulation or other regulations that are appropriate by the commander as specified in section VI:

(1) Conscientious objection....AR 635-20
★(2) Physical disability.....AR 635-40
(3) Dishonorable and bad conduct.....Chapter 11
(4) Marriage, pregnancy, or parenthood.....Chapter 8
(5) Minority.....Chapter 7
(6) Dependency or hardship.....Chapter 6
(7) Misconduct (fraudulent entry, conviction by civil court, AWOL, desertion).....AR 635-206
(8) Resignation.....Chapter 9
(9) Unfitness.....AR 635-212
(10) Military Personnel Security Program.....AR 604-10
(11) Homosexuality.....AR 635-89
(12) Convenience of the Government.....Chapter 5
(13) Unsuitability.....AR 635-212
(14) Discharge and reenlistment in the Army National Guard of the United States while on duty.....AR 601-210
(15) Separation and reentry of non-regular personnel or extension of active duty.....AR 601-210
(16) Discharge for the good of the service.....Chapter 10
(17) Relief from active duty of recalled retired enlisted personnel.....AR 601-250

b. When discharge or release from active duty is to be accomplished prior to expiration of enlistment, induction, or period for which ordered to active duty or active duty for training, time lost during such term of service need not be made good, except that in cases where discharge or release for the convenience of the Government is to be accomplished under the provisions of sections VI, VII, VIII, and IX, chapter 5, the expiration of term of required service of an individual with time lost will be adjusted to include such lost time (adjusted ETS). Early discharge for the purpose of immediate reenlistment in the Regular Army under the provisions of paragraph 5-10, where the member concerned has lost time, may be accomplished only upon waiver, where required, of the disqualification for reenlistment created by loss of time as set forth in AR 601-210.

c. Enlisted personnel under sentence to dishonorable or bad conduct discharge will not be discharged or released from active duty prior to completion of appellate review, unless so directed by Headquarters, Department of the Army.

Section V. EFFECTIVE DATE OF DISCHARGE

★**2-13. Effective date of discharge.** *a.* The discharge of an enlisted person for the reasons listed in (1), (2), and (3) below is effective at 2400 hours on the date of notice of discharge, and the enlisted person will be so notified. (Discharge certificate and DD Form 214 will not be delivered to individuals discharged for reasons in (1) and (2) below, prior to 2400 hours of the effective date of separation.) (Discharge certificate and DD Form 214 of individuals discharged as in (3) below, will be mailed as indicated in paragraph 68, AR 635-5.)

(1) Discharged by reason of expiration of term of service.

(2) Discharged for the purpose of continuing on active duty in the same or another status.

(3) Discharged from a Reserve component status under honorable conditions and is entitled to travel time.

b. Release from active duty of an enlisted person is effective at 2400 hours on the date of release when the individual—

(1) Is transferred to the Army Reserve for the purpose of completing a Reserve obligation incurred under the Universal Military Training and Service Act.

(2) Reverts to the jurisdiction of the Army Reserve or the State National Guard to complete the unexpired portion of an enlistment contract in such component.

★(3) Is transferred to the temporary disability retired list under the provisions of AR 635-40, except that, in terminal cases, retirement orders will designate the specific time of the day (identified by appropriate time zone) at which retirement is effective.

c. Discharge for all reasons, other than those set forth in *a* above, is effective at time of notice to the enlisted person of discharge.

d. Notice of discharge may be either—

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

(2) Constructive, when actual delivery of the discharge certificate cannot be accomplished owing to the absence of the individual to be discharged. For example, such a situation would arise if the individual were on leave or in the hands of civil authorities. Receipt by the individual's organization at his proper station of the order directing his discharge will be deemed sufficient notice. Except when the individual was on leave when discharged, the date of receipt of the order and the reason why actual notice thereof was not given will be entered, by indorsement, on the back of the discharge certificate. If delivery of the discharge certificate cannot be made, it will be forwarded to The Commanding Officer, U.S. Army Administration Center, 9700 Page Boulevard, St. Louis, Mo. 63132, together with a statement of the reasons therefor.

★**2-14 Mentally incompetent.** The effective date of discharge of a mentally incompetent individual may also be constructive, as when he has been placed in an institution. See AR 635-40.

★Section XII. EMPLOYMENT WITH A LEGALLY ESTABLISHED LAW ENFORCEMENT AGENCY (APPLICABLE ONLY IN CONUS AND STATES OF ALASKA AND HAWAII)

5-26. Separation to accept employment as a public police officer. Commanders specified in section VI, chapter 2, are authorized to order separation for the convenience of the Government of enlisted men who have 3 months or less remaining in their periods of service and who submit valid applications for separation evidencing employment with a legally established law enforcement agency of a city, county, State or Federal Government. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 are not eligible for separation under this program.

5-27. Definitions. For the purpose of this regulation the following definitions apply:

a. Public police officer. An individual employed by legally established law enforcement agencies of city, county, State or Federal governments. This specifically excludes private or corporate police organizations and elective police positions in local political jurisdictions.

b. Bona fide offer of employment. An employment offer certified by an appropriate official of a city, county, State or Federal police agency, that the applicant has passed established applicant requirements and has been accepted for entrance into a police academy, police training school or immediate employment as a public police officer.

5-28. Submission of application. Application for separation may be submitted up to 6 months prior to applicant's expiration of term of service. An application for separation will include the following information:

a. A bona fide offer of employment as a public police officer with the date such employment is to commence, and

b. A statement signed by the individual concerned (after he has been informed of the provisions of Articles 3(b), and 83, Uniform Code of Military Justice), as follows: "I understand that if I am separated from the Armed Forces by means of either a knowingly false representation in regard to any of the qualifications or disqualifications prescribed by law, regulation, or orders for such separation, or by deliberate concealment of any disqualification for separation, I shall be subject to courts-martial jurisdiction under the Uniform Code of Military Justice, Article 3(b), for violation of the Uniform Code of Military Justice, Article 83, or prosecution in a United States District Court for violation of Title 18, United States Code, Section 1001, or other applicable statutes."

5-29. When separation is not authorized. Separation from active military service is not authorized when—

a. An individual is assigned to a unit scheduled for oversea deployment and is in an otherwise deployable status, or

b. An individual has signed a statement of intent to reenlist, or

c. AR 600-31 applies.

5-30. Separation action. *a.* Separation will be accomplished not earlier than 10 days prior to the effective date of employment and the date of separation is within 3 months of the applicant's expiration of term of service.

b. Authority (AR 635-200) and SPN 320 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for separation.

★Section XIII. ERRONEOUS ENLISTMENTS

5-31. Erroneous enlistment. *a.* When it is discovered that an individual was erroneously enlisted because he failed to meet the qualifications for enlistment or reenlistment, the unit commander will request validation of the enlistment or discharge because of erroneous enlistment through military channels to The Adjutant General, ATTN: AGPO-SS, Department of the Army, Washington, D.C. 20315. All requests for validation of enlistment or discharge from an erroneous enlistment will contain the following information:

(1) Circumstances surrounding the erroneous enlistment.

(2) Reasons why validation or termination of the enlistment is requested.

(3) The enlisted person's desire for retention or separation.

(4) Conduct and efficiency ratings.

b. This section is not applicable to individuals eligible for separation under the provisions of paragraphs 5-6, 5-9, or chapter 7 of this regulation, and subparagraph 7-34*b*, AR 600-200, and individuals not meeting medical fitness standards for retention (AR 635-40).

c. Upon discovery and establishment that an enlistment is erroneous and the individual is AWOL, in desertion, or absent in the hands of civil authorities, the enlistment will be voided. Commanders specified in section VI, chapter 2, are authorized to void the enlistment. The Discharge Authority will not issue a discharge certificate nor DD Form 214. Such individual will be released from the custody and control of the Army by virtue of a void enlistment by special orders. The following entry will be made in item 38, DA Form 20 (Enlisted Qualification Record): "Released from military control by virtue of a void enlistment (cite special order number, SPN and issuing headquarters)". A copy of the special orders releasing the individual from military control will be filed as a permanent document in his DA Form 201 (Military Personnel Records Jacket, U.S. Army). For pay and allowances, see table 1-4-1, Department of Defense Military Pay and Allowances Entitlements Manual (DODPM).

officers under AR 635-212 may tender a resignation in lieu of board action.

a. When the recommendation for board action is based upon unsuitability under AR 635-212, the resignation will be forwarded through channels to the officer who has discharge authority over the individual (para 9-11*a*) and who is authorized to accept or, under conditions set forth in paragraph 9-11*e*, to recommend refusal to accept the resignation. The resignation, if accepted, will be under honorable conditions and the individual discharged with an honorable or general discharge as warranted by the individual's military record. The reason and authority for discharge (item 11c, DD Form 214) will be entered as shown in appendix I, AR 635-5.

b. When the recommendation for board action is based upon unfitness under AR 635-212, the resignation will be forwarded through channels to the officer who has general courts-martial jurisdiction over the individual (para 9-11*a*) and who is authorized to accept or, under conditions set forth in paragraph 9-11*e*, to recommend refusal to accept the resignation. The resignation, if accepted, will normally be under conditions other than honorable and the individual discharged with an undesirable discharge. However, if the particular circumstances in a given case warrant, a general or honorable discharge may be furnished. The reason and authority for discharge (item 11c, DD Form 214) will be entered as shown in appendix I, AR 635-5.

c. When the recommendation is based upon misconduct under AR 635-206, the resignation will be forwarded through channels to the officer who has general courts-martial jurisdiction over the individual (para 9-11*a*) and who is authorized to accept, or under conditions set forth in paragraph 9-11*e*, to recommend refusal to accept the resignation. However, in those instances where AR 635-206 requires that separation action be taken by The Adjutant General, the resignation will be forwarded for acceptance or refusal. The resignation, if accepted, will normally be under conditions other than honorable and the individual discharged with an undesirable discharge. However, if the particular circumstances in a given case warrant a general or honorable discharge may be given.

d. When a resignation is tendered in lieu of board action, the immediate commanding officer of the individual concerned will append thereto a copy of the report required in AR 635-206 when a board is waived or in paragraph 12*a* or *b*, AR 635-212, as appropriate.

e. A request for withdrawal of a resignation tendered in lieu of board action may be submitted to the officer authorized to accept the resignation in accordance with paragraph 9-11*b*.

9-6. Resignation in lieu of reduction for misconduct or inefficiency. *a.* An individual may tender his resignation in lieu of accepting punishment under the Uniform Code of Military Justice, Article 15, or in lieu of reduction for inefficiency under AR 600-200 (para 9-4 above). In such cases, the individual will not be required to appear before a board convened under AR 600-200 or reclassification board. The commanding officer of the individual concerned will prepare and add as an inclosure to the resignation a complete summary of all facts which relate to the alleged misconduct or inefficiency, and will attach to the summary signed statements of witnesses having knowledge of the alleged misconduct or inefficiency. The resignation will be forwarded through channels to the officer who has discharge authority over the individual concerned (para 9-11*a*) and who is authorized to accept or, under conditions set forth in paragraph 9-11*e*, to recommend refusal to accept the resignation. If accepted, the resignation will be accepted under honorable conditions, and the individual will be furnished a general discharge certificate. In meritorious cases, an honorable discharge certificate may be furnished. The reason and authority for discharge (item 11c, DD Form 214) will be entered as shown in appendix I, AR 635-5.

b. A request for withdrawal of a resignation tendered in lieu of reduction for misconduct or inefficiency may be submitted to the officer authorized to accept the resignation in accordance with paragraph 9-11*b*.

9-7. Resignation for good of the service. *a.* An individual whose conduct has rendered him triable by court-martial for an offense punishable by dishonorable or bad conduct discharge may tender his resignation for the good of the service in lieu of trial by court-martial. Prior to submission of a resignation, an individual will be afforded the opportunity to consult with counsel (para 9-4). The individual will also certify in writing that he understands that he will normally receive a discharge under other than honorable conditions and that he understands the adverse nature of such a discharge and the possible consequences thereof. The resignation will be forwarded through channels to the officer who has general courts-martial jurisdiction over the individual (para 9-11*a*) and who is authorized to accept the resignation, to recommend refusal thereof under conditions set forth in paragraph 9-11*e*, or to direct trial. The foregoing is not to be construed as precluding an appropriate convening authority from referring a case to trial by courts-martial at any time prior to acceptance of a resignation. The resignation, if accepted, normally will be under conditions other than honorable, and the individual normally furnished an undesirable discharge. However, the Discharge Authority may direct an honorable or general discharge, if warranted (section III, chapter 2). The reason and authority for discharge (item 11c, DD Form 214) will be entered as shown in appendix I, AR 635-5.

(1) The appropriate commanding officer of an individual who tenders his resignation in lieu of trial by courts-martial will prepare a complete summary of all facts which relate to the conduct upon which the resignation is predicated. This summary with the following statements attached, will be added as an inclosure to the resignation:

(*a*) Signed statement of the substance of testimony of witnesses who have been examined.

(*b*) Any statements, documents, or evidence of other factors considered by the commanding officer in arriving at his conclusion and in making his recommendation.

(*c*) A statement of any reasonable ground for the belief that the accused is, or was at the time of his misconduct, mentally defective, deranged, or otherwise abnormal.

(*d*) A statement from the individual indicating whether he desires to make a statement in his own behalf. (If answer is affirmative, statement will be appended or deferred for later submission at the option of the individual.)

(2) The final decision with respect to the resignation will be made by the officer having general courts-martial jurisdiction within 3 months of the submission of such resignation, and the mentioned officer will take appropriate action within such period of time.

(3) A resignation for the good of the service tendered under the procedures above, ordinarily will not be accepted when the offense or offenses with which the individual is, or may be, charged would warrant imposition by a general court-martial of punishment more severe than dishonorable discharge from the service.

b. An individual who is under suspended sentence of bad conduct or dishonorable discharge may tender his resignation for the good of the service (para 9-4). The resignation will be forwarded through channels to the officer who has general courts-martial jurisdiction over the individual (para 9-11*a*) and who is authorized to accept or, under conditions set forth in paragraph 9-11*e* to recommend refusal to accept the resignation. The resignation, if accepted, will normally be under conditions other than honorable and the individual normally furnished an undesirable discharge. However, the Discharge Authority may direct an honorable or general discharge if warranted. The reason and authority for discharge (item 11c, DD Form 214) will be entered as shown in appendix I, AR 635-5.

SUBJECT: Resignation

TO:

1. Under the provisions of Chapter 9, Army Regulation 635-200, I hereby voluntarily tender my resignation from the Army. This resignation is tendered (without conditions) (in lieu of board proceedings under AR 635-___ for [unsuitability] [unfitness] [homosexuality] [misconduct]) (in lieu of board proceedings under AR 604-10) (in lieu of reduction for inefficiency under AR 600-200) (in lieu of accepting punishment under Article 15 of the Uniform Code of Military Justice) (for the good of the service in lieu of trial by court-martial for an offense punishable by a bad conduct or dishonorable discharge). I have not been subjected to coercion with respect to this resignation. I have been advised of the implications that are attached to it.

2. (Applicable to resignations in lieu of board proceedings.) I hereby waive a hearing before a board of officers, at which, with benefit of counsel, I would be afforded an opportunity to submit matters in mitigation or defense in my case.

3. (Applicable to resignations in lieu of board proceedings for unfitness, homosexuality, misconduct under AR 635-206, AR 604-10, and applicable to resignations for the good of the service in lieu of trial by court-martial for offenses punishable by bad conduct or dishonorable discharges.) I understand that this resignation, if accepted, may be considered as under other than honorable conditions, and that an Undesirable Discharge Certificate may be furnished. I understand that, as a result of the issuance of such a discharge, I shall be deprived of many or all Army benefits, that I may be ineligible for many or all benefits administered by the Veterans' Administration, and that I may be deprived of my rights and benefits as a veteran under both Federal and State Law. I also understand that I may expect to encounter substantial prejudice in civilian life by reason of an undesirable discharge.

4. (Applicable to unconditional resignations, resignations in lieu of board proceedings for unsuitability, and resignations in lieu of reduction for inefficiency or in lieu of accepting Article 15 punishment.) I understand that this resignation, if accepted, may be under General or Honorable conditions.

5. Statements in my own behalf (are) (are not) submitted herewith (as Inclosure __).

6. I understand that, once this resignation is submitted, it may be withdrawn, whether or not accepted, only with the consent of the officer empowered to accept it. An unconditional resignation, as defined in paragraph 9-3, AR 635-200, may be withdrawn in accordance with subparagraph 9-11b(1), AR 635-200.

7. Prior to completing this form, I have been afforded the opportunity to consult with appointed counsel, or military counsel of my own choice, if he is reasonably available, or civilian counsel at my own expense. I (have consulted with counsel _____, who
(name of counsel)
has fully advised me in this matter on _____) (decline the
(date)
opportunity to consult with counsel).

8. I have retained a copy of this resignation and of any inclosures I submitted.

Signature of individual member

_____
Typed name, service number, grade, present duty station, and unit to which assigned and/or attached

Having been advised by me (of the basis for his contemplated separation), the effects of his resignation, and the rights available to him, (name of individual) personally made the choices indicated in the foregoing resignation.

Signature of counsel

_____
Typed name, service number, grade and branch. (If counsel is not a JAGC officer, he must indicate whether he is qualified under Article 27(b)(1) of the Uniform Code of Military Justice)

Figure 1- Continued

CHAPTER 10

DISCHARGE FOR THE GOOD OF THE SERVICE

10-1. When tendered. An individual whose conduct has rendered him triable by court-martial for an offense punishable by a bad conduct or dishonorable discharge may submit a request for discharge for the good of the service in lieu of trial. An individual who is under a suspended sentence of a punitive discharge may likewise submit a request for discharge for the good of the service.

10-2. Personal decision. Commanders will insure that there is no element of coercion in submitting a request for discharge for the good of the service. The member will be given a reasonable time (not less than 48 hours) to consult with counsel (para 1-10*a*(2)) and to consider the wisdom of submitting such a request for discharge. If he elects to submit the request, the member will personally sign the written request, certifying that he understands that he may receive a discharge under other than honorable conditions and that he understands the adverse nature of such a discharge and the possible consequences thereof. The member's counsel shall sign as a witness, indicating whether he is qualified under Article 27(*b*)(1) of the Uniform Code of Military Justice, if he is not a member of The Judge Advocate General's Corps. If the member refuses all counsel (para 1-10*a*(2)), his request for discharge must explicity state that fact.

10-3. Preparation and forwarding. *a.* A request for discharge for the good of the service will be submitted as shown in figure 2.

b. The request for discharge will be forwarded through channels to the officer who has general courts-martial jurisdiction over the individual concerned. Commanders through whom the request for discharge is forwarded will recommend either approval or disapproval with the reasons for the recommendation; if approval is recommended, the type discharge to be issued also will be recommended.

c. The following data will accompany the request for discharge:

(1) A copy of the court-martial charges.

(2) Report of a medical examination as prescribed in chapter 10, AR 40-501.

(3) A complete copy of all reports of investigation.

(4) Any statement, documents, or other matter considered by the commanding officer in arriving at his conclusion and making his recommendation.

(5) A statement of any reasonable ground for belief that the individual is, or was at the time of his misconduct, mentally defective, deranged, or abnormal. When appropriate, evaluation by a psychiatrist will be included.

d. When an individual is under a suspended sentence of discharge, a copy of the court-martial orders, or a summary of facts which relate to the conduct upon which the request for discharge is predicated, will be forwarded.

10-4. Medical examination. An individual who submits a request for discharge for the good of the service will undergo a medical examination of the scope prescribed in chapter 10, AR 40-501. The report of medical examination will accompany the request for discharge.

10-5. Discharge authority. Commanders exercising general courts-martial jurisdiction are authorized to approve requests for discharge for the good of the service and to order

the discharge of individuals or to disapprove such requests.

★**10-6. Discharge certificate issued.** An undesirable discharge certificate will normally be furnished an individual who is discharged for the good of the service. However, the discharge authority may direct an honorable or general discharge, if warranted (sec II, chap. 2). The reason and authority for discharge (item 11c, DD Form 214) will be—"For the good of the service, SPN 246."

SUBJECT: Request for Discharge for the Good of the Service

TO:

1. Under the provisions of Chapter 10, AR 635-200, I (name of member) hereby request discharge for the good of the service (in lieu of trial by court-martial for an offense punishable by a bad conduct or dishonorable discharge) (while under a suspended sentence to a bad conduct or dishonorable discharge) (as applicable). I have not been subjected to coercion with respect to this request for discharge, and I have been advised of the implications that are attached to it.

2. I understand that, if this request for discharge is accepted, I may be discharged under other than honorable conditions and furnished an Undesirable Discharge Certificate. I understand that, as a result of the issuance of such a discharge, I shall be deprived of many or all Army benefits, that I may be ineligible for many or all benefits administered by the Veterans' Administration, and that I may be deprived of my rights and benefits as a veteran under both Federal and State law. I also understand that I may expect to encounter substantial prejudice in civilian life by reason of an undesirable discharge.

3. I understand that, once this resignation is submitted. it may be withdrawn, whether or not accepted, only with the consent of the commander exercising general court-martial jurisdiction over me.

4. Statements in my own behalf (are) (are not) submitted herewith (as inclosure ___).

5. Prior to completing this form, I have been afforded the opportunity to consult with appointed counsel, or military counsel of my own choice, if he is reasonably available, or civilian counsel at my own expense. I (have consulted with counsel, _____, who has fully
(name of counsel)
advised me in this matter on _____) (decline the opportunity
(date)
to consult with counsel).

6. I have retained a copy of this request for discharge and of any inclosures I submitted.

Signature of individual member

_____
Typed name, service number, grade, present duty station, and unit to which assigned and/or attached.

Figure 2

Having been advised by me of (the basis for his contemplated trial by court-martial for an offense punishable by a bad conduct or dishonorable discharge) (the significance of his suspended sentence to a bad conduct or dishonorable discharge), of the effects of this request for discharge, and the rights available to him, (name of individual) personally made the choices indicated in the foregoing request for discharge.

Signature of Counsel

_____

Typed name, service number, grade, and branch. (If counsel is not a JAGC officer, he must indicate whether he is qualified under Article 27(b)(1) of the Uniform Code of Military Justice.)

Figure 2 - Continued

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c. An individual receiving an alert or orders for reassignment providing for a permanent change of station, as an individual or accompanying a unit, may not submit an application for retirement until arrival at his new duty station. However, an individual cannot be considered to have been alerted for reassignment if assigned to a unit alerted for movement when such fact cannot be disseminated to the unit's personnel. When alert of personnel is permissible, the unit commander will immediately formally announce to all personnel that the unit has been selected for movement and specify that applications for retirement will not be accepted until arrival at the new station. Until this is done, commanders of alerted units will continue to accept applications for retirement. An individual assigned to a unit deploying from an oversea area to CONUS who has submitted or who has an approved application for retirement will move with the unit providing his retirement will not be delayed. Notwithstanding the provisions of *a* and *b* above, such individuals will be retired on the date originally requested.

d. An individual who has attended a military or civilian course of instruction must complete any service obligation voluntarily incurred as a result of such instruction.

e. Except as provided below, an individual accepting a promotion to pay grades E-7, E-8, and E 9, subsequent to submitting an application for retirement, is not eligible for retirement:

(1) An individual who has completed more than 28 years active Federal service.

(2) An individual who is already eligible, through prior service, for a higher grade at time of retirement. Other than as indicated in (1) above, the acceptance of promotion constitutes withdrawal of an application for retirement. Commanders will notify Department of the Army by message to TAG, ATTN: AGPO-RE and OPO, ATTN: EPADS when an individual accepts promotion to pay grades E-7, E-8, or E-9 and application for retirement has been forwarded to Headquarters, Department of the Army.

f. An individual incurring a 2-year service obligation upon promotion to pay grades E-7, E-8, or E-9 in accordance with AR 600-200 must complete the obligated service, except as indicated in *e*(1) above.

12-11. Waivers. *a.* Exceptions to service obligations may be granted when the best interests of the service are involved and/or when substantial hardship exists or would otherwise result if the member is not retired. Requests for exceptions must be fully defined and documented. ETS in itself is not justification for exception.

b. For the purpose of this chapter, substantial hardship is defined as a situation or circumstance which imposes undue privation or suffering on the member of his immediate family. Potential loss of extremely favorable employment because of an employer's reporting deadline or attendance at an institution of higher learning may constitute a hardship.

12-12. Preparation of DA Form 2339. *a.* Each member requesting retirement will read this chapter and then, with the assistance of the personnel officer, complete Section I, DA Form 2339. Each item will be completed in full. The words "not applicable (N/A)" or "none" will be entered where appropriate. When an exception to a service obligation is requested, complete justification will be included as an inclosure to DA Form 2339.

b. The officer having custody of the applicant's personnel records will—

(1) Assist the member in preparing his application. Special attention will be given to items 6, 11, 14, and 17.

(*a*) *Item 6:* Enter the first day of desired retirement month and not the last day of the preceding month.

(*b*) *Item 11:* Enter the highest temporary grade in which the member served on active duty.

(*c*) *Item 17:* Insure that time lost during the period covered by the current service record is correctly entered.

(2) Notify, by message, the Chief of Personnel Operations, ATTN: EPADS for members in grades E-7 through E-9 and ATTN: EPADO-D for members in grades E-6 and below, the name, service number, grade and PMOS of those who apply for retirement. Message will not be sent until the member has completed and signed Section I, DA Form 2339.

(3) Obtain verification for other than Army service (para 12-19).

(4) Schedule the member for physical examination not earlier than 6 months prior to re-

quested retirement date (sec V). Consultations for and treatment of known medical and dental defects and conditions should be accomplished at an early date.

(5) Complete Section II, DA Form 2339. Each item will be completed in full. Enter "not applicable" or "none" where appropriate. Enter in item 30:

(*a*) SSAN.

(*b*) Date member arrived at present assignment.

(*c*) Date dependents arrived at present assignment.

(*d*) Anticipated date report of medical examination can be expected to be forwarded when application is submitted more than 6 months prior to requested retirement date. When a report of medical examination is not forwarded with an application for retirement, the personnel officer will insure that it is accomplished and forwarded not earlier than 6 months nor later than 3 months prior to the anticipated date of retirement.

(6) Forward the complete application to The Adjutant General, ATTN: AGPO-RE, Department of the Army, Washington, D.C. 20315, direct or through channels prescribed by the major commander concerned. Report of medical examination will be included with applications submitted within 6 months of requested retirement date. However, submission of retirement applications will not be delayed because of medical examination. Verification of other than Army service will also be included. In those cases where the applicant requests waiver of service obligation, commanders must comment on justification submitted and include a statement concerning essentiality of applicant to the mission of the command.

(7) Furnish any additional information as requested by The Adjutant General.

(8) Insure that the member's enlistment does not expire prior to requested retirement date. If his enlistment will expire prior to requested date of, or eligibility date for voluntary retirement, his enlistment may be extended in monthly increments to date of retirement, but not more than 11 months, under the provisions of paragraph 31*b*(2), AR 601-210. These requests will be approved and oaths of extension accomplished before retirement applications are submitted. When the individual is not eligible for extension under AR 601-210, application for exception will be forwarded to Commanding Officer, Enlistment Eligibility Activity, 9700 Page Boulevard, St. Louis, Mo. 63132, for final action.

(9) Immediately notify The Adjutant General, ATTN: AGPO-RE, of any change in a member's status or physical condition which precludes retirement. It is necessary, if a change occurs or retirement should not be accomplished, that notification reach The Adjutant General not later than 2400 hours (local time) on the date of relief from active duty cited in the retirement orders so that amendment or revocation of orders may be accomplished. If necessary, notification may be made by telephone, OXford 54561 or 72881 during duty hours (Monday through Friday: 0730 to 1600 hours) or OXford 50163 after 1600 hours, Washington, D.C., time, on the last day of the month.

12-13. Retirement orders. *a.* A member's retirement is not approved until Department of the Army Special Orders are issued.

b. Retirement orders direct relief from active duty on the last day of the month and placement on the retired list, with or without transfer to the USAR (Retired), on the first day of the next month. Relief from active duty and retirement are automatically accomplished unless the orders are amended or revoked by The Adjutant General prior to 2400 hours (local time) on the date of relief from active duty.

c. Once an order has been issued, it will not be amended or revoked except for good and sufficient reasons. Orders may not be modified, amended or revoked on or after the effective date of retirement in the absence of fraud, manifest error, mathematical miscalculation or substantial new evidence.

12-14. Date of retirement. Members retiring for service may be placed on the retired list only on the first day of the requested month, with release from active duty on the last day of the preceding month. A member will be retired on the date re-

only, in order to preclude nonproductive reassignments for short periods of time.

e. Authority (AR 635-200) and SPN 701 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty, as appropriate.

5-16. Enlisted personnel eliminated from service academies. Individuals who are eliminated from cadet or midshipman status at service academies because of academic failure, resignation, or reasons other than physical disqualifications, will be discharged if they have completed their service obligation, or released from active duty and returned to the Army National Guard or Army Reserve, or transferred to the Army Reserve to fulfill their Reserve obligations, provided they have less than 3 months remaining in the period for which enlisted or ordered to active duty. Authority (AR-635-200) and SPN 420 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity. The authority contained in this paragraph shall not preclude the Secretary of the Army from transferring a cadet to the Army Reserve and ordering him to active duty, as authorized by title 10, United States Code, section 4348(b).

5-17. Reserve component personnel ordered to ACDUTRA under Reserve Enlistment Program. Commanders of training installations are authorized to release Reserve component personnel ordered to ACDUTRA under Reserve Enlistment Program of 1963 upon completion of MOS training when training is completed prior to the period of time specified in ACDUTRA orders provided a minimum period of 4 months' ACDUTRA has been completed. Authority (AR 635-200) and SPN 764 for separation will be included in orders issued effecting early release from ACDUTRA.

5-18. Early relief from ACDUTRA because of emergency conditions. REP 63 trainees will be considered for early relief from initial tours of ACDUTRA based on eligibility for leave for cogent reasons such as death or serious illness of a member of the reservist's immediate family. Commanders of training activities, including Army service schools, may authorize early relief from ACDUTRA in lieu of granting leave, if the reservist has completed at least 4 months' ACDUTRA and the training benefits which will result from return to the training center upon completion of leave are not substantial enough to justify return to duty in lieu of early relief from ACDUTRA.

5-19. Separation of enlisted members of medical holding detachments. Commanders specified in section VI, chapter 2, are authorized to order separation for the convenience of the Government of enlisted personnel, other than Reserve component personnel, ordered to active duty for training under the Reserve Enlistment Program of 1963, assigned to medical holding detachments as set forth below. In the event of conflict with paragraph 5-14, concerning returnees from long tour area, the provisions of this paragraph will apply.

a. Any enlisted person assigned to a medical holding detachment who signifies he does not intend to enlist or reenlist may be separated upon completion of hospitalization provided he has less than 3 months to serve prior to expiration of term of service.

b. Authority (AR 635-200) and SPN 412 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity for discharge or release from active duty, as appropriate.

Section VIII. EARLY SEPARATION TO ATTEND SCHOOL OR TO ACCEPT TEACHING POSITIONS

5-20. Separation to attend school or to accept teaching positions. Enlisted personnel may be discharged, released from active duty or active duty for training for the convenience of the Government in order to enter or return to school or to accept teaching positions when their services are not essential to the mission of their assigned organization. Commanders specified in section VI, chapter 2, are authorized to order the separation for the convenience of the Government of enlisted personnel (other than Reserve component personnel on active duty for training) who have less than 3 months remaining in their required period of service. REP 63 enlistees are not eligible for separation under the provisions of this section.

a. Separation to enter or return to school.

(1) Separation will be effected not earlier than 10 days prior to school registration date when the following conditions are met:

★(*a*) The school must be a recognized institution of higher education at which the course of instruction in which the individual has requested enrollment leads to an associate, baccalaureate, or higher degree. A "recognized institution" is one listed in part III of Education Directory published by the United States Department of Health, Education, and Welfare whose credits are accepted by accredited institutions.

(*b*) Application includes the following information:

1. A statement by an appropriate school official (Registrar, Dean of Admissions, etc.) that the applicant has been accepted for enrollment without qualification commencing with a specific school term in a full-time course of instruction leading to a baccalaureate or higher degree. The statement will include the latest date on which the applicant must report to the school in person for registration in order to meet school's requirement for attendance.

2. A statement, signed by the individual concerned (after he has been informed of the provisions of Articles 3(b), 31(b), and 83, Uniform Code of Military Justice), as follows: "I understand that if I am separated from the Armed Forces by means of either a knowingly false representation in regard to any of the qualifications or disqualifications prescribed by law, regulation, or orders for such separation, or by deliberate concealment of any disqualification for separation, I shall be subject to courts-martial jurisdiction under the Uniform Code of Military Justice, Article 3(b), for violation of the Uniform Code of Military Justice, Article 83, or prosecution in a United States District Court for violation of Title 18, United States Code, Section 1001, or other applicable statutes."

3. A statement from the applicant that he has made payment of the entrance fee or that he is able and willing to do so.

4. Applicant clearly establishes that the specific school term for which he seeks release is academically the most opportune time for him to begin or resume his education and that delay of enrollment until normal expiration of term of service would cause undue handicap.

(*c*) The date on which the applicant must report to school must fall within the last 3 months of remaining service.

(2) Application for early release to attend a theological school not listed in part III of the Education Directory, foreign institutions, and all doubtful cases will be forwarded by the commander having discharge authority direct to The Adjutant General, ATTN: AGPO-SS, Washington, D.C. 20315.

(3) The effective date of early separation from service under this program will not be earlier than 10 days prior to date of registration prescribed by the educational institution. In the event late registration is permitted by the school, separation may be accomplished on the first day (within the last 3 months of service) the individual becomes eligible for separation. Personnel arriving in the United States from oversea stations for release under this program may be released upon arrival if they have less than 3 months remaining in their

personnel section designated to accomplish transfer processing for discharge.

b. Aliens inducted in the Army who were not lawfully admitted or who were residing illegally in the United States and who did not conceal their true citizenship status at time of induction will be reported to the nearest office of the Immigration and Naturalization Service. Upon receipt of information that these individuals are subject to deportation proceedings at this time, or upon discharge from the service, or that their custody is desired by the immigration officials, they will be reported through channels to The Adjutant General, Department of the Army, ATTN: AGPO-SS, Washington, D.C. 20315. This report will be in letter form and will include whether the individual has ever contested his induction. Upon direction of Headquarters, Department of the Army, an individual will be released from custody and control of the Army by virtue of a void induction or discharged. An individual released from custody and control of the Army by virtue of a void induction will not be issued a discharge certificate or DD Form 214. The following entry will be made in item 38, DA Form 20 (Enlisted Qualification Record): "Released from military control by virtue of a void induction (cite Special Order number, SPN and issuing headquarters)". Special orders releasing an individual from military control will be distributed as provided in paragraph 5-5*d*. For pay and allowances, see table 1-4-1, Department of Defense Military Pay and Allowances Entitlements Manual (DODPM). Commanders responsible for issuing special orders will notify immigration officials of the release or discharge action so that they may take the individual into custody, if they so desire.

5-7. Discharge of members of the Reserve components on active duty. Commanders specified in section VI, chapter 2, are authorized to order discharge of those members of the Reserve components on active duty who are precluded from attaining eligibility for retirement with pay as provided by Title 10, U.S.C. 1331. Commanders will examine the facts of the applicants' ability to complete the service required for retirement under cited law. In those cases in which personnel cannot complete the required service before further enlistment in the Reserve component is barred because of age, either under Federal or State law, discharge, if requested by the individual, will be directed. Authority (AR 635-200) and SPN 312 will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

5-8. Discharge of individuals serving in unspecified enlistments. *a.* Enlisted personnel referred to in (1) and (2) below, who do not submit an application for retirement will be discharged after serving 6 years in an unspecified enlistment. Commanders specified in section VI, chapter 2, are authorized to order the discharge of these individuals.

(1) Those who have completed 30 years' active Federal service. Authority (AR 635-200) and SPN 418 will be included in directives or orders directing individual to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

(2) Those who have completed 20 or more years active Federal service and are 55 years of age. Authority (AR 635-200) and SPN 419 will be included in directives or orders directing individual to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

b. Commanders specified in section VI, chapter 2, may recommend discharge of enlisted personnel who are under 55 years of age and who have served 6 years in an unspecified enlistment, when—

(1) Such individuals have completed 20 years' active Federal service.

(2) It would be in the best interest of the service that such individuals be discharged.

c. Recommendation for discharge will be forwarded to The Adjutant General, Department of the Army, ATTN: AGPO-SS.

d. Authority (AR 635-200) and SPN 41D will be included in directives or orders directing the individual to report to the transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

★5-9. Discharge of personnel who did not meet the medical fitness standards (other than inductees). *a.* Discharge of personnel (other than inductees) who did not meet the medical fitness standards for enlistment. Commanders specified in section VI, chapter 2, are authorized to order

discharge of individuals who were not medically qualified under procurement medical fitness standards when accepted for initial enlistment. Eligibility for discharge will be governed by the following:

(1) A medical board finding that the individual has a medical condition which—

(*a*) Would have permanently disqualified him for entry in the military service had it been detected at that time, and

(*b*) Does not disqualify him from retention in the military service under the provisions of chapter 3, AR 40-501.

(2) A request for discharge will be submitted by the individual to his unit commander within 4 months from the date of initial entry on active duty or initial entry on active duty for training under the Reserve Enlistment Program of 1963. An individual found to meet the requirements of *a*(1) above, who elects to complete the period of service for which enlisted will be required to submit a written statement set forth in paragraph 54e(3), AR 40-3.

b. Application for discharge will be processed promptly, and separation will be accomplished within 72 hours following approval by the discharge authority.

c. Authority for discharge (AR 635-200) and SPN 375 will be included in directive or orders directing the individuals to report to the appropriate transfer authority.

d. Members who do not meet retention medical fitness standards will be processed under the provisions of AR 635-40.

e. This paragraph is not to be used as a substitute for unsuitability separations in cases of character and behavior disorders, which will continue to be processed under the provisions of AR 635-212.

★5-9.1. Inductees who did not meet the medical fitness standards at time of induction. *a*. Individuals inducted in the Army when they did not meet the medical fitness standards for induction will be released from custody and control of the Army by virtue of a void induction unless—

(1) Their induction was procured by fraud on their part.

(2) Their conduct subsequent to induction clearly establishes that they are barred from demanding release from the Army, or

(3) They meet the medical fitness standards for retention and sign a statement acknowledging eligibility for release from military control but desire retention.

b. When an individual claims erroneous induction or it is clearly indicated that an individual did not meet medical fitness standards for induction, he will be examined by a physician who will determine whether the individual met the medical fitness standards for induction and whether he now meets the standards for retention. The examining physician will report his findings on Standard Form 88 with an appropriate recommendation for disposition in item 77. The medical treatment facility commander will indicate final approval of the recommended disposition by affixing his signature in item 82 of the SF 88. The individual's unit commander will be provided a copy of the approved findings.

c. Upon the finding that the individual did meet medical fitness standards for induction he will be retained. Upon the finding that the individual did not meet the medical fitness standards for induction, the unit commander will forward Standard Form 88 together with an individual's request for release or retention through channels to The Adjutant General, ATTN: AGPO-SS, Department of the Army, Washington, D.C. 20315.

d. Requests for release from the Army by virtue of a void induction, written statements for retention in the Army, and copies of Special Orders releasing individuals from custody and control of the Army will be filed as permanent documents in DA Form 201 (Military Personnel Records Jacket, U.S. Army).

e. Individuals whose inductions are void will be released from the custody and control of the Army by Special Orders. The Discharge Authority will not issue a discharge certificate or DD Form 214. The following entry will be made in item 38, DA Form 20 (Enlisted Qualification Record): "Released from military control by virtue of a void induction (cite Special Order number, SPN and issuing headquarters)". For pay and allowances, see table 1-4-1, Department of Defense Military Pay and Allowances Entitlements Manual (DODPM).

5-10. Discharge for the purpose of immediate enlistment or reenlistment. Unit commanders are authorized to order discharge of enlisted per-

sonnel for the convenience of the Government, for the reasons set forth below. Individuals being discharged from their present status as provided in this paragraph will be reenlisted on the day following discharge. The discharge certificate will not be delivered to the individual until after reenlistment is accomplished. Authority (AR 635-200) and SPN 313 for separation will be included in directives or orders directing separation.

a. Discharge is authorized for Regular Army personnel, other than personnel or initial enlistment, to permit their reenlistment for a term of 3 or more years provided they apply for and are qualified for reenlistment. Discharge may be accomplished—

(1) At any time during the last 90 days of current enlistment.

(2) For the purpose of—

(*a*) Meeting length-of-service requirement for attendance at service schools, attendance at a civilian education institution in accordance with AR 350-200, or to attend Army Officer Candidate School.

(*b*) Assignment to an oversea tour of duty.

1. When the amount of service remaining in current enlistment is not sufficient to complete a prescribed foreign service tour in the oversea command to which an individual is to be assigned, the discharge and reenlistment are to be accomplished when the oversea assignment is evident.

2. In the case of personnel serving overseas to complete a normal tour when the length of service remaining in current enlistment is insufficient for that purpose, the discharge and reenlistment are to be accomplished immediately upon application of the individual.

(*c*) Assignment to National Guard, Reserve Officer's Training Corps, Army Reserve, instructorship at service schools, or recruiting duty when the amount of service remaining in current enlistment is less than 12 months. Discharge and reenlistment are to be effected when such assignment is evident.

(*d*) Meeting length-of-service requirement of individuals selected for assignment to U.S. Military missions to accomplish travel to place of assignment, complete tour with the mission, and return to the United States in time to complete separation processing by the expiration date of their enlistment. Discharge and reenlistment will be accomplished prior to departure from home station.

(*e*) Meeting length-of-service requirement for oversea movement of dependents. Discharge and reenlistment of this category of individuals will be accomplished prior to departure from home station.

b. Discharge is authorized to permit immediate enlistment or reenlistment in the Regular Army upon completion of 8 months' active Federal service on their current term of service of individuals in (1), (2), and (3) below, who apply for and are qualified for enlistment or reenlistment.

(1) Regular Army personnel serving on their first enlistment.

(2) Army of the United States personnel inducted into service under the Military Selective Service Act of 1967.

(3) Personnel of the Army National Guard of the United States and the Army Reserve ordered to active duty.

c. Discharge is authorized for the purpose of immediate enlistment in the Regular Army of REP 63 ACDUTRA trainees who apply for and are qualified for enlistment upon completion of the period for which ordered to ACDUTRA.

d. Commanders responsible for U.S. Army Reception Station processing are authorized to discharge inductees for the convenience of the Government to permit immediate enlistment in the Regular Army prior to their entry into BCT for school courses of 20 weeks' duration or longer.

(1) Authority (para 5-10, AR 635-200) and SPN 425 will be included in directives or orders directing separation of inductees to enlist for warrant officer flight training.

(2) Authority (para 5-10, AR 635-200) and SPN 426 will be included in directives or orders directing separation of inductees to enlist to attend critical MOS schools.

Section IV. NATIONAL HEALTH, SAFETY, OR INTEREST

5-11. National health, safety, or interest. Enlisted personnel may apply for separation from active military service on the basis of importance to national health, safety, or interest. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 are not eligible for separation under this section.

a. General. This policy is applicable to situations where the critical need for the services of an individual in a civilian capacity from the viewpoint of health, safety, or general welfare outweighs the need of the Nation for the individual in an active military status. Normally, favorable action on requests for separation under the provisions of this policy will be made only when it is clearly determined that—

(1) Application is motivated by critical national or community interest and not for the personal benefit of the applicant.

has been proper over a reasonable period of time subsequent to the conviction(s), he may be considered for an honorable discharge (*c* and *d* above).

(3) A member's service may be characterized as general by the commanding officer authorized to take such action or higher authority when the member is eligible for or is subject to separation and it has been determined, under the prescribed standards, that such separation is warranted.

f. Undesirable discharge. An undesirable discharge is an administrative separation from the service under conditions other than honorable. It may be issued for unfitness, misconduct, homosexuality, or for security reasons.

(1) *Special considerations.* In any case in which an undesirable discharge is authorized by regulation a member may be awarded an honorable or general discharge, as appropriate, if, during the current or a prior enlistment or period of service or voluntary or involuntary extension of either, he has been awarded a personal decoration, or if warranted by the particular circumstances of a specific case.

(2) *Consideration required.* Commanders and members of boards of officers responsible for recommending discharges to be furnished, and commanders having responsibility for determining finally the type of discharge to be issued, are urged to consider all facets of a particular case involving discharge in order that a fair decision will result.

1–10. Issuance of an undesirable discharge. An undesirable discharge will be directed only by a commander exercising general court-martial jurisdiction, or by higher authority, based upon the approved recommendation of a board of officers, unless the member waives the board or resigns, or requests discharge for the good of the service. Prior to such action, the following procedures and safeguards must be observed:

a. A member who is under military control will be notified in writing that his discharge has been recommended pursuant to a specific regulation, and of the specific allegations on which the proposed action is based, and advised that he has the following rights:

(1) To present his case before an administrative discharge board.

(2) To be represented by appointed counsel (para 1–3*i*); military counsel of his own choice, provided such counsel is reasonably available; or civilian counsel at his own expense.

(3) To submit statements in his own behalf.

(4) To waive the above rights in writing. The member will be given an opportunity and a reasonable time (not less than 48 hours) to consult with counsel ((2) above) prior to waiving the above rights. If he elects to waive these rights, the member shall personally sign a written waiver. His counsel shall sign as a witness, indicating whether he is qualified under Article 27(b)(1) of the Uniform Code of Military Justice, if he is not a member of the Judge Advocate General's Corps. If the member refuses counsel, his waiver must explicitly state that fact.

b. If a member waives his rights, the discharge authority may disapprove the waiver and refer the case to an administrative discharge board, or direct retention on active duty, or direct discharge by reason of unfitness, misconduct, homosexuality, or security. If discharge is directed, the type of certificate will be specified.

c. A member unable to appear in person before an administrative discharge board by reason of confinement by civil authorities will be advised (by registered mail) of the proposed discharge action, the type of discharge certificate that may be issued, and the fact that action has been suspended to give him the opportunity to exercise the following rights:

(1) To request appointment of a military counsel or employ civilian counsel at

his own expense to represent him and, in his absence, present his case before an administrative discharge board.

(2) To submit statements in his own behalf.

(3) To waive the foregoing rights, either in writing or by declining to reply to the letter of notification within 30 days from the date of receipt.

d. A member beyond military control by reason of unauthorized absence of more than 1 year may be issued an undesirable discharge in absentia under AR 635-206. Notification of the imminent discharge action and the effective date thereof will be sent by registered mail to the record address of the member or the next of kin, as appropriate. Separation of members of the Reserve components will be subject to the limitations of Title 10, U.S.C. 1163.

e. A member who submits a resignation or requests discharge for the good of the service may be issued an undesirable discharge without board action provided he has been afforded the opportunity (not less than 48 hours) to consult with counsel (*a*(2) above), and provided that the member certifies in writing his understanding that he will receive a discharge under other than honorable conditions and that he understands the adverse nature of such a discharge and the possible consequences thereof. The member must personally sign his written resignation or request for discharge. His counsel shall sign as a witness, indicating whether he is qualified under Article 27(b)(1) of the Uniform Code of Military Justice, if he is not a member of the Judge Advocate General's Corps. If the member refuses all counsel (*a*(2) above), his resignation or request for discharge must explicitly state that fact.

1-11. Determination of character of service. *a.* In all cases requiring an administrative discharge board or waiver thereof, the discharge of an enlisted member will be characterized by the officer authorized to approve such a separation or by higher authority. In all other cases, the character of separation will be determined by the immediate commanding officer of the last unit to which the member was assigned or attached prior to his separation processing at the transfer facility, except when otherwise directed by higher authority. The officer characterizing the service will—

(1) Review the individual's military record and determine the character of separation to be awarded in accordance with governing criteria.

(2) Enter in the "Remarks" section of the Enlisted Qualifications Record (DA Form 20) the character of separation to be issued upon separation.

b. Commanders of transfer activities will examine each enlisted qualification record of personnel undergoing transfer processing and will issue the type of discharge ordered by the discharge authority (section VI, chapter 2) with the characterization determined by the appropriate officer (*a* above).

c. The commanders of transfer activities will change neither the type nor character of separation except in those instances when the member's conduct, subsequent to the determination by the discharge authority and the characterization by the appropriate officer (*a* above), warrants a change in type or character of separation. When no administrative discharge board is convened, the commander of the transfer activity may issue an honorable or general discharge. Appropriate entries will be made in the individual's enlisted qualification record with the reason for the determination or characterization by the commander of the transfer activity.

★**1-12. Periodic explanation.** At such time as the Articles of the Uniform Code of Military Justice are explained pursuant to 10 U.S.C. 937, a comprehensive and careful explanation will be given of the types of discharge certificates, their bases for issue, and the possible effects of various certificates on reenlistment, civilian employment, veterans' benefits, and related matters. Section 937, 10 U.S.C. requires that the explanation be given to each enlisted member at the time of his entrance on active duty (or within 6 days thereafter), after completion of 6 months' active duty, and again at the time of reenlistment. For an explanation of veterans' entitlements, see Incidents of Discharge Chart (DA Graphic Training Aid 21-2-1, 1965). At the time of the required explanation, DA Pam 635-2 will be issued to each individual. The pamphlet will be used as an aid to instruction but not as a substitute for instruction. Since the initial explanation will probably be the first military instruction received by the new soldier, it is espe-

cially incumbent on commanders of U.S. Army Reception Stations and training centers, as appropriate, to insure that it is presented expertly and comprehensively. Failure on the part of the member to receive or understand the explanation, however, will in no event be considered a defense in an administrative discharge proceeding or a bar thereto.

is unable to present last Armed Forces of the United States Report of Transfer or Discharge (DD Form 214), the applicant will contact the appropriate service direct for verification of prior active service from the following:

(a) For personnel with prior service in the Army, Commanding Officer, U.S. Army Personnel Services Support Center, ATTN: AGPE-V, Fort Benjamin Harrison, Ind., 46249.

(b) For personnel with prior service in the Air Force, Director, U.S. Air Force Records Center, 9700 Page Boulevard, St. Louis, Mo., 63132.

(c) For personnel with prior service in the Navy, Officer in Charge, Discharged Enlisted Personnel Records Branch, U.S. Naval Record Management Center, 9700 Page Boulevard, St. Louis, Mo., 63132.

(d) For personnel with prior service in the Marine Corps, Commandant, United States Marine Corps, Washington, D.C., 20380.

(e) For personnel with prior service in the Coast Guard, Commandant, United States Coast Guard, Washington, D.C., 20226.

(2) In order that service claimed may be readily identified, request for verification of prior service will contain the exact name under which the individual served, service number, organization from which last discharged, and type of discharge claimed. If exact dates of service are not known, approximate dates will be given.

c. Combination of the provisions of this paragraph with the provisions of other early separation programs to effect separation prior to completion of a minimum of 24 months' total combined service is not authorized.

d. ACDUTRA prior to induction is not creditable toward completion of this period of service.

e. Personnel separated under the provisions of this section will be discharged or released from active duty and transferred to the Army Reserve to complete the Reserve obligation imposed by the Universal Military Training and Service Act, as appropriate. The characterization of a discharge issued under this section will be either honorable or general.

f. Authority (AR 635-200) and SPN 415 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty, as appropriate.

Section VII. SEPARATION OF ENLISTED PERSONNEL WITH LESS THAN 3 MONTHS REMAINING TO SERVE

5-14. Oversea returnees. Commanders specified in section VI, chapter 2, are authorized to order separation for convenience of the Government of enlisted personnel returned to the United States, possession of the United States, or area of residence in which enlisted, inducted, or ordered to active duty after serving overseas, as set forth below.

★*a.* Unless individuals inducted under the Universal Military Training and Service Act elect to remain on active duty and volunteer for immediate entry on active duty as reservists under the provisions of chapter 4, AR 601-210, they will be separated from active duty and transferred to the Army Reserve or discharged, as appropriate, upon arrival in the United States or area of residence, if upon arrival they have the following amount of active duty or less remaining on their current tour:

(1) Returnees from a long tour area—30 days.

(2) Returnees from a short tour area—90 days.

★*b.* Unless members of the Regular Army and of the Reserve components elect to immediately extend their enlistments voluntarily or continue on active duty under the provisions of chapter 4, AR 601-210, they will be dis-

charged or released from active duty and be returned to former Army National Guard or Army Reserve status, or released from active duty and transferred to the Army Reserve, as appropriate, upon arrival in the United States or area of residence, if upon arrival they have the following amount of active duty or less remaining before expiration of terms of enlistments or periods for which ordered to active duty:

(1) Returnees from a long tour area—30 days.

(2) Returnees from a short tour area—90 days.

c. Enlisted personnel in the United States or area of residence on leave or TDY from oversea organizations who, upon completion of such leave or TDY, will have less than 60 days before ETS, will be discharged or released, as appropriate. Those on such TDY will be discharged or released only if the oversea commander does not indicate a desire to have the individuals returned upon completion of TDY. Those who desire to extend immediately their periods of active duty or enlistments or to enlist or reenlist immediately in the Regular Army in accordance with appropriate regulations will be permitted to do so at the time of processing indicated in (2) below.

(1) Affected individuals will be reassigned to a transfer activity nearest their home for transfer processing. Transfer processing will not be accomplished prior to completion of leave or TDY. Records and allied papers will be forwarded to such transfer activity.

(2) Affected individuals will be instructed that upon completion of leave or TDY they will report to the transfer activity to which assigned for transfer processing.

d. This paragraph is not to be construed as authority for early return. It authorizes separation for the purpose stated only, in order to preclude nonproductive reassignments for short periods of time.

e. Authority (AR 635-200) and SPN 411 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity for discharge or release from active duty, as appropriate.

★**5-15. Separation of personnel assigned to installations or units scheduled for inactivation or permanent change of station.** Except as indicated in *c* below, enlisted personnel of all components, assigned to units scheduled for permanent change of station or to installations scheduled for inactivation and who cannot be effectively utilized within other units at the same station will be separated from service as set forth below. In the event of conflict with paragraph 5-14, concerning returnees from a long tour area, the provisions of this paragraph will apply.

a. Those having 90 days or less to serve beyond effective date of inactivation or change of station may be separated from active duty at the discretion of the unit commander provided individual desires separation. Separation will be accomplished during the 80-day period preceding the effective date of inactivation or change of station.

b. Those whose normal expiration of term of service expires during the 90-day period preceding the effective date of inactivation or change of station may be separated at the discretion of the unit commander any time during the 90-day period provided the individual desires separation.

c. Combination of the provisions of this paragraph with other separation programs so as to effect separation more than 90 days prior to normal expiration of term of service is not authorized.

d. Oversea commanders returning personnel to the United States for separation under this authority may add to normal travel time required to return individuals from the theater to the United States to the aforementioned 90 days. However, care will be taken to insure that individuals do not arrive in the United States with more than 90 days remaining in their period of service. This paragraph is not to be construed as authority for early return. It authorizes separation for the purpose stated

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CHAPTER 1

GENERAL PROVISIONS

Section I. GENERAL

1-1. Purpose. This regulation provides—

a. The authority for separation of enlisted personnel upon expiration of term of service.

b. The authority and general provisions governing the separation of enlisted personnel prior to expiration of term of service.

c. The criteria governing the issuance of Honorable, General, and Undesirable Discharge Certificates.

1-2. Scope. This regulation is applicable to all Active Army enlisted personnel and Reserve component personnel ordered to active duty including active duty for training under the Reserve Enlistment Program of 1963, unless specifically excluded. Unless specifically provided for, the provisions of this regulation, as well as all regulations in the 635-series dealing with the discharge of enlisted personnel, are binding upon field commanders but not upon Headquarters, Department of the Army.

1-3. Definitions. For the purpose of this regulation the following definitions will apply:

a. Member, enlisted person, and individual. An enlisted man or an enlisted woman of the Army and includes all persons enlisted or inducted in any component of the Army in active Federal service unless otherwise indicated or obviously inappropriate.

b. Discharge. Discharge is complete severance from all military status.

c. Release from active duty. Release from active duty is termination of active duty status and transfer or reversion to a Reserve component not on active duty. Personnel enlisted or inducted who have a reserve obligation under Title 10, United States Code, the Universal Military Training and Service Act, or any other provision of law, are transferred to the Army Reserve. Members of the National Guard of the United States and Army Reserve revert from an active duty status to their respective components to complete unexpired enlistments and/or unfulfilled obligations.

d. Separation. Separation is a general term which includes release from active duty, release from military control of persons without a military status, and discharge.

e. Military record. Military record comprises a member's behavior while in military service, including general comportment and performance of duty.

f. Military behavior. The term "military behavior," as used herein, refers to the conduct of the individual while a member of the Army.

g. Administrative separation. Discharge or release from active duty upon expiration of enlistment or required period of service, or prior thereto, in the manner prescribed by the Department of Army or by law, but specifically excluding separation by sentence of a general or special court-martial.

h. Administrative Discharge Board. Administrative Discharge Board, as used herein, is a board of officers appointed to render findings based on facts obtaining or believed to obtain in a case and to recommend retention in the service or discharge and reason therefor, and the type of separation or discharge certificate to be furnished.

i. Appointed counsel.

★(1) An appointed counsel for an individual being processed for separation which could result in issuance of an Undesirable Discharge under AR 635-89, AR 635-206, and AR 635-212, or an individual being processed as a class III case under AR 635-89, is a lawyer within the meaning of Article 27 (b) (1) of the Uniform Code of Military Justice, unless appropriate authority certifies in the permanent record the nonavailability of a lawyer so qualified and sets forth the qualifications of the substituted nonlawyer counsel.

(2) An appointed counsel for an individual being processed for separation by reason of unsuitability is a commissioned officer in the grade of first lieutenant or higher; he need not meet the qualifications described in (1) above.

j. Discharge authority. The officer authorized by Army regulations to take final action with respect to specified types of discharge.

k. Convening authority. The officer authorized by Army regulations to convene an administrative discharge board and take final action with respect to a specified type of discharge.

Section II. SEPARATION CERTIFICATES

1-4. Statutory authority. Title 10, United States Code, section 3811, provides that a discharge certificate shall be given to each lawfully inducted or enlisted member of the Army upon his discharge.

1-5. Discharge certificates. Discharge certificates are furnished all enlisted and inducted personnel when they are discharged. Instructions for the completion of the various types of discharge certificates are in AR 635-5. The issuance of discharge certificates is governed by this regulation. The five types of discharge certificates are as follow:

DD Form No.	*Type of discharge*	*Character of discharge or separation*	*Given by—*
256A	Honorable	Honorable	Administrative action.
257A	General	Under honorable conditions	Administrative action.
258A	Undesirable	Under conditions other than honorable	Administrative action.
259A	Bad Conduct	Under conditions other than honorable	Sentence of special or general courts-martial.
260A	Dishonorable	Dishonorable	Sentence of general courts-martial.

1-6. Armed Forces of the United States Report of Transfer or Discharge (DD Form 214). Individuals who are discharged or released from active duty or active duty for training will be furnished a factual record of military service rendered, the character and duration thereof, and the type of separation on DD Form 214. Instructions for the completion and distribution of DD Form 214 are contained in AR 635-5.

Section III. FACTORS GOVERNING ISSUANCE OF HONORABLE, GENERAL, AND UNDESIRABLE DISCHARGE CERTIFICATES

1-7. General considerations. Because the type of separation may significantly influence the individual's civilian rights and eligibility for benefits provided by law, eligibility for reentry into service, and acceptability for employment in civilian industry, it is essential that all pertinent factors be considered so that the type of separation will accurately reflect the nature of the service rendered. The type and character of separation issued upon administrative separation from current enlistment or period of service will be determined solely by the mem-

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CHAPTER 5

SEPARATION FOR CONVENIENCE OF THE GOVERNMENT

Section I. GENERAL

5-1. Scope. This chapter sets forth the conditions under which enlisted personnel may be discharged, released from active duty or active duty for training, or released from military control, for the convenience of the Government.

5-2. Exclusion from applicability. The provisions of this chapter are not applicable to aliens described in *a* and *b* below, except for the purpose of immediate enlistment or reenlistment, to accept appointment and entry on active duty as a commissioned or warrant officer, to be released to Reserve components to fulfill a Reserve obligation, or unless authorized by the Secretary of the Army.

a. Aliens who enlisted in the Regular Army for a period of 3 years (see section 328, Act of 27 June 1952 (66 Stat. 249; 8 U.S.C. 1439) for requirements as to naturalization).

b. Aliens who were enlisted or inducted in the Army for a period of 24 months' active duty and who were in the United States at the time of enlistment or induction (see section 4, Act of 24 October 1962 (76 Stat. 1247; 8 U.S.C. 1254)).

Section II. SECRETARIAL AUTHORITY

5-3. Authority. The separation of enlisted personnel for the convenience of the Government is the prerogative of the Secretary of the Army and will be accomplished only by his authority. Except as delegated by this regulation or by special Department of the Army directives, the discharge or release of any enlisted member of the Army for the convenience of the Government will be in the Secretary's discretion with issuance of an honorable or general discharge certificate as determined by him. Such authority may be given either in an individual case or by an order applicable to all cases specified in such order.

Section III. CATEGORIES FOR WHICH DISCHARGE IS AUTHORIZED

5-4. Order to active duty as a commissioned or warrant officer. Commanders specified in section VI, chapter 2, are authorized to order the discharge of enlisted personnel for the convenience of the Government for the purpose of being ordered to active duty as a commissioned or warrant officer in any of the Armed Forces of the United States. Prior to such discharge, the discharging authority will be in possession of documentary evidence from the proper authority that the individual has been tendered an appointment as a commissioned or warrant officer and will be ordered to active duty if discharged from his enlisted status. Authority (AR 635-200) and appropriate SPN for separation as indicated below will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designed to accomplish transfer processing for discharge.

a. For the purpose of being ordered to ac-

tive duty as a Reserve officer of the Army. SPN 214.

b. For the purpose of being ordered to active duty as a Reserve warrant officer. SPN 215.

c. For the purpose of being ordered to active duty in any of the Armed Forces (other than the Army) of the United States. SPN 217.

5-5. Erroneous induction. Commanders specified in section VI, chapter 2, are authorized to dispose of cases involving an individual's claim that prior to induction he was denied a procedural right, as provided by the Universal Military Training and Service Act, and was therefore erroneously inducted. All requests for discharge will be forwarded to the officer having discharge authority and, by him, to the Director, Selective Service System, Washington, D.C., 20435, for his recommendation. The officer having discharge authority will order the discharge of the individual or retain him in the service in accordance with recommendation made by the Director of Selective Service. Authority (AR 635-200) and SPN 219 will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to effect transfer processing for discharge.

5-6. Discharge of aliens not lawfully admitted in the United States. Commanders specified in section VI, chapter 2, are authorized to dispose of cases involving aliens not lawfully admitted to or residing illegally in the United States, who did not conceal their true citizenship status at time of enlistment or induction. Such individuals will be reported to the nearest office of the Immigration and Naturalization Service. Upon receipt of information that, notwithstanding the provisions of the Act of 30 June 1953 (67 Stat. 108; 8 U.S.C. 1440a-d), these individuals are subject to deportation proceedings at this time, or upon discharge from the service, or that their custody is desired by the immigration officials, they will be reported to the commander having discharge authority who will order the discharge for the convenience of the Government. Commanders responsible for accomplishing transfer processing will notify immigration officials of the discharge action so that they may take the individual into custody, if they so desire. The discharge certificate furnished (honorable or general) will be that to which the service rendered by the individual after enlistment or induction entitles him to receive. Authority (para 5-6, AR 635-200) and SPN 311 will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

5-7. Discharge of members of the Reserve components on active duty. Commanders specified in section VI, chapter 2, are authorized to order discharge of those members of the Reserve components on active duty who are precluded from attaining eligibility for retirement with pay as provided by Title 10, U.S.C. 1331. Commanders will examine the facts of the applicants' ability to complete the service required for retirement under cited law. In those cases in which personnel cannot complete the required service before further enlistment in the Reserve component is barred because of age, either under Federal or State law, discharge, if requested by the individual, will be directed. Authority (AR 635-200) and SPN 312 will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

5-8. Discharge of individuals serving in unspecified enlistments. *a.* Enlisted personnel referred to in (1) and (2) below, who do not submit an application for retirement will be discharged after serving 6 years in an unspecified enlistment. Commanders specified in section VI, chapter 2, are authorized to order the discharge of these individuals.

(1) Those who have completed 30 years' active Federal service. Authority (AR 635-200) and SPN 418 will be included in directives or orders direct-

ing individual to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

(2) Those who have completed 20 or more years active Federal service and are 55 years of age. Authority (AR 635-200) and SPN 419 will be included in directives or orders directing individual to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

b. Commanders specified in section VI, chapter 2, may recommend discharge of enlisted personnel who are under 55 years of age and who have served 6 years in an unspecified enlistment, when—

(1) Such individuals have completed 20 years' active Federal service.

(2) It would be in the best interest of the service that such individuals be discharged.

c. Recommendation for discharge will be forwarded to The Adjutant General, Department of the Army, ATTN: AGPO-SS.

d. Authority (AR 635-200) and SPN 41D will be included in directives or orders directing the individual to report to the transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

5-9. Discharge of personnel who did not meet the medical fitness standards. *a.* Discharge of personnel who did not meet the medical fitness standards for enlistment or induction. Commanders specified in section VI, chapter 2, are authorized to order discharge of individuals who were not medically qualified under procurement medical fitness standards when accepted for induction or initial enlistment. Eligibility for discharge will be governed by the following:

(1) A medical board finding that the individual has a medical condition which—

(*a*) Would have permanently disqualified him for entry in the military service had it been detected at that time, and

(*b*) Does not disqualify him from retention in the military service under the provisions of chapter 3, AR 40-501.

(2) A request for discharge will be submitted by the individual to his unit commander within 4 months from the date of initial entry on active duty or initial entry on active duty for training under the Reserve Enlistment Program of 1963. An individual found to meet the requirements of (1)(*a*) above, who elects to complete the period of service for which inducted or enlisted will be required to submit a written statement set forth in paragraph 54*e*(3)(*b*), AR 40-3.

b. Application for discharge will be processed promptly, and separation will be accomplished within 72 hours following approval by the discharge authority.

c. Authority for discharge (AR 635-200) and SPN 375 will be included in directives or orders directing the individuals to report to the appropriate transfer authority.

★*d.* Members who do not meet retention medical fitness standards will be processed under the provisions of AR 635-40.

5-10. Discharge for the purpose of immediate enlistment or reenlistment. Unit commanders are authorized to order discharge of enlisted personnel for the convenience of the Government, for the reasons set forth below. Individuals being discharged from their present status as provided in this paragraph will be reenlisted on the day following discharge. The discharge certificate will not be delivered to the individual until after reenlistment is accomplished. Authority (AR 635-200) and SPN 313 for separation will be included in directives or orders directing separation.

a. Discharge is authorized for Regular Army personnel, other than personnel or initial enlistment, to permit their reenlistment for a term of 3 or more years provided they apply for and are qualified for reenlistment. Discharge may be accomplished—

(1) At any time during the last 90 days of current enlistment.

(2) For the purpose of—

(*a*) Meeting length-of-service requirement for attendance at service schools, attendance at a civilian education institution in accordance with AR 350-200, or to attend Army Officer Candidate School.

(*b*) Assignment to an oversea tour of duty.

1. When the amount of service remaining in current enlistment is not

sufficient to complete a prescribed foreign service tour in the oversea command to which an individual is to be assigned, the discharge and reenlistment are to be accomplished when the oversea assignment is evident.

2. In the case of personnel serving overseas to complete a normal tour when the length of service remaining in current enlistment is insufficient for that purpose, the discharge and reenlistment are to be accomplished immediately upon application of the individual.

(*c*) Assignment to National Guard, Reserve Officer's Training Corps, Army Reserve, instructorship at service schools, or recruiting duty when the amount of service remaining in current enlistment is less than 12 months. Discharge and reenlistment are to be effected when such assignment is evident.

(*d*) Meeting length-of-service requirement of individuals selected for assignment to U.S. Military missions to accomplish travel to place of assignment, complete tour with the mission, and return to the United States n time to complete separation processing by the expiration date of their enlistment. Discharge and reenlistment will be accomplished prior to departure from home station.

(*e*) Meeting length-of-service requirement for oversea movement of dependents. Discharge and reenlistment of this category of individuals will be accomplished prior to departure from home station.

★*b.* Discharge is authorized to permit immediate enlistment or reenlistment in the Regular Army upon completion of 8 months' active Federal service on their current term of service of individuals in (1), (2), and (3) below, who apply for and are qualified for enlistment or reenlistment.

(1) Regular Army personnel serving on their first enlistment.

(2) Army of the United States personnel inducted into service under the Military Selective Service Act of 1967.

(3) Personnel of the Army National Guard of the United States and the Army Reserve ordered to active duty.

c. Discharge is authorized for the purpose of immediate enlistment in the Regular Army of REP 63 ACDUTRA trainees who apply for and are qualified for enlistment upon completion of the period for which ordered to ACDUTRA.

d. Commanders responsible for U.S. Army Reception Station processing are authorized to discharge inductees for the convenience of the Government to permit immediate enlistment in the Regular Army prior to their entry into BCT for school courses of 20 weeks' duration or longer.

(1) Authority (para 5-10, AR 635-200) and SPN 425 will be included in directives or orders directing separation of inductees to enlist for warrant officer flight training.

(2) Authority (para 5-10, AR 635-200) and SPN 426 will be included in directives or orders directing separation of inductees to enlist to attend critical MOS schools.

Section IV. NATIONAL HEALTH, SAFETY, OR INTEREST

5-11. National health, safety, or interest. Enlisted personnel may apply for separation from active military service on the basis of importance to national health, safety, or interest. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 are not eligible for separation under this section.

a. General. This policy is applicable to situations where the critical need for the services of an individual in a civilian capacity from the viewpoint of health, safety, or general welfare outweighs the need of the Nation for the individual in an active military status. Normally, favorable action on requests for separation under the provisions of this policy will be made only when it is clearly determined that—

(1) Application is motivated by critical national or community interest and not for the personal benefit of the applicant.

only, in order to preclude nonproductive reassignments for short periods of time.

e. Authority (AR 635-200) and SPN 701 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty, as appropriate.

5-16. Enlisted personnel eliminated from service academies. Individuals who are eliminated from cadet or midshipman status at service academies because of academic failure, resignation, or reasons other than physical disqualifications, will be discharged if they have completed their service obligation, or released from active duty and returned to the Army National Guard or Army Reserve, or transferred to the Army Reserve to fulfill their Reserve obligations, provided they have less than 3 months remaining in the period for which enlisted or ordered to active duty. Authority (AR 635-200) and SPN 420 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity. The authority contained in this paragraph shall not preclude the Secretary of the Army from transferring a cadet to the Army Reserve and ordering him to active duty, as authorized by title 10, United States Code, section 4348(b).

5-17. Reserve component personnel ordered to ACDUTRA under Reserve Enlistment Program. Commanders of training installations are authorized to release Reserve component personnel ordered to ACDUTRA under Reserve Enlistment Program of 1963 upon completion of MOS training when training is completed prior to the period of time specified in ACDUTRA orders provided a minimum period of 4 months' ACDUTRA has been completed. Authority (AR 635-200) and SPN 764 for separation will be included in orders issued effecting early release from ACDUTRA.

5-18. Early relief from ACDUTRA because of emergency conditions. REP 63 trainees will be considered for early relief from initial tours of ACDUTRA based on eligibility for leave for cogent reasons such as death or serious illness of a member of the reservist's immediate family. Commanders of training activities, including Army service schools, may authorize early relief from ACDUTRA in lieu of granting leave, if the reservist has completed at least 4 months' ACDUTRA and the training benefits which will result from return to the training center upon completion of leave are not substantial enough to justify return to duty in lieu of early relief from ACDUTRA.

5-19. Separation of enlisted members of medical holding detachments. ★Commanders specified in section VI, chapter 2, are authorized to order separation for the convenience of the Government of enlisted personnel, other than Reserve component personnel, ordered to active duty for training under the Reserve Enlistment Program of 1963, assigned to medical holding detachments as set forth below. In the event of conflict with paragraph 5-14, concerning returnees from long tour area, the provisions of this paragraph will apply.

a. Any enlisted person assigned to a medical holding detachment who signifies he does not intend to enlist or reenlist may be separated upon completion of hospitalization provided he has less than 3 months to serve prior to expiration of term of service.

b. Authority (AR 635-200) and SPN 412 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity for discharge or release from active duty, as appropriate.

Section VIII. EARLY SEPARATION TO ATTEND SCHOOL OR TO ACCEPT TEACHING POSITIONS

5-20. Separation to attend school or to accept teaching positions. Enlisted personnel may be discharged, released from active duty or active duty for training for the convenience of the Government in order to enter or return to school or to accept teaching positions when

their services are not essential to the mission of their assigned organization. Commanders specified in section VI, chapter 2, are authorized to order the separation for the convenience of the Government of enlisted personnel (other than Reserve component personnel on active duty for training) who have less than 3 months remaining in their required period of service. REP 63 enlistees are not eligible for separation under the provisions of this section.

a. Separation to enter or return to school.

(1) Separation will be effected not earlier than 10 days prior to school registration date when the following conditions are met:

(*a*) The school must be a recognized institution of higher education at which the course of instruction in which the individual has requested enrollment leads to a baccalaureate or higher degree. A "recognized institution" is one listed in part III of Education Directory published by the United States Department of Health, Education, and Welfare whose credits are accepted by accredited institutions.

(*b*) Application includes the following information:

1. A statement by an appropriate school official (Registrar, Dean of Admissions, etc.,) that the applicant has been accepted for enrollment without qualification commencing with a specific school term in a full-time course of instruction leading to a baccalaureate or higher degree. The statement will include the latest date on which the applicant must report to the school in person for registration in order to meet school's requirement for attendance.

2. A statement, signed by the individual concerned (after he has been informed of the provisions of Articles 3(b), 31(b), and 83, Uniform Code of Military Justice), as follows: "I understand that if I am separated from the Armed Forces by means of either a knowingly false representation in regard to any of the qualifications or disqualifications prescribed by law, regulation, or orders for such separation, or by deliberate concealment of any disqualification for separation, I shall be subject to courts-martial jurisdiction under the Uniform Code of Military Justice, Article 3(b), for violation of the Uniform Code of Military Justice, Article 83, or prosecution in a United States District Court for violation of Title 18, United States Code, Section 1001, or other applicable statutes."

3. A statement from the applicant that he has made payment of the entrance fee or that he is able and willing to do so.

4. Applicant clearly establishes that the specific school term for which he seeks release is academically the most opportune time for him to begin or resume his education and that delay of enrollment until normal expiration of term of service would cause undue handicap.

(*c*) The date on which the applicant must report to school must fall within the last 3 months of remaining service.

(2) Application for early release to attend a theological school not listed in part III of the Education Directory, foreign institutions, and all doubtful cases will be forwarded by the commander having discharge authority direct to The Adjutant General, ATTN: AGPO–SS, Washington, D.C., 20315.

(3) The effective date of early separation from service under this program will not be earlier than 10 days prior to date of registration prescribed by the educational institution. In the event late registration is permitted by the

school, separation may be accomplished on the first day (within the last 3 months of service) the individual becomes eligible for separation. Personnel arriving in the United States from oversea stations for release under this program may be released upon arrival if they have less than 3 months remaining in their

CHAPTER 6

SEPARATION BECAUSE OF DEPENDENCY OR HARDSHIP

Section I. GENERAL

6-1. Scope. This chapter sets forth the criteria and procedures and provides authority for the separation of enlisted personnel from active military service by reason of dependency or hardship.

6-2. Applicability. The procedures set forth in this chapter are applicable to personnel who are enlisted, inducted, or ordered to active duty or active duty for training under the Reserve Enlistment Program of 1968.

6-3. By whom separation ordered. By authority of the Secretary of the Army, the commanders specified in section VI, chapter 2, will order discharge or release from active military service of enlisted personnel on account of dependency or hardship.

Section II. DEPENDENCY OR HARDSHIP

6-4. Authority. At the discretion of the Secretary of the Army, an individual may be discharged or released, as appropriate, from active military service because of—

a. Dependency, when by reason of death or disability of a member of his family occurring after his enlistment, induction, or order to active duty, members of the enlisted person's family become principally dependent upon him for care or support (*10 U.S.C. 3813*).

b. Hardship, when in circumstances not involving death or disability of a member of his family, his separation from the service will materially affect the care or support of his family by alleviating undue and genuine hardship.

6-5. Application of laws. Separation from the service of enlisted personnel by reason of dependency or hardship will be granted in the following circumstances:

a. Dependency.

(1) Undue and genuine dependency exists as a result of the death or disability of a member of the enlisted person's family occurring after his entry into the service.

(2) Dependency is not of a temporary nature.

(3) Conditions resulting from the death or disability of a member of the enlisted person's family occurring prior to his entry into the service have been aggravated to such an extent as to necessitate his care or support of a member of his family. Pregnancy of an enlisted man's wife is not a disability for which his separation is authorized. However, this does not preclude separation on account of a disability of the enlisted man's wife occurring as a result of her pregnancy.

(4) Every reasonable effort made by the enlisted person to alleviate the dependency condition has been without success.

(5) Discharge or release from active military service of the enlisted person is the only readily available means of eliminating or materially alleviating the dependency conditions.

b. Hardship.

(1) Undue and genuine hardship conditions affecting members of the enlisted person's family have arisen after, or as a result of his entry into active military service. Undue and genuine hardship does not necessarily exist solely because of altered income or because the entitled person is separated from his family, or must suffer the inconveniences normally incident to military service.

(2) Hardship conditions are not of a temporary nature.

(3) Conditions existing in the enlisted person's family prior to his entry into active military service have been aggravated to such an extent as to constitute undue and genuine hardship.

(4) The enlisted person has made every reasonable effort to alleviate hardship conditions, including application for benefits as provided in AR 37-104 (Dependents' Assistance Act of 1950), without success.

(5) Discharge or release from active military service of the enlisted person is the only readily available means of eliminating or materially alleviating the hardship conditions.

c. Conditions affecting determination regarding separation for dependency or hardship.

(1) When an enlisted person is eligible for separation under this section, separation will not be disapproved because of the individual's indebtedness to the Government or to an individual.

(2) When an individual is eligible for separation under this section, separation will not be disapproved because his services are needed by his organization.

(3) When an individual is under charges, in confinement, under investigation for homosexuality or under the military personnel security program, or is being processed for discharge or retirement for physical disability, he will not be separated on account of dependency or hardship until such case has been properly disposed of.

(4) A sentence to confinement not including dishonorable or bad conduct discharge will be fully served unless sooner terminated by proper authority before a separation for dependency or hardship may be given.

(5) For the purpose of separation under this section, the term "members of the family" include only spouse, children, father, mother, brothers, sisters, and any person who stood in loco parentis to the enlisted person prior to his entry into the service. (The term "in loco parentis" as used herein is defined as "any person who has stood in the place of a parent to an enlisted person for 5 continuous years when the member was a minor child.")

6-6. Application for separation. *a.* Any enlisted person may submit a written application for separation because of dependency or hardship. Requests for separation will be submitted as follows:

(1) A person serving in the United States or stationed overseas will submit his application to his immediate commanding officer. In each instance the application will be supported by the evidence required in paragraph 6-7.

★(2) A person assigned to an oversea unit who is temporarily in the United States will submit his application to the commander of the military installation nearest his leave address or the installation to which he is temporarily assigned.

(3) A person assigned to a unit or installation within the United States but temporarily in an oversea command will submit his application, together with such supporting evidence as he may have readily available, to the commander of the oversea command in which he is located.

★(4) Enlisted personnel on orders for oversea shipment, either as individuals or as members of units, who have made

application for dependency or hardship separation will be held at the home station pending final disposition of the application.

(5) Applications for dependency or hardship separation from personnel en route overseas normally will not be accepted at oversea replacement stations. However, the commanders of such activities may accept applications from personnel en route overseas who are attached or assigned to the U.S. Army Personnel Center or who have direct assignments to oversea units if they feel that, based upon the evidence submitted and/or personal interview, separation from active duty may be necessary to relieve undue and genuine hardship. In such instances, retention at oversea replacement stations for a period of not more than 30 days, in order to allow individuals to procure necessary evidence to support their application, is authorized. If the application, together with supporting evidence, is submitted within the above specified period, retention may be continued pending final action on the application. When separation of an individual with a direct assignment to an oversea unit is approved, the appropriate oversea commander will be notified.

b. Forwarding indorsements prepared by commanders having custody of the applicant's records will set forth the following information if it does not appear elsewhere in the inclosures:

(1) Enlisted person's home address.

(2) Primary MOS.

(3) Name and address of dependents for whose care or support separation is being requested.

(4) Amount and type of allotments the enlisted person has in effect, together with the name and relationship of each allottee, where applicable.

(5) When dependency discharge is requested by an inductee, a statement that a determination of dependency for benefits under the Dependents' Assistance Act of 1950 (sec A, chap. 2), part 2, AR 37-104) was or was not requested and denied by the Allotments and Deposits Operations, Finance Center, U.S. Army.

(6) Selective Service number.

(7) Date of current enlistment or entry on active duty. (In the case of Reserve component personnel, both will be included.)

(8) Prior service.

(9) Whether the applicant is under charges, in confinement, under investigation for separation by reason of homosexuality or under the military personnel security program, or is being processed for discharge or retirement for physical disability.

★*c.* Commanders of military installations in the United States will accept applications for separation because of dependency or hardship from enlisted personnel temporarily in the United States from an oversea assignment. Personnel will be attached when on leave to an activity at the installation awaiting the final decision on their application for separation. The Adjutant General, ATTN: AGPO-SS, and the individual's parent oversea unit will be notified. When the separation of an individual is approved, the oversea command will be notified and requested to advise whether the provisions of AR 600-31 are applicable and, if not, to issue orders relieving the individual from assignment, and to forward the orders and personnel records by air mail in order that separation can be accomplished. When the separation of an individual on leave is disapproved, the individual will be released from an attached status and reverted to an emergency leave status, if previously on emergency leave, or ordinary leave status for return to his home station. The oversea commander will be notified and the application submitted while on leave will be forwarded to the individual's oversea unit to become part of his records.

6-7. Evidence required. *a.* The evidence required for dependency or hardship separation normally will be in affidavit form. The evidence

must substantiate dependency or hardship conditions upon which the application for separation is based.

b. The evidence required will include affidavits or statements submitted by or in behalf of the individual's dependents and by at least two disinterested persons or agencies having firsthand knowledge of the circumstances. If dependency or hardship is the result of disability of a member of the individual's family, a physician's certificate should be furnished showing specifically when such disability occurred, the nature thereof, and prognosis for recovery. There also will be furnished the names, ages, occupations, home addresses, and monthly incomes of other members of the applicant's family. The affidavits of disinterested individuals and agencies should include reasons within their knowledge that these members of the family can or cannot aid in the financial or physical care of the dependents concerned for the period the enlisted person has remaining to serve on his current tour of duty.

6-8. Procedure. *a.* Upon receipt of a written application, together with the required supporting evidence from an individual, the commanders specified in section VI, chapter 2, will—

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

(2) Procure any additional information that may be necessary to determine the validity of the request. The services of the American National Red Cross may be utilized when the information contained in the application is not sufficient to base a decision to approve or disapprove the request (para 6-9).

(3) Take final action to approve or disapprove the application except in cases wherein *b* below, applies.

b. When an application for separation is submitted by an individual who was inducted into the military service under the Universal Military Training and Service Act, or who is serving in an initial enlistment, the following procedure will apply:

(1) If the application does not contain conclusive evidence upon which to base a clear-cut decision that release is or is not warranted, the application and supporting evidence will be forwarded by letter to the Director of Selective Service of the State in which the individual's local board of jurisdiction is located. The letter will request a statement as to whether the circumstances presented in the application would result in deferment on the basis of undue and genuine hardship to the individual's dependents if he were being considered for induction. The letter to the State Director of Selective Service will also include the enlisted person's Selective Service number, and in dependency cases when the inductee or reservist has no allotment for claimed dependency, a statement that a determination of dependency for benefits under Dependents' Assistance Act of 1950 (sec A, chap. 2, part 2, AR 37-104) was or was not requested and denied by the Allotments and Deposits Operations, Finance Center, U.S. Army. It is not mandatory in any way that the officer having discharge authority follow the recommendation of the State Director of Selective Service, but when such statement is received it will be considered in relation to other supporting evidence. When the need arises, the recommendation of the State Director may be disclosed. If a report by the American National Red Cross is appropriate, it will be handled as prescribed in paragraph 6-9*b*(3). All subsequent applications for hardship or dependency discharge from the same inductee or enlistee also will be referred to Selective Service. Recommendations made by the Selective Service System become part of the application for separation and will be placed in an individual's Military Personnel Records Jacket, U.S. Army.

(2) At the discretion of the commanders having discharge authority, the procedure described in (1) above may be followed even though the application indicates that the release from active military service is warranted.

c. All commanders taking action on applications of individuals for dependency or hardship separation under this regulation will insure the expeditious handling of applications. In the event the individual is transferred to another major command (including overseas) after submission of his request for separation but before final action has been taken thereon, the application will be processed to completion, including final decision, in the command in which submitted. The commander who had discharge authority over the enlisted person in the losing area will notify him properly at his new address of the final action taken on the application and will forward the application, including final decision, to the major commander in the gain-

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S/S C3 22 Dec 1967

ARMY REGULATION

No. 635-200

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, D.C., *15 July 1966*

PERSONNEL SEPARATIONS
ENLISTED PERSONNEL

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SUPERSESSION LIST

This regulation supersedes the following:

AR 635-200, 8 April 1959, including C 1, 28 December 1959; C 2, 26 October 1960; C 5, 15 November 1961; C 6, 10 May 1962; C 8, 13 November 1962; C 9, 14 March 1963; C 10, 3 March 1964; C 11, 21 October 1964.

AR 635-205, 11 January 1960, including C 4, 21 July 1961; C 5, 15 November 1961; C 7, 9 November 1962; C 8, 28 November 1962; C 10, 12 July 1963; C 12, 4 March 1964; C 13, 1 November 1965.

AR 635-207, 12 January 1961, including C 2, 21 March 1962; C 3, 4 March 1964.

AR 635-210, 17 February 1961, including C 4, 5 September 1962; C 5, 25 June 1965.

AR 635-220, 4 June 1956, including C 1, 15 January 1957; C 2, 18 November 1957; C 3, 8 April 1959.

CHAPTER 2

SEPARATION OF ENLISTED PERSONNEL

SECTION I. ELIGIBILITY FOR SEPARATION

2-1. Statutory authority. Title 10, United States Code, Section 3811, provides that no enlisted member of the Army may be discharged before his term expires except—

a. As prescribed by the Secretary of the Army.

b. By sentence of a general or special court-martial.

c. As otherwise provided by law.

2-2. Discharge or release from the Active Army upon termination of enlistment, period of induction, and other periods of active duty or active duty for training. *a.* The periods of military service, required of all members of the Army, will be in accordance with applicable laws. Periods for which enlistment is authorized are set forth in NGR 25-1, AR 140-111, and AR 601-210. Periods for which individuals are inducted or ordered to active duty are prescribed by law.

b. The following aliens will not be separated prior to the full period for which enlisted or inducted purely as a matter of convenience (see para 5-2):

(1) Aliens who enlisted in the Regular Army for a period of 3 years (see section 328, Act of 27 June 1952 (66 Stat. 249; 8 U.S.C. 1439) for requirements as to naturalization.)

(2) Aliens who were enlisted or inducted in the Army for a period of 24 months active duty and who were in the United States at the time of enlistment or induction (see section 4, Act of 24 October 1962 (76 Stat. 1247; 8 U.S.C. 1254)).

If performance or conduct does not justify their retention, they will be processed for separation under appropriate regulations.

c. Personnel who are physically unfit for retention (chapter 3, AR 40-501) but who were accepted for, or continued in, military service under the provisions of AR 616-41, or similar directives, will not be separated by reason of expiration of term of service unless processing for separation by reason of physical disability is waived.

d. Subject to the provisions of section V of this chapter an individual enlisted, inducted, or ordered to active duty normally will be discharged, or released from active duty, on the date upon which he completes the period for which enlisted, inducted, or ordered to active duty. However, an individual other than those listed in *b* above, whose term of service expires or who otherwise becomes eligible for discharge or release from active duty on a Saturday, Sunday, or legal holiday, may, with his consent, be discharged or released to or transferred to the Army Reserve on the last working day prior to normal date of discharge or release. Individuals whose rate of pay is subject to change on a Saturday, Sunday, or legal holiday upon which they would be separated, will not be discharged until their normal separation date unless they request otherwise. Individuals who are eligible for early release on a Saturday, Sunday, or legal holiday under early release separation criteria in chapter 5 will not be discharged or released from active duty on the last working day prior to the Saturday, Sunday, or legal holiday unless the basic service requirement of the particular early separation authority

concerned is met. Release from active duty will be dated as of the release or discharge. Personnel released from active duty and transferred to the Army Reserve upon completion of the term of service for which inducted or ordered into active Federal service, or released to their Reserve component upon completion of active duty, will not be discharged until completion of their Reserve obligation.

e. AR 135-90 defines the various service obligations incurred by military personnel upon initial entry into military service and prescribes the methods of fulfillment.

f. A noncitizen who incurred a Reserve obligation upon induction into military service but who at time of release from active duty fails or refuses to give a mailing address within the United States, Puerto Rico, the Virgin Islands, Guam, or the Canal Zone, but gives only an address in a foreign country as a permanent mailing address (item 33, DD Form 214, Armed Forces of the United States Report of Transfer or Discharge), thus showing his intention to reside permanently outside the United States, is not eligible for transfer to the Army Reserve. He will be discharged upon and by reason of having completed the period of service for which inducted, but will be advised prior to such discharge that it may permanently bar him from United States citizenship.

g. Members of the Army National Guard of the United States and the Army Reserve ordered to active duty for a period in excess of 90 days will, upon release from active duty, revert to control of the appropriate Reserve component.

h. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 will be out-processed in accordance with AR 612-200.

i. Individuals serving as cadets in military academies whose expiration of enlisted term of service occurs while individual is serving in such capacity, will be discharged or released, as appropriate.

j. An enlisted person who at the time of entry on active duty held an appointment as a Army Reserve commissioned or warrant officer, or who while on active duty accepts appointment, and such appointment is still current, will not be transferred to the Army Reserve in his enlisted status but will be discharged. Special orders discharging the individual will be prepared as prescribed in AR 310-10 and will indicate that the individual is transferred to the Army Reserve in his commissioned or warrant grade. Discharge to enter another military status does not terminate the individual's militory service obligation incurred under Title 10, United States Code, subsection 651*a*.

SECTION II. DISCHARGE, RELEASE FROM ACTIVE DUTY, OR RELEASE FROM ACTIVE DUTY FOR TRAINING AFTER EXPIRATION OF PERIOD OF ACTIVE DUTY OR ACTIVE DUTY FOR TRAINING

2-3. Time lost to be made good. Every individual in active Federal service who renders himself unable for more than 1 day to perform duty will be liable, after a return to full duty status, to serve for such period as is necessary to complete his full term of service or obligation, exclusive of such time lost.

a. Lost time in the sense of this regulation refers to periods of more than 1 day during which an individual on active duty is unable to perform duty because of—

(1) Desertion.
(2) Absence without proper authority.
(3) Confinement under sentence.
(4) Confinement while awaiting trial or disposition of individual's case, if trial results in conviction.
(5) Intemperate use of drugs or alcoholic liquor.
(6) Disease or injury, the result of individual's own misconduct.

b. Time lost during an enlistment will be made good at the end of the enlistment period, except that, when an enlistment is extended by law, time lost will be made good at the end of the extension. This requirement may be waived

by Headquarters, Department of the Army. Recommendations for waiver of time lost will be submitted to The Adjutant General, Department of the Army, ATTN: AGPO-SS, Washington, D.C. 20315., in unusual circumstances, when the discharge authority considers that because of extenuating circumstances waiver of time lost is in the best interest of the individual and the Government.

c. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 (trainees performing at least 4 months ACDUTRA) will be required to make up time lost except that commanding officers of training installations are authorized to waive this requirement if the individual has completed the required training and the commander does not consider it would be in the best interest of the service to retain the individual on acive duty for training to make good time lost. Commanding officers of training installations are authorized to issue necessary amendatory orders extending the initial period of active duty for training in the cases of reservists who are required to make good time lost while undergoing active duty for training. Five copies of each amended order issued prior to release from ACDUTRA date indicated in original orders, will be furnished the State Adjutant General or the commander that issued the original active duty for training orders.

d. Enlisted members of the Army National Guard of the United States and the Army Reserve who are being released from active duty because the unit in which they were ordered to active duty is being returned as a unit to inactive status will not be retained on active duty to make good time lost.

2-4. Awaiting trial or result of trial by court-martial. An individual who, on the date on which he would otherwise be eligible for discharge or release from active duty, is awaiting trial or result of trial by court-martial will not be discharged or released from active duty until final disposition of the court-martial charges are made. For effective date of discharge, see section V. Enlisted personnel under sentence to dishonorable or bad conduct discharge will not be discharged prior to completion of appellate review, unless so directed by Headquarters, Department of the Army. If the individual is absent without leave at the time appellate review is completed, the punitive discharge may be executed notwithstanding his absence.

2-5. En route to United States or to Territory of origin. Whenever an individual is held in service after the expiration of his period of service under the conditions set forth in *a* and *b* below, he will be regarded as having been so retained for the convenience of the Government.

a. As a casual for separation. An individual en route as a casual to the United States from overseas will not under any circumstances be separated until he has arrived at his destination.

b. As a member of an organization. An individual whose period of service expires while at sea en route to the United States with his organization and who signifies his intention to reenlist for the same organization on the day following discharge will be discharged and reenlisted at sea. Those who do not signify their intention to reenlist will be held in the service until they arrive in the United States.

2-6. Requiring medical care or sick in hospital when the period of service expires. Any enlisted person, except those on active duty for training (ACDUTRA) on orders which are self-terminating, whose period of service will expire while requiring medical care or during the course of hospitalization for a disease or injury which finally has been determined to have been incurred incident to service (in line of duty) may, with his consent, be retained in service beyond the expiration of his period of service in order that he may complete the required medical care or hospitalization and, if required, be brought before a physical evaluation board (see AR 635-40A; for ACDUTRA cases, see AR 135-200). The final determination whether a member's disease or injury was incurred incident to service, referred to in this paragraph and in paragraph 2-7, is the decision of the Secretary of the Army in the line-of-duty investigation of the member's disease

or injury conducted under the provisions of AR 600-140. The enlisted person will be counseled for retention on active duty by an officer authorized to administer oaths pursuant to the Uniform Code of Military Justice, Article 136 (authority of Armed Forces personnel to administer oaths, take acknowledgements, and perform other notarial acts as contained in AR 600-11), who will furnish the enlisted person with the list of retention advantages in *d* below, will explain orally the advantages, and will have the enlisted person execute an affidavit as shown in *e* below, whether or not retention is desired. In those instances in which the individual has been determined to be mentally incompetent or otherwise unable to give consent, the next of kin or legal representative will be furnished the list of retention advantages and will be requested to furnish an affidavit as to the decision regarding retention. Any enlisted person so retained will receive, at Government expense, medical care, hospitalization, pay and allowances (including expense money authorized by law and credit for longevity), and will be subject to forfeiture in the same manner and to the same extent as if the period of service had not expired. See AR 37-104.

a. Any individual whose period of service will expire while requiring medical care or during the course of hospitalization may be held in service without his consent to make good time lost under Title 10, United States Code, section 972.

b. No enlisted person may be held in service beyond the normal expiration of his term of service without his written consent in affidavit form or, in the case of mentally incompetent personnel, without the written consent in affidavit form of the next of kin or legal representative, solely to provide further medical care or to effect further hospitalization and subsequent separation or retirement for physical disability. The affidavit will be filed in the individual's Military Personnel Records Jacket, U.S. Army (DA Form 201) and forwarded to U.S. Army Personnel Services Support Center, Fort Benjamin Harrison, Ind., 46249, when transfer processing has been completed. Individuals for whom authority to retain beyond expiration of term of service is not granted will be discharged or released from active duty on the date of expiration of term of service. A hospitalized individual so discharged or released from active duty may be permitted to remain in the hospital as a pay patient at his own expense and without military status if his condition is such that he is physically unable to leave the hospital at the time of discharge or release from active duty or in mentally incompetent cases, if his discharge would be attended by danger to himself or others. In any such case in which the individual is eligible for authorized hospitalization as a beneficiary of the Veterans Administration or, if ineligible for Veterans Administration hospitalization but transfer to a State, county, municipal, or private institution may be effected, the hospital commander will take appropriate action to arrange for and effect transfer. In cases in which the next of kin or legal representative does not authorize retention in the service beyond expiration of term of service of a mentally incompetent patient, disposition will be made in accordance with AR 40-3. If a mentally incompetent patient has been determined to be dangerous to himself or others and the next of kin does not elect to assume responsibility for the patient and the patient is not eligible for transfer to a Veterans Administration hospital, the hospital commander will follow procedures outlined in paragraph 70*c*(2), AR 40-3.

c. If it is impossible to locate the next of kin of a mentally incompetent patient, or the next of kin does not indicate whether the individual should be retained or discharged, the hospital commander will not discharge the individual but will continue, when appropriate, physical disability processing. The hospital commander will immediately forward full details of the case, including reasons for not completing physical disability processing by the date of expiration of term of service, and action to secure consent of next of kin for retention, by the most expeditious means to The Adjutant General, Department of the Army, ATTN: AGPO-RE, Washington, D.C., 20315. Disposi-

tion instructions will be issued by the Secretary of the Army.

d. An enlisted person whose period of service will expire while requiring medical care or during the course of hospitalization will be advised concerning the advantages of remaining on active duty (DA Pam 608-2) and furnished the following list of retention advantages, provided the disease or injury for which medical care is being provided or for which hospitalization was incurred incident to service (in line of duty):

(1) Advantages while remaining on active duty for further medical care or continued hospitalization or while being processed for disability benefits are—

(*a*) Medical care and/or hospitalization provided.

(*b*) Receipt of normal benefits such as pay, allowances to include class Q allotment, if authorized, and exchange and commissary privileges.

(*c*) Eligibility for dependent medical care.

(*d*) Accumulation of additional active service creditable for longevity and retirement for length of service.

(*e*) State income tax benefits where allowed by the laws of the State concerned.

(2) Advantages if processed and found eligible for disability separation are—

(*a*) If permanently retired, election of retirement pay based on either basic pay multiplied by the percentage of disability involved (30 to 75 percent), or basic pay multiplied by 2½ percent multiplied by years of total active service. If temporarily retired, however, the same election of pay is authorized, but the minimum pay will not be less than 50 percent of basic pay while temporarily retired (AR 37-104-1). If discharged for disability, may be entitled to receive severance pay.

(*b*) To the extent retirement pay is based on the percent of disability involved, such pay is excluded in the computation of gross income reportable for taxation.

e. An enlisted person whose period of service will expire during the receipt of medical care or course of hospitalization will execute the following affidavit:

WITH THE ARMY OF THE UNITED STATES, SS
AFFIDAVIT

At _____

Personally appeared before me, the undersigned, authorized by law to administer oaths pursuant to the Uniform Code of Military Justice, Article 136, one _____ who, after being advised by me of the rights and advantages of remaining in an active duty status in the Army beyond the scheduled date of his expiration of term of service for the purpose of continuing medical care or hospitalization and, if eligible, subsequent separation or retirement for physical disability under the provisions of chapter 61, title 10, U.S.C., and after being duly sworn, deposes and says:

"I, _____, have been fully advised by the undersigned officer of the rights and advantages that may accrue to me by voluntarily remaining on active duty in the Army beyond the scheduled date of expiration of my term of service for the purpose of continuing medical care or hospitalization and, if eligible, subsequent separation or retirement for physical disability under the provisions of

chapter 61, title 10, U.S.C, and have been further fully advised that if I elect to be discharged or released from active duty as scheduled I will not, after such discharge or release from active duty, be eligible for separation or retirement for physical disability. Wherefore, in consideration of the above, I (do) (do not) desire retention on active duty in the Army beyond the scheduled date of expiration of my term of service."

_____
(Signature of member)

_____
(Grade and organization of officer administering oath)

_____
(Signature of officer administering oath)

2-7. Retained in service for disease or injury incurred not incident to service pending line of duty determination by final approval authority. *a.* Where it has been finally determined that the injury or disease for which an enlisted member is receiving medical care or is hospitalized was not incurred incident to service, the member will be discharged or released from active duty on the date of expiration of his term of service. Where continued hospitalization is deemed necessary, the medical treatment facility commander may, in his discretion, afford continued hospitalization to a member who has been separated from the service or released from active duty on expiration of term of service. If such continued hospitalization after separation or release is afforded, charges will be collected from the patient by the medical treatment facility concerned at the pay-patient rate applicable for the fiscal year involved.

b. Where a final determination whether the member's injury or disease was incurred incident to service has not been made at the time the member's term of service expired, the member may be retained in service with his consent pending receipt by the medical treatment facility commander of such final determination. If it is finally determined that the member's disease or injury was incurred incident to service, the provisions of paragraph 2-6 will be complied with. If it is finally determined that the member's disease or injury was not incurred incident to service, the member will be discharged or released from active duty on receipt of such final determination by the medical treatment facility commander. Where continued hospitalization is deemed necessary, the medical treatment facility commander may, in his discretion, afford continued hospitalization to a member who has been separated from the service or released from active duty under these circumstances. If such continued hospitalization after separation or release is afforded charges will be collected from the patient by the medical treatment facility concerned at the pay-patient rate applicable for the fiscal year involved.

c. An enlisted person whose period of service will expire during the course of continued medical care or hospitalization pending final determination whether the disease or injury for which he is receiving medical care or hospitalization was incurred incident to service will execute the following affidavit:

WITH THE ARMY OF THE UNITED STATES, SS

AFFIDAVIT

At _____

Personally appeared before me, the undersigned, authorized by law to administer oaths pursuant to the Uniform Code of Military Justice, Arti-

AFFIDAVIT

I, (_____) am being subjected
(Name, grade, service number, organization)
to the exercise of criminal jurisdiction of the government of
_____. I am presently:

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

I request that I be retained in the service beyond_____, the
(Date)
expiration date of my term of service, until such time as final action on charges against me by the foreign government has been completed.

I have been advised of my rights under Article 31, UCMJ. I have also been informed that since I am subject to the UCMJ it is possible that courts-martial charges may be preferred against me if the foreign government does not proceed with its case. I certify that this request for retention in the service is not the result of coercion, force, or threat of harm, nor have I been promised any benefits by the military authorities of the United States.

_____
(Signature of member)

c. If neither of the provisions of *a* above can be complied with, the case, with full details, will be referred through channels to Headquarters, Department of the Army, ATTN: AGPO-SS, for instructions. Care will be exercised to insure that each case is submitted prior to the date of the individual's expiration of term of service.

Section IV. SEPARATION PRIOR TO EXPIRATION OF TERM OF SERVICE

2-12. Discharge or release from active duty prior to expiration of period of service. *a.* Except as indicated in *b* and *c* below, when separation is to be accomplished prior to expiration of enlistment, period for which inducted, or ordered to active duty or active duty for training of REP 63 trainees, it will be accomplished under whichever of the following chapters of this regulation or other regulations that are appropriate by the commander as specified in section VI:

(1) Conscientious objection ..AR 635-20
(2) Physical disability .....AR 635-40A
★(3) Dishonorable and bad conduct .....Chapter 11
(4) Marriage, pregnancy, or parenthood .....Chapter 8
(5) Minority .....Chapter 7
(6) Dependency or hardship ..Chapter 6
(7) Misconduct (fraudulent entry, conviction by civil court, AWOL, desertion) .....AR 635-206
(8) Resignation .....Chapter 9
(9) Unfitness .....AR 635-212
(10) Military Personnel Security Program .....AR 604-10
(11) Homosexuality .....AR 635-89
(12) Convenience of the Government .....Chapter 5
(13) Unsuitability .....AR 635-212
(14) Discharge and reenlistment in the Army National Guard of the United States while on duty .....AR 601-210
(15) Separation and reentry of nonregular personnel or extension of active duty .....AR 601-210

(16) Discharge for the good of the service ..... Chapter 10

★(17) Relief from active duty of recalled retired enlisted personnel ..... AR 601-250

b. When discharge or release from active duty is to be accomplished prior to expiration of enlistment, induction, or period for which ordered to active duty or active duty for training, time lost during such term of service need not be made good, except that in cases where discharge or release for the convenience of the Government is to be accomplished under the provisions of sections VI, VII, VIII, and IX, chapter 5, the expiration of term of required service of an individual with time lost will be adjusted to include such lost time (adjusted ETS). Early discharge for the purpose of immediate reenlistment in the Regular Army under the provisions of paragraph 5-10, where the member concerned has lost time, may be accomplished only upon waiver, where required, of the disqualification for reenlistment created by loss of time as set forth in AR 601-210.

c. Enlisted personnel under sentence to dishonorable or bad conduct discharge will not be discharged or released from active duty prior to completion of appellate review, unless so directed by Headquarters, Department of the Army.

Section V. EFFECTIVE DATE OF DISCHARGE

2-13. Effective date of discharge. *a.* Time discharge and release from active duty is effective. The discharge of an enlisted person for the reasons listed in (1), (2), and (3) below is effective at 2400 hours on the date of notice of discharge, and the enlisted person will be so notified. (Discharge certificate and DD Form 214 will not be delivered to individuals discharged for reasons in (1) and (2) below, prior to 2400 hours of the effective date of separation.) (Discharge certificate and DD Form 214 of individuals discharged as in (3) below, will be mailed as indicated in paragraph 69, AR 635-5.)

(1) Discharged by reason of expiration of term of service.

(2) Discharged for the purpose of continuing on active duty in the same or another status.

(3) Discharged from a Reserve component status under honorable conditions and is entitled to travel time.

b. Release from active duty of an enlisted person is effective at 2400 hours on the date of release when the individual—

(1) Is transferred to the Army Reserve for the purpose of completing a Reserve obligation incurred under the Universal Military Training and Service Act.

(2) Reverts to the jurisdiction of the Army Reserve or the State National Guard to complete the unexpired portion of an enlistment contract in such component.

(3) Is transferred to the temporary disability retired list under the provisions of AR 635-40A, except that, in terminal cases, retirement orders will designate the specific time of the day (identified by appropriate time zone) at which retirement is effective.

c. Discharge for all reasons, other than those set forth in *a* above, is effective at time of notice to the enlisted person of discharge.

d. Notice of discharge may be either—

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

(2) Constructive, when actual delivery of the discharge certificate cannot be accomplished owing to the absence of the individual to be discharged. For example, such a situation would arise if the individual were on leave or in the hands of civil authorities. Receipt by the individual's organization at his proper station of the order directing his discharge will be deemed sufficient notice. Except when the individual was on leave when dis-

charged, the date of receipt of the order and the reason why actual notice thereof was not given will be entered, by indorsement, on the back of the discharge certificate. If delivery of the discharge certificate cannot be made, it will be forwarded to The Commanding Officer, United States Army Administration Center, 9700 Page Boulevard, St. Louis, Mo., 63132, together with a statement of the reasons therefor.

2-14. Mentally incompetent. The effective date of discharge of a mentally incompetent individual may also be constructive, as when he has been placed in an institution. See AR 635-40A.

2-15. When retained in service awaiting trial or result of trial. When an individual is retained in service as prescribed in paragraph 2-4, the effective date of his discharge or release from active duty depends upon the result of his trial or the disposition made of the case. Examples are given below.

a. An individual who has previously lost no time which he is required to make good under title 10, United States Code, section 972, is confined awaiting trial will, if acquitted subsequent to expiration of term of service date, be discharged or released from active duty within 5 days after date of announcement of acquittal, and will be regarded as having been retained in service for the convenience of the Government.

b. An individual who is confined awaiting trial will, if convicted and sentenced to either confinement only, or confinement and forfeiture only, be discharged on the adjusted expiration date of term of service. The adjusted ETS date will be computed by adding to the original ETS date all time lost prior to and including the original ETS date.

2-16. Absent without leave or in hands of civil authorities. Discharge of an individual who is absent without leave or who has been convicted by the civil authorities is governed by AR 635-206, except for those individuals who have been sentenced to a dishonorable or bad conduct discharge. However, when discharge under the provisions of AR 635-89, sections II, III, or IV of AR 635-206, or AR 635-212 has been ordered by competent authority, and the individual concerned, while in the continental United States or area of residence, absents himself without leave or is absent in the hands of civil authorities subsequent to the date discharge is approved by the appropriate authority or subsequent to the issuance of discharge orders, the discharge may be executed notwithstanding such absence. Discharge Certificate, Armed Forces of the United States Report of Transfer or Discharge (DD Form 214), and orders will be dispatched by certified mail, with return receipt requested, to individual to the address provided for that purpose. If the forms are returned unclaimed, or for any other reason prove undeliverable, they will be forwarded, along with report of action, to The Commanding Officer, United States Army Administration Center, 9700 Page Boulevard, St. Louis, Mo., 63132, for file with the individual's records. Distribution of DD Forms 214 will be made in accordance with AR 635-5.

Section VI. AUTHORITY TO ORDER SEPARATION AND ACCOMPLISH SEPARATION

2-17. Authority to order discharge or release from active duty prior to expiration period of service. Authority is granted to the following commanders to order discharge or release from active duty of enlisted individuals prior to expiration of enlistment, induction, or period for which ordered to active duty:

a. Discharge or release from active duty not including courts-martial authority. Commanders of all units and installations (including class II installations) which are commanded by, or are under the normal command of general officer; commanders of Army hospitals under the command jurisdiction of The Surgeon General of the Army; commanders of personnel centers, training centers, oversea replacement depots, transportation terminal commands, and all active installations having an authorized

strength of 4,000 or more personnel. The above commanders are not authorized to delegate discharge authority to subordinate commanders without prior approval of the Secretary of the Army.

b. Discharge involving general courts-martial authority. Commanders exercising general courts-martial jurisdiction are authorized to order discharge under AR 635-89, AR 635-204, AR 635-206, AR 635-212, and chapter 10 of this regulation.

c. Authority to order discharge or release from active duty of enlisted personnel at class II installations. In the absence of prior instructions, commanders of class II installations not having transfer activities or authority to issue PCS orders will contact the appropriate field commander or service for issuance of orders in connection with the release from active duty.

d. Discharge involving special court-martial authority. Commanders exercising special court-martial jurisdiction are authorized to order discharge for unsuitability under AR 635-212.

★*e. Discharge of an enlisted woman for pregnancy.* Commanders of all units and installations which are commanded by, or are under the normal command of general officers *and colonels;* and other commanders as specified in paragraph 2-17 are authorized to discharge for pregnancy under section III, chapter 8.

2-18. Expiration of term of service. Separation will be accomplished by the transfer facility processing the member for separation (see AR 635-61), pursuant to the discharge order issued by the appropriate commander.

2-19. Reason and authority for separation. The specific reason and authority for separation entered in item 11c, DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) will be entered as shown in AR 635-5.

2-20. Action by commanders having discharge authority. Commanders having discharge authority directing discharge or release from active duty of an enlisted person will comply with the provisions of AR 635-61.

CHAPTER 3

SEPARATION OF ENLISTED PERSONNEL IN FOREIGN COUNTRIES

3-1. Scope. This chapter prescribes the rules governing the separation of enlisted personnel in foreign countries. It governs only the place of separation and does not prescribe substantive rules for discharge or other separations.

3-2. Separation in foreign countries. *a.* An individual eligible for separation who is serving in a foreign country may be separated therein, provided—

(1) He requests separation in that country.

(2) His separation in that country is not precluded by any provision of paragraphs 3-3*a*, 3-4, and 3-5.

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

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

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

b. No individual will be separated in a foreign country until he has obtained all documents necessary to his lawful continued presence in that country.

(1) Revocation action pursuant to para-

★*c.* Requests for separation in an oversea command will be forwarded to The Adjutant General, ATTN: AGPO-SS, Department of the Army, when—

graph 24, AR 604-5 has been taken against the individual concerned durhis current term of enlistment.

(2) The individual's access to defense information is suspended pursuant to paragraph 17*b*, AR 604-5 at the time the decision is made whether or not to separate an enlisted member in a foreign country.

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

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

3-3. Enlisted personnel confined pursuant to the sentence of a foreign court. *a.* Enlisted personnel confined in a foreign penal institution pursuant to the sentence of a foreign court may be separated from the service under provisions of section VI, AR 635-206, during their period of confinement only—

(1) With the approval of Headquarters, Department of the Army.

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

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

b. When the oversea commander considers separation of such enlisted person prior to the completion of his sentence to confinement to be appropriate, he will forward request for approval for such separation to The Adjutant General, ATTN: AGPO-SS, Department of the Army, with a report which will include the following information:

(1) Name, grade, service number, branch of service.

(2) Last organization and assignment.

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

(4) Court before which tried.
(5) Date and place of trial.
(6) Offense(s) of which enlisted person was convicted.
(7) Sentence pursuant to which the enlisted person is confined.
(8) Matters in mitigation, extenuation, or aggravation.
(9) Appellate action, if any, and result thereof.
(10) Whether the action of the foreign courts is final or whether further appellate action is possible or contemplated.
(11) Place and condition of confinement.
(12) Possibility for parole and facts pertinent thereto.
(13) Special facts and circumstances, including reasons supporting discharge during confinement.
(14) Whether consent for separation in the territory of the foreign country has been obtained from that country.
(15) A report concerning board proceedings as set forth in section IV, AR 635-206.

3-4. Enlisted personnel under investigation by foreign authorities or sentence by foreign court but not confined pursuant to that sentence. *a.* Enlisted personnel whose sentences to confinement by foreign courts are not suspended and who are not confined pending appellate action, and enlisted personnel who are not confined but who are charged with or are under investigation for offenses subject to the jurisdiction of foreign authorities for which a sentence to confinement could be imposed will not be considered for separation in the foreign country until final action in the matter has been taken by the foreign authorities. After final action by the foreign authorities, such enlisted personnel may be considered for separation in the foreign country under paragraph 3-2 or 3-3, whichever is appropriate.

b. Enlisted personnel who are accepted for service in a foreign country but who are not stationed in that country may be returned to the place of acceptance and there separated if paragraph 3-2 is complied with. If the enlisted person concerned is in possession of appropriate documents entitling him entry into the country of acceptance, specific consent of that country for his separation in its territory need not be obtained.

3-5. Separation of enlisted personnel sentenced by foreign courts. The provisions of paragraph 3-3 will in no event be construed as prohibiting a commander from initiating action under the provisions of section VI, AR 635-206, when an enlisted person in his command is confined in a foreign penal institution, with a view toward discharge of such enlisted person after release from confinement and return to the United States or its territorial possessions.

3-6. Personnel eligible for return from overseas for discharge or release from active duty. Individuals scheduled for return to the continental United States, its Territories, or possessions, for discharge or release from active duty will be processed for return in accordance with AR 612-50.

ing individual to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

(2) Those who have completed 20 or more years active Federal service and are 55 years of age. Authority (AR 635–200) and SPN 419 will be included in directives or orders directing individual to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

b. Commanders specified in section VI, chapter 2, may recommend discharge of enlisted personnel who are under 55 years of age and who have served 6 years in an unspecified enlistment, when—

(1) Such individuals have completed 20 years' active Federal service.

(2) It would be in the best interest of the service that such individuals be discharged.

c. Recommendation for discharge will be forwarded to The Adjutant General, Department of the Army, ATTN: AGPO–SS.

d. Authority (AR 635–200) and SPN 41D will be included in directives or orders directing the individual to report to the transfer activity or unit personnel section designated to accomplish transfer processing for discharge.

5–9. Discharge of personnel who did not meet the medical fitness standards. a. Discharge of personnel who did not meet the medical fitness standards for enlistment or induction. Commanders specified in section VI, chapter 2, are authorized to order discharge of individuals who were not medically qualified under procurement medical fitness standards when accepted for induction or initial enlistment. Eligibility for discharge will be governed by the following:

(1) A medical board finding that the individual has a medical condition which—

(*a*) Would have permanently disqualified him for entry in the military service had it been detected at that time, and

(*b*) Does not disqualify him from retention in the military service under the provisions of chapter 3, AR 40–501.

(2) A request for discharge will be submitted by the individual to his unit commander within 4 months from the date of initial entry on active duty or initial entry on active duty for training under the Reserve Enlistment Program of 1963. An individual found to meet the requirements of 1(*a*) above, who elects to complete the period of service for which inducted or enlisted will be required to submit a written statement set forth in paragraph 54*e*(3)(b), AR 40–3.

b. Application for discharge will be processed promptly, and separation will be accomplished within 72 hours following approval by the discharge authority.

c. Authority for discharge (AR 635–200) and SPN 375 will be included in directives or orders directing the individuals to report to the appropriate transfer authority.

d. Members who do not meet retention medical fitness standards will be processed under the provisions of AR 635–40A and AR 635–40B.

5–10. Discharge for the purpose of immediate enlistment or reenlistment. Unit commanders authorized to order discharge of enlisted personnel for the convenience of the Government, for the reasons set forth below. Individuals being discharged from their present status as provided in this paragraph will be reenlisted on the day following discharge. The discharge certificate will not be delivered to the individual until after reenlistment is accomplished. Authority (AR 635–200) and SPN 313 for separation will be included in directives or orders directing separation.

a. Discharge is authorized for Regular Army personnel, other than personnel or initial en-

listment, to permit their reenlistment for a term of 3 or more years provided they apply for and are qualified for reenlistment. Discharge may be accomplished—

(1) At any time during the last 90 days of current enlistment.

(2) For the purpose of—

(*a*) Meeting length-of-service requirement for attendance at service schools, attendance at a civilian education institution in accordance with AR 350-200, or to attend Army Officer Candidate School.

(*b*) Assignment to an oversea tour of duty.

1. When the amount of service remaining in current enlistment is not sufficient to complete a prescribed foreign service tour in the oversea command to which an individual is to be assigned, the discharge and reenlistment are to be accomplished when the oversea assignment is evident.

2. In the case of personnel serving overseas to complete a normal tour when the length of service remaining in current enlistment is insufficient for that purpose, the discharge and reenlistment are to be accomplished immediately upon application of the individual.

(*c*) Assignment to National Guard, Reserve Officer's Training Corps, Army Reserve, instructorship at service schools, or recruiting duty when the amount of service remaining in current enlistment is less than 12 months. Discharge and reenlistment are to be effected when such assignment is evident.

(*d*) Meeting length-of-service requirement of individuals selected for assignment to United States Military missions to accomplish travel to place of assignment, complete tour with the mission, and return to the United States in time to complete separation processing by the expiration date of their enlistment. Discharge and reenlistment will be accomplished prior to departure from home station.

(*e*) Meeting length-of-service requirement for oversea movement of dependents. Discharge and reenlistment of this category of individuals will be accomplished prior to departure from home station.

b. Discharge is authorized to permit immediate enlistment or reenlistment in the Regular Army upon completion of 1 year active Federal service on their current term of service of individuals in (1), (2), and (3) below, who apply for and are qualified for enlistment or reenlistment.

(1) Regular Army personnel serving on their first enlistment.

(2) Army of the United States personnel inducted into service under the Universal Military Training and Service Act.

(3) Personnel of the Army National Guard of the United States and the Army Reserve ordered to active duty.

c. Discharge is authorized for the purpose of immediate enlistment in the Regular Army of REP 63 ACDUTRA trainees who apply for and are qualified for enlistment upon completion of the period for which ordered to ACDUTRA.

d. Commanders responsible for U.S. Army Reception Station processing are authorized to discharge inductees for the convenience of the Government to permit immediate enlistment in the Regular Army prior to their entry into BCT for school courses of 20 weeks' duration or longer.

(1) Authority (para 5-10, AR 635-200) and SPN 425 will be included in directives or orders directing separation of inductees to enlist for warrant officer flight training.

(2) Authority (para 5-10, AR 635-200) and SPN 426 will be included in directives or orders directing separation of inductees to enlist to attend critical MOS schools.

Section IV. NATIONAL HEALTH, SAFETY, OR INTEREST

5-11. National health, safety, or interest. Enlisted personnel may apply for separation from active military service on the basis of importance to national health, safety, or interest. Reserve component personnel ordered to active duty for training under the Reserve Enlistment Program of 1963 are not eligible for separation under this section.

a. General. This policy is applicable to situations where the critical need for the services of an individual in a civilian capacity from the viewpoint of health, safety, or general welfare outweighs the need of the Nation for the individual in an active military status. Normally, favorable action on requests for separation under the provisions of this policy will be made only when it is clearly determined that—

(1) Application is motivated by critical national or community interest and not for the personal benefit of the applicant.

(2) The applicant's importance to the national health, safety, or interest in a civilian capacity has become significantly greater than it was at the time of his entrance on duty by reason of—

(*a*) His unique qualifications in a critical civilian occupation.

(*b*) An unusual change in his employer's requirements for his services caused by such factors as a substantial increase in defense supporting activity.

(*c*) A significantly reduction in effectiveness of his employer's defense supporting activity because of the loss of personnel capable of performing the functions of the applicant and his employer's inability to replace such personnel.

(3) The applicant is not presently assigned to a critical MOS.

(4) The applicant is presently assigned to a critical MOS but a qualified replacement is available.

b. Evidence required. All applications submitted will contain the following information and material:

(1) Name of firm or agency or description of individual enterprise with which he will be connected.

(2) Product manufactured or service rendered.

(3) Title and description of position to be filled.

(4) Applicant's connection with activity prior to military service.

(5) Applicant's qualifications for the position.

(6) Letters, affidavits, or other documentation from responsible officials of the firm, corporation, agency, or State substantiating the facts given above and setting forth the need for the services of the applicant.

c. Processing application.

(1) All applications will be submitted on DA Form 1049 (Personnel Action) and forwarded through military channels to The Adjutant General, Department of the Army, ATTN: AGPO-SS, Washington, D.C., 20315.

(2) The comment by unit commander on DA Form 1049 will include the following information:

(*a*) Whether approval or disapproval is recommended. When disapproval is recommended, the reason(s) therefor will be included.

(*b*) Assignment information.

1. Duty MOS.

2. Primary MOS.

3. Replacement will (or will not) be required.

4. If replacement is required, whether one is available within the command.

5. Whether there is a critical military requirement for the applicant's services; if so, the justification for same will be included.

(*c*) Whether medical board or physical

evaluation board proceedings are pending or appropriate.

(*d*) Whether under investigation, under charges, awaiting result of trial, absent without leave, or any flagging action taken in accordance with AR 600-31.

(*e*) Whether the individual has an incompleted service obligation incurred through attendance at service schools or civilian educational institutions.

(3) Subsequent forwarding comments on DA Form 1049 will include information required in (2)(*a*) and (*b*)*3*, *4*, and *5* above, and such other remarks as may be pertinent.

(4) In appropriate cases The Adjutant General, Department of the Army, will accomplish coordination with other governmental agencies concerning criticalness.

(5) Whenever an application is disapproved by Headquarters, Department of the Army, a new application will not be submitted unless there is material new evidence to support the application.

d. Authority (AR 635-200) and SPN 314 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty, as appropriate.

Section V. LACK OF JURISDICTION

5-12. Lack of jurisdiction. The discharge or release of an individual from the Army may be ordered by a United States Court or judge thereof. The officer upon whom such an order or writ is served will report immediately to The Judge Advocate General, as directed in MCM 1951, paragraph 217, and AR 27-5, and will notify The Adjutant General, Department of the Army, ATTN: AGPO-SS, Washington, D.C. 20315, who will take appropriate action to direct the discharge, release from active military service, or release from military control of the individual concerned. Authority (AR 635-200) and SPN 316 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty, as appropriate. Similar action will be taken upon the final judicial determination of a convening authority of a general or special court-martial, a law officer, a president of a special court-martial, or military appellate agency that an individual is not currently a member of the Army.

Section VI. SEPARATION OF INDUCTEES

5-13. *Early separation of inductees with prior service.* Commanders specified in section VI, chapter 2, are authorized to order the separation for the convenience of the Government of inductees who have served on active duty prior to their present tour of duty.

a. Inductees serving on a second period of active duty will be separated provided—

(1) The individual has completed a minimum of 24 months' total combined active duty in any component of the Armed Forces.

(2) The individual presents conclusive evidence of active service completed prior to entry on current period of service.

(3) Early separation is requested by the individual.

b. The Armed Forces of the United States Report of Transfer or Discharge (DD Form 214) covering period of prior service claimed by the applicant, will be used to verify such prior service.

(1) When an applicant claims prior service in any of the Armed Forces but

CHAPTER 8

DISCHARGE OF ENLISTED WOMEN—MARRIAGE, PREGNANCY, OR PARENTHOOD

Section I. GENERAL

8-1. Scope. This chapter establishes policy, sets forth procedures, and provides authority for discharge of enlisted women by reason of marriage, pregnancy, or parenthood.

8-2. Authority to discharge. Commanders specified in section VI, chapter 2, are authorized to approve the discharge of enlisted women under this chapter.

Section II. MARRIAGE

8-3. Enlisted or reenlisted prior to 1 July 1965. An enlisted woman who enlisted or reenlisted prior to *1 July 1965* may be discharged by reason of marriage at her own request providing she meets the following requirements:

a. Served on active duty for not less than 1 year subsequent to basic training and any additional specialist training received prior to her first duty assignment.

b. Completed the period of service subsequent to attendance at a service school required by AR 600-200.

c. Completed 1 year of her current oversea tour in the oversea command.

8-4. Enlisted or reenlisted on or after 1 July 1965 and prior to 20 June 1966. An enlisted woman who enlisted or reenlisted *on or after 1 July 1965 or prior to 20 June 1966* may be discharged by reason of marriage at her own request providing she meets the following requirements:

a. The applicant is not—

(1) Assigned to a duty station which is sufficiently close to her husband's location to permit establishment of a joint household.

(2) Serving on either an extension of an enlistment or on a reenlistment which has been entered into after her marriage.

b. The applicant has—

(1) Been denied reassignment, requested in accordance with AR 614-6, to a duty station sufficiently close to her husband's location to permit establishment of a joint household.

(2) Completed the longest of the following applicable minimum service periods:

(*a*) 12 months from date of assignment at current duty station.

(*b*) If the member has attended a service school or ATC Course prior to first duty assignment:

1. 18 months from date of completion for courses of 20 weeks or less duration.

2. 24 months from date of completion for courses of more than 20 weeks duration.

(*c*) If the member has attended a service school subsequent to first permanent duty assignment, the specific period of service required by AR 600-200.

8-5. Delay discharge. Commanders specified in section VI, chapter 2, may delay the discharge for a period not to exceed 120 days from

date of request if such action will materially contribute to a more orderly replacement process.

8-6. Type of certificate to be furnished and authority for discharge. *a.* An honorable or general discharge certificate will be furnished in accordance with section III, chapter 1.

b. Authority (sec II, chap. 8, AR 635-200) and SPN 220 will be included in directive or orders directing the individual to report to the appropriate transfer activity.

8-7. When not eligible for discharge. ★ Women enlisting or reenlisting *on or after 20 June 1966* are not eligible for discharge solely for reason of marriage.

b. Women will not be eligible for discharge solely for reason of marriage during war or national emergency declared by the Congress.

Section III. PREGNANCY

8-8. Requirement for discharge. *a.* Discharge will be accomplished at the earliest practicable date when—

★(1) It has been determined by a physician on duty at an Armed Forces medical treatment facility that an enlisted woman is pregnant.

(2) It has been determined by a physician on duty at an Armed Forces medical treatment facility that an enlisted woman has been pregnant at any time during the present enlistment.

(3) The enlisted woman gives birth to a child during present enlistment.

b. Exceptions to the above are as follows:

(1) If a legitimate pregnancy is terminated without live issue prior to the effective date of discharge or the child dies prior to the effective date of discharge, the enlisted woman may request waiver for discharge in order to be retained on active duty. The request for waiver will be forwarded through military channels to The Adjutant General, ATTN: AGPO-SS, Department of the Army, Washington, D.C., 20315, for final determination. The request will be accompanied by proper verification and history. The following information will be included in the forwarding comments:

(*a*) The enlisted woman's conduct and efficiency ratings.

(*b*) The WAC unit officer's recommendation.

(*c*) The circumstances involved.

(2) When medical examination discloses conditions, in addition to pregnancy, which require medical treatment and/or hospitalization, the enlisted woman will be retained until such time as maximum benefits of hospitalization have been attained. If it appears that the enlisted woman may be permanently physically disabled for any reason, the case will be processed under AR 635-40A.

★(3) When it has been determined by a physician on duty at an Armed Forces medical treatment facility that a lawfully married enlisted woman is pregnant and the woman has 18 or more years' active Federal service as of the date of certification of pregnancy, the enlisted woman may request waiver of discharge and retention on active duty or request retirement, if otherwise eligible, as indicated below. Processing of such applications will be expedited.

(*a*) An enlisted woman having 20 years' active Federal service will be afforded the opportunity to submit an application for retirement to be effective immediately. The application for retirement together with the Report of Medical Examination (SF 88) will be submitted in accordance with AR 635-230. When an enlisted woman refuses to apply for retirement, a report will be forwarded to The Adjutant General,

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has been proper over a reasonable period of time subsequent to the conviction(s), he may be considered for an honorable discharge (*c* and *d* above).

(3) A member's service may be characterized as general by the commanding officer authorized to take such action or higher authority when the member is eligible for or is subject to separation and it has been determined, under the prescribed standards, that such separation is warranted.

f. Undesirable discharge. An undesirable discharge is an administrative separation from the service under conditions other than honorable. It may be issued for unfitness, misconduct, homosexuality, or for security reasons.

(1) *Special considerations.* In any case in which an undesirable discharge is authorized by regulation a member may be awarded an honorable or general discharge, as appropriate, if, during the current or a prior enlistment or period of service or voluntary or involuntary extension of either, he has been awarded a personal decoration, or if warranted by the particular circumstances of a specific case.

(2) *Consideration required.* Commanders and members of boards of officers responsible for recommending discharges to be furnished, and commanders having responsibility for determining finally the type of discharge to be issued, are urged to consider all facets of a particular case involving discharge in order that a fair decision will result.

1-10. Issuance of an undesirable discharge. An undesirable discharge will be directed only by a commander exercising general court-martial jurisdiction, or by higher authority, based upon the approved recommendation of a board of officers, unless the member waives the board or resigns, or requests discharge for the good of the service. Prior to such action, the following procedures and safeguards must be observed:

a. A member who is under military control will be notified in writing that his discharge has been recommended pursuant to a specific regulation, and of the specific allegations on which the proposed action is based, and advised that he has the following rights:

(1) To present his case before an administrative discharge board.

(2) To be represented by appointed counsel (para 1-3*i*); military counsel of his own choice, provided such counsel is reasonably available; or civilian counsel at his own expense.

(3) To submit statements in his own behalf.

(4) To waive the above rights in writing. The member will be given an opportunity and a reasonable time (not less than 48 hours) to consult with counsel ((2) above) prior to waiving the above rights. If he elects to waive these rights, the member shall personally sign a written waiver. His counsel shall sign as a witness, indicating whether he is qualified under Article 27 (b)(1) of the Uniform Code of Military Justice, if he is not a member of the Judge Advocate General's Corps. If the member refuses counsel, his waiver must explicitly state that fact.

b. If a member waives his rights, the discharge authority may disapprove the waiver and refer the case to an administrative discharge board, or direct retention on active duty, or direct discharge by reason of unfitness, misconduct, homosexuality, or security. If discharge is directed, the type of certificate will be specified.

c. A member unable to appear in person before an administrative discharge board by reason of confinement by civil authorities will be advised (by registered mail) of the proposed discharge action, the type of discharge certificate that may be issued, and the fact that action has been suspended to give him the opportunity to exercise the following rights:

(1) To request appointment of a military counsel or employ civilian counsel at

his own expense to represent him and, in his absence, present his case before an administrative discharge board.

(2) To submit statements in his own behalf.

(3) To waive the foregoing rights, either in writing or by declining to reply to the letter of notification within 30 days from the date of receipt.

d. A member beyond military control by reason of unauthorized absence of more than 1 year may be issued an undesirable discharge in absentia under AR 635-206. Notification of the imminent discharge action and the effective date thereof will be sent by registered mail to the record address of the member or the next of kin, as appropriate. Separation of members of the Reserve components will be subject to the limitations of Title 10, U.S.C. 1163.

e. A member who submits a resignation or requests discharge for the good of the service may be issued an undesirable discharge without board action provided he has been afforded the opportunity (not less than 48 hours) to consult with counsel (*a*(2) above), and provided that the member certifies in writing his understanding that he will receive a discharge under other than honorable conditions and that he understands the adverse nature of such a discharge and the possible consequences thereof. The member must personally sign his written resignation, or request for discharge. His counsel shall sign as a witness, indicating whether he is qualified under Article 27(b)(1) of the Uniform Code of Military Justice, if he is not a member of the Judge Advocate General's Corps. If the member refuses all counsel, (*a*(2) above), his resignation or request for discharge must explicitly state that fact.

1-11. Determination of character of service. *a.* In all cases requiring an administrative discharge board or waiver thereof, the discharge of an enlisted member will be characterized by the officer authorized to approve such a separation or by higher authority. In all other cases, the character of separation will be determined by the immediate commanding officer of the last unit to which the member was assigned or attached prior to his separation processing at the transfer facility, except when otherwise directed by higher authority. The officer characterizing the service will—

(1) Review the individual's military record and determine the character of separation to be awarded in accordance with governing criteria.

(2) Enter in the "Remarks" section of the Enlisted Qualification Record (DA Form 20), the character of separation to be issued upon separation.

b. Commanders of transfer activities will examine each enlisted qualification record of personnel undergoing transfer processing and will issue the type of discharge ordered by the discharge authority (section VI, chapter 2) with the characterization determined by the appropriate officer (*a* above).

c. The commanders of transfer activities will change neither the type nor character of separation except in those instances when the member's conduct, subsequent to the determination by the discharge authority and the characterization by the appropriate officer (*a* above), warrants a change in type or character of separation. When no administrative discharge board is convened, the commander of the transfer activity may issue an honorable or general discharge. Appropriate entries will be made in the individual's enlisted qualification record with the reason for the determination or characterization by the commander of the transfer activity.

1-12. Periodic explanation. At such time as the Articles of the Uniform Code of Military Justice are explained pursuant to 10 U.S.C. 937, an explanation will be given of the types of discharge certificates and basis for issuance and the possible effects of various certificates upon reenlistment, civilian employment, veterans' benefits and related matters. See Incidents of Discharge Chart, (DA Graphic Training Aid 21-2-1, 1965). Failure on the part of the member to receive or to understand such explanation, however, will in no event be considered a defense in an administrative discharge proceeding or a bar thereto.

CHAPTER 7

DISCHARGE BECAUSE OF MINORITY

Section I. GENERAL

7-1. Scope. This chapter sets forth the criteria and procedures and provides authority for the discharge of enlisted personnel by reason of minority.

7-2. Applicability. The procedures set forth in this chapter are applicable to personnel who are enlisted, inducted, or ordered to active duty or active duty for training under the Reserve Enlistment Program of 1963.

7-3. Authority to order discharge. Commanding officers specified in section VI, chapter 2, are authorized to order discharge or release from military control of an individual on account of minority, as appropriate. Individuals for whom discharge has been ordered will be processed under the provisions of paragraph 6, AR 635-61.

Section II. MINORITY

7-4. Authority. *a.* Section 3256, Title 10, U.S. Code, provides in part that the Secretary of the Army may accept original enlistments in the Army of qualified, effective able-bodied persons who are—

(1) Not less than 17 years of age in the case of male persons, except that no male person under 18 years of age may be originally enlisted without the written consent of his parents or guardian, if he has a parent or guardian entitled to his custody or control.

(2) Not less than 18 years of age in the case of female persons, except that no female person under 21 years of age may be originally enlisted without the written consent of her parents or guardian, if she has a parent or guardian entitled to her custody or control.

b. Section 4(c)(4), Universal Military Training and Service Act and Section 1630.1(b) Selective Service Regulations provide that—

(1) A person after attaining the age of 17 years may, with the written consent of his parents or guardian, volunteer at his local board for induction into the Armed Forces.

(2) A registrant between the ages of 18 and 18½, inclusive, may volunteer at his local board for induction into the Armed Forces without the written consent of his parents or guardian.

(3) The minimum age for involuntary induction is 18 years and 6 months. (Section 4(a) Universal Military Training and Service Act) (50 U.S. Code App. 454(a)).

7-5. Application of laws. *a. Enlisted men* (i.e., all male personnel serving in enlisted grades).

(1) The following individuals who have attained the age of 18 years while on active duty are not eligible for discharge due to minority regardless of age at the time of enlistment and regardless of whether the consent of his parents or guardian was obtained.

(*a*) Members of the Regular Army.

(*b*) Members of the Army National Guard of the United States.

(c) Members of the Army Reserve.

(2) An enlisted man inducted pursuant to the Universal Military Training and Service Act and who has attained the age of 18 years and 6 months is not eligible for discharge due to minority regardless of the age at the time of induction and regardless of whether consent of his parents or guardian was obtained.

(3) A minor under 17 years of age is incapable of entering into a valid enlistment or voluntary induction. The enlistment or voluntary induction of a minor who was below 17 years of age at date of enlistment or voluntary induction and who has not attained the age of 17 upon receipt of satisfactory evidence of the date of his birth, is void. Likewise, the involuntary induction of a person who was under the age of 18 years and 6 months at date of induction and who has not attained that age upon receipt of satisfactory evidence of his date of birth, is void. The Discharge Authority will not issue a discharge. However, he will issue an order releasing the individual from military control. This order will reflect the length of time the member served on active duty with the notation that such time is creditable, if otherwise creditable, both for longevity and retirement purposes, should the individual later return to military service. The order will also reflect that the individual's enlistment or induction is void because of minority and that his release from military control is being accomplished by reason of his minority. Copies of this order will be issued to the individual and will also be made a permanent part of his personnel records.

(4) Unless under charges or in confinement for a serious offense committed after attainment of the age of 17 years, as set forth in paragraph 7-9, an enlisted man of the Regular Army who was under 17 years of age at the time of enlistment and who has attained the age of 17 but who has not reached the age of 18 years will be discharged upon receipt of satisfactory evidence of the date of his birth. However, upon recommendation of his immediate commanding officer, the enlisted man may be retained in service at the option of the Secretary of the Army, unless application for his discharge is made by his parents or guardian. Requests for retention in service, with appropriate documentation and recommendations, will be forwarded to The Adjutant General, Department of the Army, ATTN: AGPO-SS, Washington, D.C., 20315, for final decision.

(5) Unless under charges or in confinement for a serious offense, committed after attainment of the age of 17 years, as set forth in paragraph 7-9, an individual voluntarily inducted into the Army under 17 years of age and who has attained the age of 17 years, but who has not reached the age of 18 years and 6 months, will be discharged, unless retained in the service in accordance with the provisions of (4) above. An individual who was involuntarily inducted while under the age of 18 years and 6 months will not be discharged for minority if he has reached the age of 18 years and 6 months.

(6) Enlisted members of the Army National Guard of the United States and Army Reserve who enlisted at the age of 17 without the consent of parents or guardian will be discharged because of minority unless parental consent was obtained prior to entry into active military service, as prescribed in AR 135-300. Those members under the age of 17 at the date of enlistment and who have not reached the age of 17 years will be released from military control ((3) above). Those under the age of 17 years at the date of enlist-

7-9. When under charges or in confinement and certain other cases. When a minor who is otherwise eligible for minority discharge is under court-martial charges, serving a court-martial sentence, or in military confinement for a serious offense, he will not be discharged for minority until proper disposition has been made in his case. Although the facts indicate that, in other circumstances, he should be discharged for a reason other than minority (i.e., misconduct, unfitness, or unsuitability), ordinarily it is desirable to avoid action by boards of officers under AR 635-212, or trial and confinement of an individual who otherwise is eligible for minority discharge. It is quite proper to go to considerable lengths to determine that no board or trial should be held and to remit any sentence imposed. Immediate action will be taken, however, to discharge such personnel.

7-10. When outside the United States. An individual serving outside the United States, or an area of residence in which enlisted will not be discharged, or released from military control for minority until returned to the continental United States, or appropriate territory or area in accordance with AR 612-50. Orders will state clearly that the individual is a minor being returned for discharge or release from military control in order that such separation may be accomplished promptly upon arrival.

7-11. Indebtedness, or confinement by civil authorities. Indebtedness to the Government or to an individual, or confinement by civil authorities will not prevent discharge or release from military control for minority when an individual is eligible therefor.

7-12. Form of discharge certificate. Notwithstanding the fact that enlistment may have been obtained by misrepresentation as to age or consent of parents or guardian, DD Form 256A (Honorable Discharge Certificate) or DD Form 257A (General Discharge Certificate) will be furnished as indicated in section III, Chapter 1, to reflect the character of service performed since entry on active duty. No discharge certificate will be furnished a minor whose enlistment or induction is void. An order releasing the minor, serving in a void enlistment or induction, from military control will be issued in accordance with paragraph 7-5*a*(3).

7-13. ARNGUS and USAR trainees. *a.* ARNGUS trainees will be relieved from active duty for training for minority and returned to the control of the appropriate State National Guard authorities for discharge.

b. USAR REP 63 trainees will be discharged or released from their status as "reservists of the Army."

7-14. Reason and authority for discharge. The reason and authority for discharge (item 11c, DD Form 214, Armed Forces of the United States Report of Transfer or Discharge) will be entered as shown in AR 635-5.

7-15. Entitlement. The entitlements portion of this chapter pertaining to pay and allowances has been approved by the Secretary of Defense in accordance with 37 U.S.C. 1001.

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CHAPTER 1

GENERAL PROVISIONS

SECTION I. GENERAL

1-1. Purpose. This regulation provides—

a. The authority for separation of enlisted personnel upon expiration of term of service.

b. The authority and general provisions governing the separation of enlisted personnel prior to expiration of term of service.

c. The criteria governing the issuance of Honorable, General, and Undesirable Discharge Certificates.

1-2. Scope. This regulation is applicable to all Active Army enlisted personnel and Reserve component personnel ordered to active duty including active duty for training under the Reserve Enlistment Program of 1963, unless specifically excluded. Unless specifically provided for, the provisions of this regulation, as well as all regulations in the 635-series dealing with the discharge of enlisted personnel, are binding upon field commanders but not upon Headquarters, Department of the Army.

1-3. Definitions. For the purpose of this regulation the following definitions will apply:

a. Member, enlisted person, and individual. An enlisted man or an enlisted woman of the Army and includes all persons enlisted or inducted in any component of the Army in active Federal service unless otherwise indicated or obviously inappropriate.

b. Discharge. Discharge is complete severance from all military status.

c. Release from active duty. Release from active duty is termination of active duty status and transfer or reversion to a Reserve component not on active duty. Personnel enlisted or inducted who have a reserve obligation under Title 10, United States Code, the Universal Military Training and Service Act, or any other provision of law, are transferred to the Army Reserve. Members of the National Guard of the United States and Army Reserve revert from an active duty status to their respective components to complete unexpired enlistments and/or unfulfilled obligations.

d. Separation. Separation is a general term which includes release from active duty, release from military control of persons without a military status, and discharge.

e. Military record. Military record comprises a member's behavior while in military service, including general comportment and performance of duty.

f. Military behavior. The term "military behavior", as used herein, refers to the conduct of the individual while a member of the Army.

g. Administrative separation. Discharge or release from active duty upon expiration of enlistment or required period of service, or prior thereto, in the manner prescribed by the Department of Army or by law, but specifically excluding separation by sentence of a general or special court-martial.

h. Administrative Discharge Board. Administrative Discharge Board, as used herein, is a board of officers appointed to render findings based on facts obtaining or believed to obtain in a case and to recommend retention in the service or discharge and reason therefor, and the type of separation or discharge certificate to be furnished.

i. Appointed counsel.

(1) An appointed counsel for an individual being processed for separation which could result in issuance of an Undesirable Discharge is a lawyer within the meaning of Article 27(b)(1) of the Uniform Code of Military Justice unless appropriate authority certifies in the permanent record the nonavailability of a lawyer so qualified and sets forth the qualifications of the substituted nonlawyer counsel.

(2) An appointed counsel for an individual being processed for separation by reason of unsuitability is a commissioned officer in the grade of first lieutenant or higher; he need not meet the qualifications described in (1) above.

j. Discharge authority. The officer authorized by Army regulations to take final action with respect to specified types of discharge.

k. Convening authority. The officer authorized by Army regulations to convene an administrative discharge board and take final action with respect to a specified type of discharge.

SECTION II. SEPARATION CERTIFICATES

1-4. Statutory authority. Title 10, United States Code, section 3811, provides that a discharge certificate shall be given to each lawfully inducted or enlisted member of the Army upon his discharge.

1-5. Discharge certificates. Discharge certificates are furnished all enlisted and inducted personnel when they are discharged. Instructions for the completion of the various types of discharge certificates are in AR 635-5. The issuance of discharge certificates is governed by this regulation. The five types of discharge certificates are as follows:

DD Form No.	*Type of discharge*	*Character of discharge or separation*	*Given by—*
256A	Honorable	Honorable	Administrative action.
257A	General	Under honorable conditions	Administrative action.
258A	Undesirable	Under conditions other than honorable	Administrative action.
259A	Bad Conduct	Under conditions other than honorable	Sentence of special or general courts-martial.
260A	Dishonorable	Dishonorable	Sentence of general courts-martial.

1-6. Armed Forces of the United States Report of Transfer or Discharge (DD Form 214). Individuals who are discharged or released from active duty or active duty for training will be furnished a factual record of military service rendered, the character and duration thereof, and the type of separation on DD Form 214. Instructions for the completion and distribution of DD Form 214 are contained in AR 635-5.

SECTION III. FACTORS GOVERNING ISSUANCE OF HONORABLE, GENERAL, AND UNDESIRABLE DISCHARGE CERTIFICATES

1-7. General considerations. Because the type of separation may significantly influence the individual's civilian rights and eligibility for benefits provided by law, eligibility for reentry into service, and acceptability for employment in civilian industry, it is essential that all pertinent factors be considered so that the type of separation will reflect accurately the nature of the service rendered. The type and character of separation issued upon administrative sepa-

ration from current enlistment or period of service will be determined solely by the member's military record during that enlistment or period of service, plus any extensions thereof prescribed by law or by the Secretary of the Army, or accomplished with the consent of the member. The evaluation of an individual's service and conduct will be based on his overall period of current service rather than any disqualifying entries in his Enlisted Qualification Record during a particular portion of such service.

1-8. Separation as it affects the individual. Both the honorable and general discharge entitles an individual to full Federal rights and benefits. However, an undesirable or bad conduct discharge may or may not deprive the individual of veterans' benefits administered by the Veterans Administration; a determination by that agency is required in each individual case. A Dishonorable Discharge deprives the individual of all veterans' benefits and may deprive him of civil rights.

1-9. Characterizing a member's service. *a. Pre-service and prior service activities.* The following will not be considered in determining the type and character of separation to be issued:

(1) Pre-service activities.

(2) Prior service activities, including but not limited to records of absence without leave, or commission of other offenses for which punishment was not imposed.

b. Military record. Character of service will be determined only by the member's military record of the current enlistment or current period of service, which record includes an individual's military behavior and performance of duty. In the case of a Reserve member on active duty who is to be discharged, the characterization of the period of service from which he is discharged will be based solely on his military behavior and performance of duty during his current period of service while he was actually performing active duty, or active duty for training.

c. Screening of records. A member's records of current enlistment or of his current period of service, only, will be carefully screened for data which would have a bearing on the final decision as to the type of discharge to be awarded. A checklist will be prepared to assist in the overall evaluation, to include the following data:

(1) Length of time served in the enlistment or period of service.

(2) Promotions and dates thereof.

(3) Demotions, if any, and dates thereof. Where there has been a demotion, the specific reason should be listed.

(4) Whether there is a record of time lost, and if so, whether due to AWOL and/or confinement or other reason.

(5) Whether there has been disciplinary action under Article 15, UCMJ, and if so, list the specific offenses which resulted in such action.

(6) Whether there has been any conviction by court-martial, and if so, note offenses, findings, and sentence.

(7) Make note of member's conduct and efficiency evaluations.

(8) Make note of favorable communications or recommendations for the individual.

(9) Make note of any derogatory data, other than Article 15 actions and courts-martial.

(10) Make note of any citations and awards.

(11) Where derogatory data has been revealed, make note of whether there is evidence or other indication of successful rehabilitation.

(12) Make note of any medical or other data meriting consideration in the overall evaluation.

d. Honorable discharge.

(1) An honorable discharge is a separation with honor. Issuance of an honorable discharge will be conditioned upon proper military behavior and proficient performance of duty during the member's current enlistment or cur-

rent period of service with due consideration for the member's age, length of service, grade, and general aptitude. Where a member has served faithfully and performed to the best of his ability and has been cooperative and conscientious in doing his assigned tasks, he may be furnished an honorable discharge. Where there have been infractions of discipline, the extent thereof should be considered, as well as the seriousness of the offense(s). A member will not necessarily be denied an honorable discharge solely by reasons of a specific number of convictions by courts-martial or actions under Article 15 of the Uniform Code of Military Justice. It is the pattern of behavior and not the isolated instance which should be considered the governing factor in determination of character of service to be awarded.

(2) A member's service will be characterized as honorable by the commanding officer authorized to take such action or higher authority when a member is eligible for or subject to separation and it has been determined that he merits an honorable discharge under the following standards:

(*a*) Has conduct ratings of at least "Good".

(*b*) Has efficiency ratings of at least "Fair".

(*c*) Has not been convicted by a general court-martial.

(*d*) Has not been convicted more than once by a special court-martial.

(3) Notwithstanding the foregoing criteria, an honorable discharge may be furnished when disqualifying entries in the individual's military record are outweighed by subsequent honest and faithful service over a greater period of time during the current term of service. Careful consideration will be given to the nature of the offense and sentence adjudged by a court-martial and when, in the opinion of the office effecting discharge these have not been too serious and severe, and the remainder of the service in the enlistment has been such that an honorable discharge would have been granted had the conviction not occurred, an honorable discharge may be awarded. When there is doubt as to whether an honorable or general discharge should be furnished, the doubt should be resolved in favor of the individual.

(4) Where otherwise ineligible, an individual may receive an honorable discharge if he has, during his current enlistment, period of obligated service, or any extensions thereof, received a personal decoration, or is separated as a result of a disability incurred in line of duty.

(5) Regardless of previous record, a former prisoner with a suspended discharge who was restored to duty to complete an existing enlistment or obligation to serve will be furnished the type of discharge certificate to which his service subsequent to restoration entitles him.

e. General discharge.

(1) A general discharge is a separation from the Army under honorable conditions of an individual whose military record is not sufficiently meritorious to warrant an honorable discharge. When a member's service is characterized as general, except when discharged by reason of misconduct, unfitness, unsuitability, homosexuality, or security, the specific basis for such separation will be included in the individual's military personnel record.

(2) A general discharge may be issued if an individual has been convicted of an offense by general court-martial or has been convicted by more than one special court-martial in the current enlistment period or obligated service or any extension thereof. The decision is discretionary; if there is evidence that the individual's military behavior

1-13. Limitations on administrative discharge and board hearings. *a.* Discharges pursuant to this regulation should not be based upon conduct which has already been considered at a prior administrative or judicial proceeding and disposed of in a manner indicating that discharge is not warranted. Accordingly, administrative discharges under the provisions of AR 604-10, 635-89, 635-206, and 635-212 are subject to the following limitations:

(1) *No member will be considered for administrative discharge because of conduct which has been the subject of judicial proceedings resulting in an acquittal or action having the effect thereof. The determination whether an action has the effect of an acquittal will be determined solely by Headquarters, Department of the Army, in accordance with the exception procedure set forth in b (3) below.*

(2) No member will be considered for administrative discharge because of conduct which has been the subject of administrative proceedings resulting in a final determination that the member should be retained in the service.

(3) No member will be considered for administrative discharge because of conduct which was considered by a general court-martial if a sentence to a punitive discharge was authorized but was not adjudged, or was disapproved or suspended on review by the convening authority or any appellate agency, and remains suspended.

b. The limitations set forth in *a* above, are not applicable when—

(1) Substantial new evidence, fraud, or collusion is discovered, which was not known at the time of the original proceeding, despite the exercise of due diligence, and which will probably produce a result significantly less favorable for the member at a new hearing.

(2) Subsequent conduct by the member warrants considering him for discharge. Such conduct need not independently justify the member's discharge, but must be sufficiently serious to raise a question as to the member's potential for further useful military service. However, this exception does not permit further consideration of conduct of which the member has been absolved in a prior final factual determination by an administrative or judicial body.

(3) An express exception has been granted by Headquarters, Department of the *Army, pursuant to a request by a con*vening authority through channels that, due to the unusual circumstances of the case, administrative separation should be accomplished.

c. No convening authority will direct discharge if a board recommends retention, nor will he authorize the issuance of a discharge of less favorable character than that recommended by the board. However, a convening authority may direct retention when discharge is recommended, or he may issue a discharge of a more favorable character than that recommended.

d. If, in his review of a case in which separation has been recommended by the board, the convening authority notes a defect in the proceedings which he deems to be harmless, he will take such final action as he deems appropriate, subject to *c* above. With respect to substantial defects, he may take one of the following actions:

(1) Direct retention.

(2) If the board has failed to make findings or recommendations required by the applicable regulations, return the case to the same board for compliance with the regulations concerned.

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

(4) If the board committed an error which materially prejudiced a substantial right of the respondent, the convening authority may set aside the findings and recommendations and refer the case to a new board for a rehearing.

No member of the new board shall have served on a prior board which considered any of the same matter against the respondent. The new board may be furnished the evidence properly considered by the first board, to include extracts from its record of testimony of those witnesses not deemed by the convening authority to be reasonably available to testify at the rehearing. Additional admissible evidence may be furnished to or obtained by the new board. The convening authority may, upon due notice to the respondent, incorporate new allegations based on subsequent conduct of the respondent. Unless the new board considers substantial additional evidence unfavorable to the respondent, the convening authority may not approve any portion of the findings and recommendations of the new board which is less favorable to the member than the action of the first board.

(5) No more than one rehearing may be directed without approval from Headquarters, Department of the Army.

SECTION IV. DETERMINING RETENTION OR SEPARATION OR SUSPENSION

1-14. Retention or separation or suspension. In determining whether a member should be retained or be administratively separated, the individual's entire military record, including records of nonjudicial punishment imposed during a prior enlistment or period of service, all records of conviction by courts-martial and any other factors which are material and relevant, may be evaluated. Commanding officers, investigating officers, administrative discharge boards, and other agencies charged with making such determinations will consider records of nonjudicial punishment imposed during a prior enlistment or period of service only if such records of punishment would have, under the particular circumstances of the case, a direct and strong probative value in determining whether retention or administrative separation is appropriate.

a. Cases in which the circumstances may warrant use of such records will ordinarily be limited to those involving patterns of conduct which would become manifest only over an extended period of time.

b. When a record of nonjudicial punishment imposed during a current enlistment or period of service is considered, isolated incidents and events which are remote in time, or have no probative value in determining whether retention or separation should be accomplished, will have minimal influence on the determination.

c. If a decision is made that a member should be administratively separated, section III of this chapter applies in determining the type of discharge.

1-15. Suspension of execution of approved discharge. *a.* In order to afford a highly deserving member a probationary period to demonstrate successful rehabilitation prior to expiration of his enlistment or period of obligated service, the discharge authority or higher authority may suspend execution of an approved discharge for a period not to exceed 6 months. During the period of suspension, the member will be afforded an opportunity to demonstrate that he is capable of behaving properly under varying conditions during the probationary period and that he can perform his assigned duties efficiently.

b. Upon satisfactory completion of the probationary period, the authority who suspended discharge will cancel execution of the approved discharge.

c. If there is additional misconduct on the part of the member during the probationary period or actions which constitute substandard performance of duty or demonstrate characteristics of unsuitability, the commander concerned or the convening authority, whichever is appropriate, will take one of the following actions:

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

(2) Vacate suspension of the approved discharge when the member has been beyond military control for 15 days or more and discharge him in absentia.

(3) Advise the enlisted person in writing that vacation action is being considered and the reasons which warrant such consideration. The enlisted person will be given an opportunity to furnish information in his own behalf or decline to make any statement. The commander taking the action will consider any information the individual submits in his own behalf and will—

(*a*) Vacate suspension of approved discharge and execute discharge, or

(*b*) Continue to suspend execution of the approved discharge.

AFFIDAVIT

I, (_____) am being subjected
(Name, grade, service number, organization)
to the exercise of criminal jurisdiction of the government of _____
_____. I am presently:

☐ Awaiting disposition of the charges by the authorities of the foreign government.

☐ Undergoing trial in a court of the foreign government.

☐ *Awaiting a decision on my appeal of my conviction and sentence by a court of the foreign government.*

I request that I be retained in the service beyond _____, the
(Date)
expiration date of my term of service, until such time as final action on charges against me by the foreign government has been completed.

I have been advised of my rights under Article 31, UCMJ. I have also been informed that since I am subject to the UCMJ it is possible that courst-martial charges may be preferred against me if the foreign government does not proceed with its case. I certify that this request for retention in the service is not the result of coercion, force, or threat of harm, nor have I been promised any benefits by the military authorities of the United States.

_____
(Signature of member)

c. If neither of the provisions of *a* above, can be complied with, the case, with full details, will be referred through channels to Headquarters, Department of the Army, ATTN: AGPO-SS, for instructions. Care will be exercised to insure that each case is submitted prior to the date of the individual's expiration of term of service.

Section IV. SEPARATION PRIOR TO EXPIRATION OF TERM OF SERVICE

2-12. Discharge or release from active duty prior to expiration of period of service. *a.* Except as indicated in *b* and *c* below, when separation is to be accomplished prior to expiration of enlistment, period for which inducted, or ordered to active duty or active duty for training of REP 63 trainees, it will be accomplished under whichever of the following chapters of this regulation or other regulations that are appropriate by the commander as specified in section VI:

(1) Conscientious objection ... AR 635-20
(2) Physical disability ... AR 635-40A
(3) Dishonorable and bad conduct ... AR 635-204
(4) Marriage, pregnancy, or parenthood ... Chapter 8
(5) Minority ... Chapter 7
(6) Dependency or hardship ... Chapter 6
(7) Misconduct (fraudulent entry, conviction by civil court, AWOL, desertion) ... AR 635-206
(8) Resignation ... Chapter 9
(9) Unfitness ... AR 635-212
(10) Military Personnel Security Program ... AR 604-10
(11) Homosexuality ... AR 635-89
(12) Convenience of the Government ... Chapter 5
(13) Unsuitability ... AR 635-212
(14) Discharge and reenlistment in the Army National Guard of the United States while on duty ... AR 601-210
(15) Separation and reentry of nonregular personnel or extension of active duty ... AR 601-210

(16) Discharge for the good of the service ---------- Chapter 10

b. When discharge or release from active duty is to be accomplished prior to expiration of enlistment, induction, or period for which ordered to active duty or active duty for training, time lost during such term of service need not be made good, except that in cases where discharge or release for the convenience of the Government is to be accomplished under the provisions of sections VI, VII, VIII, and IX, chapter 5, the expiration of term of required service of an individual with time lost will be adjusted to include such lost time (adjusted ETS). Early discharge for the purpose of immediate reenlistment in the Regular Army under the provisions of paragraph 5-10, where the member concerned has lost time, may be accomplished only upon waiver, where required, of the disqualification for reenlistment created by loss of time as set forth in AR 601-210.

c. Enlisted personnel under sentence to dishonorable or bad conduct discharge will not be discharged or released from active duty prior to completion of appellate review, unless so directed by Headquarters, Department of the Army.

Section V. EFFECTIVE DATE OF DISCHARGE

2-13. Effective date of discharge. *a.* Time discharge and release from active duty is effective. The discharge of an enlisted person for the reasons listed in (1), (2), and (3) below is effective at 2400 hours on the date of notice of discharge, and the enlisted person will be so notified. (Discharge certificate and DD Form 214 will not be delivered to individuals discharged for reasons in (1) and (2) below, prior to 2400 hours of the effective date of separation.) (Discharge certificate and DD Form 214 of individuals discharged as in (3) below, will be mailed as indicated in paragraph 69, AR 635-5.)

(1) Discharged by reason of expiration of term of service.

(2) Discharged for the purpose of continuing on active duty in the same or another status.

(3) Discharged from a Reserve component status under honorable conditions and is entitled to travel time.

b. Release from active duty of an enlisted person is effective at 2400 hours on the date of release when the individual—

(1) Is transferred to the Army Reserve for the purpose of completing a Reserve obligation incurred under the Universal Military Training and Service Act.

(2) Reverts to the jurisdiction of the Army Reserve or the State National Guard to complete the unexpired portion of an enlistment contract in such component.

(3) Is transferred to the temporary disability retired list under the provisions of AR 635-40A, except that, in terminal cases, retirement orders will designate the specific time of the day (identified by appropriate time zone) at which retirement is effective.

c. Discharge for all reasons other than those set forth in *a* above, is effective at time of notice to the enlisted person of discharge.

d. Notice of discharge may be either—

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

(2) Constructive, when actual delivery of the discharge certificate cannot be accomplished owing to the absence of the individual to be discharged. For example, such a situation would arise if the individual were on leave or in the hands of civil authorities. Receipt by the individual's organization at his proper station of the order directing his discharge will be deemed sufficient notice. Except when the individual was on leave when discharged, the date of receipt of the order and the reason why actual notice thereof

was not given will be entered, by indorsement, on the back of the discharge certificate. If delivery of the discharge certificate cannot be made, it will be forwarded to The Commanding Officer, United States Army Administration Center, 9700 Page Boulevard, St. Louis, Mo., 63132, together with a statement of the reasons therefor.

2-14. Mentally incompetent. The effective date of discharge of a mentally incompetent individual may also be constructive, as when he has been placed in an institution. See AR 635-40A.

2-15. When retained in service awaiting trial or result of trial. When an individual is retained in service as prescribed in paragraph 2-4, the effective date of his discharge or release from active duty depends upon the result of his trial or the disposition made of the case. Examples are given below.

a. An individual who has previously lost no time which he is required to make good under title 10, United States Code, section 972, is confined awaiting trial will, if acquitted subsequent to expiration of term of service date, be discharged or released from active duty within 5 days after date of announcement of acquittal, and will be regarded as having been retained in service for the convenience of the Government.

b. An individual who is confined awaiting trial will, if convicted and sentenced to either confinement only, or confinement and forfeiture only, be discharged on the adjusted expiration date of term of service. The adjusted ETS date will be computed by adding to the original ETS date all time lost prior to and including the original ETS date.

2-16. Absent without leave or in hands of civil authorities. Discharge of an individual who is absent without leave or who has been convicted by the civil authorities is governed by AR 635-206, except for those individuals who have been sentenced to a dishonorable or bad conduct discharge. However, when discharge under the provisions of AR 635-89, sections II, III, or IV of AR 635-206, or AR 635-212 has been ordered by compentent authority, and the individual concerned, while in the continental United States or area of residence, absents himself without leave or is absent in the hands of civil authorities subsequent to the date discharge is approved by the appropriate authority or subsequent to the issuance of discharge orders, the discharge may be executed notwithstanding such absence. Discharge Certificate, Armed Forces of the United State Report of Transfer or Discharge (DD Form 214), and orders will be dispatched by certified mail, with return receipt requested, to individual to the address provided for that purpose. If the forms are returned unclaimed, or for any other reason prove undeliverable, they will be forwarded, along with report of action, to The Commanding Officer, United States Army Administration Center, 9700 Page Boulevard, St. Louis, Mo., 63132, for file with the individual's records. Distribution of DD Forms 214 will be made in accordance with AR 635-5.

Section VI. AUTHORITY TO ORDER SEPARATION AND ACCOMPLISH SEPARATION

2-17. Authority to order discharge or release from active duty prior to expiration period of service. Authority is granted to the following commanders to order discharge or release from active duty of enlisted individuals prior to expiration of enlistment, induction, or period for which ordered to active duty:

a. Discharge or release from active duty not including general courts-martial authority. Commanders of all units and installations (including class II installations) which are commanded by, or are under the normal command of general officers; commanders of Army hospitals under the command jurisdiction of The Surgeon General of the Army; commanders of personnel centers, training centers, oversea

replacement depots, transportation terminal commands, and all active installations having an authorized strength of 4,000 or more personnel. The above commanders are not authorized to delegate discharge authority to subordinate commanders without prior approval of the Secretary of the Army.

b. Discharge involving general courts-martial authority. Commanders exercising general courts-martial jurisdiction are authorized to order discharge under AR 635-89, AR 635-204, AR 635-206, AR 635-212, and chapter 10 of this regulation.

c. Authority to order discharge or release from active duty of enlisted personnel at class II installations. In the absence of prior instructions, commanders of class II installations not having transfer activities or authority to issue PCS orders will contact the appropriate field commander or service for issuance of orders in connection with the release from active duty.

d. Discharge involving special court-martial authority. Commanders exercising special court-martial jurisdiction are authorized to order discharge for unsuitability under AR 635-212.

2-18. Expiration of term of service. Separation will be accomplished by the transfer facility processing the member for separation (see AR 635-61), pursuant to the discharge order issued by the appropriate commander.

2-19. Reason and authority for separation. The specific reason and authority for separation entered in item 11c, DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge) will be entered as shown in AR 635-5.

2-20. Action by commanders having discharge authority. Commanders having discharge authority directing discharge or release from active duty of an enlisted person will comply with the provisions of AR 635-61.

CHAPTER 3

SEPARATION OF ENLISTED PERSONNEL IN FOREIGN COUNTRIES

3-1. Scope. This chapter prescribes the rules governing the separation of enlisted personnel in foreign countries. It governs only the place of separation and does not prescribe substantive rules for discharge or other separations.

3-2. Separation in foreign countries. *a.* An individual eligible for separation who is serving in a foreign country may be separated therein, provided—

(1) He requests separation in that country.

(2) His separation in that country is not precluded by any provision of paragraphs 3-3*a*, 3-4, and 3-5.

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

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

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

b. No individual will be separated in a foreign country until he has obtained all documents necessary to his lawful continued presence in that country.

3-3. Enlisted personnel confined pursuant to the sentence of a foreign court. *a.* Enlisted personnel confined in a foreign penal institution pursuant to the sentence of a foreign court may be separated from the service under provisions of section VI, AR 635-206, during their period of confinement only—

(1) With the approval of Headquarters, Department of the Army.

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

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

b. When the oversea commander considers separation of such enlisted person prior to the completion of his sentence to confinement to be appropriate, he will forward request for approval for such separation to The Adjutant General, Department of the Army, ATTN: AGPO-SS, with a report which will include the following information:

(1) Name, grade, service number, branch of service.

(2) Last organization and assignment.

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

(4) Court before which tried.

(5) Date and place of trial.

(6) Offense(s) of which enlisted person was convicted.

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

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

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

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

(11) Place and condition of confinement.

(12) Possibility for parole and facts pertinent thereto.

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

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

(15) A report concerning board proceedings as set forth in section IV, AR 635-206.

3-4. Enlisted personnel under investigation by foreign authorities or sentence by foreign court but not confined pursuant to that sentence. *a.* Enlisted personnel whose sentences to confinement by foreign courts are not suspended and who are not confined pending appellate action, and enlisted personnel who are not confined but who are charged with or are under investigation for offenses subject to the jurisdiction of foreign authorities for which a sentence to confinement could be imposed will not be considered for separation in the foreign country until final action in the matter has been taken by the foreign authorities. After final action by the foreign authorities, such enlisted personnel may be considered for separation in the foreign country under paragraph 3-2 or 3-3, whichever is appropriate.

b. Enlisted personnel who are accepted for service in a foreign country but who are not stationed in that country may be returned to the place of acceptance and there separated if paragraph 3-2 is complied with. If the enlisted person concerned is in possession of appropriate documents entitling him entry into the country of acceptance, specific consent of that country for his separation in its territory need not be obtained.

3-5. Separation of enlisted personnel sentenced by foreign courts. The provisions of paragraph 3-3 will in no event be construed as prohibiting a commander from initiating action under the provisions of section VI, AR 635-206, when an enlisted person in his command is confined in a foreign penal institution, with a view toward discharge of such enlisted person after release from confinement and return to the United States or its territorial possessions.

3-6. Personnel eligible for return from overseas for discharge or release from active duty. Individuals scheduled for return to the continental United States, its Territories, or possessions, for discharge or release from active duty will be processed for return in accordance with AR 612-50.

is unable to present last Armed Forces of the United States Report of Transfer or Discharge (DD Form 214), the applicant will contact the appropriate service direct for verification of prior active service from the following:

(*a*) For personnel with prior service in the Army, Commanding Officer, U.S. Army Personnel Services Support Center, ATTN: AGPE-V, Fort Benjamin Harrison, Ind., 46249.

(*b*) For personnel with prior service in the Air Force, Director, U.S. Air Force Records Center, 9700 Page Boulevard, St. Louis, Mo., 63132.

(*c*) For personnel with prior service in the Navy, Officer in Charge, Discharged Enlisted Personnel Records Branch, U.S. Naval Records Management Center, 9700 Page Boulevard, St. Louis, Mo. 63132.

(*d*) For personnel with prior service in the Marine Corps, Commandant, United States Marine Corps, Washington, D.C., 20380.

(*e*) For personnel with prior service in the Coast Guard, Commandant, United States Coast Guard, Washington, D.C., 20226.

(2) In order that service claimed may be readily identified, request for verification of prior service will contain the exact name under which the individual served, service number, organization from which last discharged, and type of discharge claimed. If exact dates of service are not known, approximate dates will be given.

c. Combination of the provisions of this paragraph with the provisions of other early separation programs to effect separation prior to completion of a minimum of 24 months' total combined service is not authorized.

d. ACDUTRA prior to induction is not creditable toward completion of this period of service.

e. Personnel separated under the provisions of this section will be discharged or released from active duty and transferred to the Army Reserve to complete the Reserve obligation imposed by the Universal Military Training and Service Act, as appropriate. The characterization of a discharge issued under this section will be either honorable or general.

f. Authority (AR 635-200) and SPN 415 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer processing for discharge or release from active duty, as appropriate.

Section VII. SEPARATION OF ENLISTED PERSONNEL WITH LESS THAN 3 MONTHS REMAINING TO SERVE

5-14. Oversea returnees. Commanders specified in section VI, chapter 2, are authorized to order separation for convenience of the Government of enlisted personnel returned to the United States, possession of the United States, or area of residence in which enlisted, inducted, or ordered to active duty after serving overseas, as set forth below.

a. Personnel inducted under the Universal Military Training and Service Act will be separated from active duty and transferred to the Army Reserve, as appropriate, upon arrival in the United States or area of residence, if they have completed 21 or more months of active duty on their current tour. Individuals inducted into the Army and desiring to remain on active duty may volunteer for immediate entry on active duty as reservists under the provisions of chapter 4, AR 601-210.

b. Enlisted members of the Regular Army and of the Reserve components who upon arrival have less than 3 months remaining before expiration of terms of enlistments or period for which ordered to active duty will be discharged, released from active duty and re-

turned to former Army National Guard or Army Reserve status, or released from active duty and transferred to the Army Reserve, as appropriate. Individuals who desire to immediately extend their enlistments voluntarily or continue on active duty in the case of reservists may apply under the provisions of chapter 4, AR 601-210.

c. Enlisted personnel in the United States or area of residence on leave or TDY from oversea organizations who, upon completion of such leave or TDY, will have less than 60 days before ETS, will be discharged or released, as appropriate. Those on such TDY will be discharged or released only if the oversea commander does not indicate a desire to have the individuals returned upon completion of TDY. Those who desire to extend immediately their periods of active duty or enlistments or to enlist or reenlist immediately in the Regular Army in accordance with appropriate regulations will be permitted to do so at the time of processing indicated in (2) below.

(1) Affected individuals will be reassigned to a transfer activity nearest their home for transfer processing. Transfer processing will not be accomplished prior to completion of leave or TDY. Records and allied papers will be forwarded to such transfer activity.

(2) Affected individuals will be instructed that upon completion of leave or TDY they will report to the transfer activity to which assigned for transfer processing.

d. This paragraph is not to be construed as authority for early return. It authorizes separation or the purpose stated only, in order to preclude nonproductive reassignments for short periods of time.

e. Authority (AR 635-200) and SPN 411 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity for discharge or release from active duty, as appropriate.

5-15. Separation of personnel assigned to installations or units scheduled for inactivation or permanent change of station. Except as indicated in *c* below, enlisted personnel of all components, assigned to units scheduled for permanent change of station or to installations scheduled for inactivation and who cannot be effectively utilized within other units at the same station will be separated from service as set forth below.

a. Those having 90 days or less to serve beyond effective date of inactivation or change of station may be separated from active duty at the discretion of the unit commander provided individual desires separation. Separation will be accomplished during the 30-day period preceding the effective date of inactivation or change of station.

b. Those whose normal expiration of term of service expires during the 90-day period preceding the effective date of inactivation or change of station may be separated at the discretion of the unit commander any time during the 90-day period provided the individual desires separation.

c. Combination of the provisions of this paragraph with other separation programs so as to effect separation more than 90 days prior to normal expiration of term of service is not authorized.

d. Oversea commanders returning personnel to the United States for separation under this authority may add the normal travel time required to return individuals from the theater to the United States to the aforementioned 90 days. However, care will be taken to insure that individuals do not arrive in the United States with more than 90 days remaining in their period of service. This paragraph is not to be construed as authority for early return. It authorizes separation for the purpose stated only, in order to preclude nonproductive reassignments for short periods of time.

e. Authority (AR 635-200) and SPN 701 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity or unit personnel section designated to accomplish transfer pro-

cessing for discharge or release from active duty, as appropriate.

5-16. Enlisted personnel eliminated from service academies. Individuals who are eliminated from cadet or midshipman status at service academies because of academic failure, resignation, or reasons other than physical disqualifications, will be discharged if they have completed their service obligation, or released from active duty and returned to the Army National Guard or Army Reserve, or transferred to the Army Reserve to fulfill their Reserve obligations, provided they have less than 3 months remaining in the period for which enlisted or ordered to active duty. Authority (AR 635-200) and SPN 420 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity. The authority contained in this paragraph shall not preclude the Secretary of the Army from transferring a cadet to the Army Reserve and ordering him to active duty, as authorized by Title 10, United States Code, section 4348(b).

5-17. Reserve component personnel ordered to ACDUTRA under Reserve Enlistment Program. Commanders of training installations are authorized to release Reserve component personnel ordered to ACDUTRA under Reserve Enlistment Program of 1963 upon completion of MOS training when training is completed prior to the period of time specified in ACDUTRA orders provided a minimum period of 4 months' ACDUTRA has been completed. Authority (AR 635-200) and SPN 764 for separation will be included in orders issued effecting early release from ACDUTRA.

5-18. Early relief from ACDUTRA because of emergency conditions. REP 63 trainees will be considered for early relief from initial tours of ACDUTRA based on eligibility for leave for cogent reasons such as death or serious illness of a member of the reservist's immediate family. Commanders of training activities, including Army service schools, may authorize early relief from ACDUTRA in lieu of granting leave, if the reservist has completed at least 4 months' ACDUTRA and the training benefits which will result from return to the training center upon completion of leave are not substantial enough to justify return to duty in lieu of early relief from ACDUTRA.

5-19. Separation of enlisted members of medical holding detachments. Commanders specified in section VI, chapter 2, are authorized to order separation for the convenience of the Government of enlisted personnel, other than Reserve component personnel, ordered to active duty for training under the Reserve Enlistment Program of 1963, assigned to medical holding detachments as set forth below.

a. Any enlisted person assigned to a medical holding detachment who signifies he does not intend to enlist or reenlist may be separated upon completion of hospitalization provided he has less than 3 months to serve prior to expiration of term of service.

b. Authority (AR 635-200) and SPN 412 for separation will be included in directives or orders directing individuals to report to the appropriate transfer activity for discharge or release from active duty, as appropriate.

Section VIII. EARLY SEPARATION TO ATTEND SCHOOL OR TO ACCEPT TEACHING POSITIONS

5-20. Separation to attend school or to accept teaching positions. Enlisted personnel may be discharged, released from active duty or active duty for training for the convenience of the Government in order to enter or return to school or to accept teaching positions when their services are not essential to the mission of their assigned organization. Commanders specified in section VI, chapter 2, are authorized to order the separation for the convenience of the Government of enlisted personnel (other than Reserve component personnel on active duty for training) who have less than 3 months remaining in their required

period of service. REP 63 enlistees are not eligible for separation under the provisions of this section.

a. Separation to enter or return to school.

(1) Separation will be effected not earlier than 10 days prior to school registration date when the following conditions are met:

(*a*) The school must be a recognized institution of higher education at which the course of instruction in which the individual has requested enrollment leads to a baccalaureate or higher degree. A "recognized institution" is one listed in part III of Education Directory published by the United States Department of Health, Education, and Welfare whose credits are accepted by accredited institutions.

(*b*) Application includes the following information:

1. A statement by an appropriate school official (Registrar, Dean of Admissions, etc.) that the applicant has been accepted for enrollment without qualification commencing with a specific school term in a full-time course of instruction leading to a baccalaureate or higher degree. The statement will include the latest date on which the applicant must report to the school in person for registration in order to meet school's requirement for attendance.

2. A statement, signed by the individual concerned (after he has been informed of the provisons of Articles) 3(b), 31(b), and 83, Uniform Code of Military Justice), as follows: "I understand that if I am separated from the Armed Forces by means of either a knowingly false representation in regard to any of the qualifications or disqualifications prescribed by law, regulation, or orders for such separation, or by deliberate concealment of any disqualification for separation, I shall be subject to courts-martial jurisdiction under the Uniform Code of Military Justice, Article 3(b), for violation of the Uniform Code of Military Justice, Article 83, or prosecution in a United States District Court for violation of Title 18, United States Code, Section 1001, or other applicable statutes."

3. A statement from the applicant that he has made payment of the entrance fee or that he is able and willing to do so.

4. Applicant clearly establishes that the specific school term for which he seeks release is academically the most opportune time for him to begin or resume his education and that delay of enrollment until normal expiration of term of service would cause undue handicap.

(*c*) The date on which the applicant must report to school must fall within the last 3 months of remaining service.

(2) Application for early relase to attend a theological school not listed in part III of the Educaton Directory, foreign institutions, and all doubtful cases will be forwarded by the commander having discharge authority direct to The Adjutant General, Department of the Army, ATTN: AGPO -SS, Washington, D.C., 20315.

(3) The effective date of early separation from service under this program will not be earlier than 10 days prior to date of registration prescribed by the educational institution. In the event late registration is permitted by the school, separation may be accomplished on the first day (within the last 3 months of service) the individual becomes eligible for separation. Personnel arriving in the United States from oversea stations for release under this program may be released upon arrival if they have less than 3 months remaining in their

CHAPTER 6

SEPARATION BECAUSE OF DEPENDENCY OR HARDSHIP

Section I. GENERAL

6-1. Scope. This chapter sets forth the criteria and procedures and provides authority for the separation of enlisted personnel from active military service by reason of dependency or hardship.

6-2. Applicability. The procedures set forth in this chapter are applicable to personnel who are enlisted, inducted, or ordered to active duty or active duty for training under the Reserve Enlistment Program of 1963.

6-3. By whom separation ordered. By authority of the Secretary of the Army, the commanders specified in section VI, chapter 2, will order discharge or release from active military service of enlisted personnel on account of dependency or hardship.

Section II. DEPENDENCY OR HARDSHIP

6-4. Authority. At the discretion of the Secretary of the Army, an individual may be discharged or released, as appropriate, from active military service because of—

a. Dependency, when by reason of death or disability of a member of his family occurring after his enlistment, induction, or order to active duty, members of the enlisted person's family become principally dependent upon him for care or support (10 U.S.C. 3813).

b. Hardship, when in circumstances not involving death or disability of a member of his family, his separation from the service will materially affect the care or support of his family by alleviating undue and genuine hardship.

6-5. Application of laws. Separation from the service of enlisted personnel by reason of dependency or hardship will be granted in the following circumstances:

a. Dependency.

(1) Undue and genuine dependency exists as a result of the death or disability of a member of the enlisted person's family occurring after his entry into the service.

(2) Dependency is not of a temporary nature.

(3) Conditions resulting from the death or disability of a member of the enlisted person's family occurring prior to his entry into the service have been aggravated to such an extent as to necessitate his care or support of a member of his family. Pregnancy of an enlisted man's wife is not a disability for which his separation is authorized. However, this does not preclude separation on account of a disability of the enlisted man's wife occurring as a result of her pregnancy.

(4) Every reasonable effort made by the enlisted person to alleviate the dependency condition has been without success.

(5) Discharge or release from active military service of the enlisted person is the only readily available means of eliminating or materially alleviating the dependency conditions.

b. Hardship.

(1) Undue and genuine hardship conditions affecting members of the enlisted person's family have arisen after, or as a result of his entry into active military service. Undue and genuine hardship does not necessarily exist solely because of altered income or because the entitled person is separated from his family, or must suffer the inconveniences normally incident to military service.

(2) Hardship conditions are not of a temporary nature.

(3) Conditions existing in the enlisted person's family prior to his entry into active military service have been aggravated to such an extent to constitute undue and genuine hardship.

(4) The enlisted person has made every reasonable effort to alleviate hardship conditions, including application for benefits as provided in AR 37-104 (Dependents' Assistance Act of 1950), without success.

(5) Discharge or release from active military service of the enlisted person is the only readily available means of eliminating or materially alleviating the hardship conditions.

c. Conditions affecting determination regarding separation for dependency or hardship.

(1) When an enlisted person is eligible for separation under this section, separation will not be disapproved because of the individual's indebtedness to the Government or to an individual.

(2) When an individual is eligible for separation under this section, separation will not be disapproved because his services are needed by his organization.

(3) When an individual is under charges, in confinement, under investigation for homosexuality or under the military personnel security program, or is being processed for discharge or retirement for physical disability, he will not be separated on account of dependency or hardship until such case has been properly disposed of.

(4) A sentence to confinement not including dishonorable or bad conduct discharge will be fully served unless sooner terminated by proper authority before a separation for dependency or hardship may be given.

(5) For the purpose of separation under this section, the term "members of the family" include only spouse, children, father, mother, brothers, sisters, and any person who stood in loco parentis to the enlisted person prior to his entry into the service. (The term "in loco parentis" as used herein is defined as "any person who has stood in the place of a parent to an enlisted person for 5 continuous years when the member was a minor child.")

6-6. Application for separation. *a.* Any enlisted person may submit a written application for separation because of dependency or hardship. Requests for separation will be submitted as follows:

(1) A person serving in the United States or stationed overseas will submit his application to his immediate commanding officer. In each instance the application will be supported by the evidence required in paragraph 6-7.

(2) A person assigned to an oversea unit who is temporarily in the United States will submit his application direct to The Adjutant General, Department of the Army, ATTN: AGPO-SS, Washington, D. C., 20315.

(3) A person assigned to a unit or installation within the United States but temporarily in an oversea command will submit his application, together with such supporting evidence as he may have readily available, to the commander of the oversea command in which he is located.

(4) Enlisted personnel on orders for oversea shipment, either as individuals or

as members of units, who have made application for dependency or hardship separation will not be held at the home station pending final disposition of the application when, in the opinion of the home station commander, based on the evidence submitted, final action will result in disapproval.

(5) Applications for dependency or hardship separation from personnel en route overseas normally will not be accepted at oversea replacement stations. However, the commanders of such activities may accept applications from personnel en route overseas who are attached or assigned to the U.S. Army Personnel Center or who have direct assignments to oversea units if they feel that, based upon the evidence submitted and/or personal interview, separation from active duty may be necessary to relieve undue and genuine hardship. In such instances, retention at oversea replacement stations for a period of not more than 30 days, in order to allow individuals to procure necessary evidence to support their application, is authorized. If the application, together with supporting evidence, is submitted within the above specified period, retention may be continued pending final action on the application. When separation of an individual with a direct assignment to an oversea unit is approved, the appropriate oversea commander will be notified.

b. Forwarding indorsements prepared by commanders having custody of the applicant's records will set forth the following information if it does not appear elsewhere in the inclosures:

(1) Enlisted person's home address.

(2) Primary MOS.

(3) Name and address of dependents for whose care or support separation is being requested.

(4) Amount and type of allotments the enlisted person has in effect, together with the name and relationship of each allottee, where applicable.

(5) When dependency discharge is requested by an inductee, a statement that a determination of dependency for benefits under the Dependents' Assistance Act of 1950 (section A, chapter 2, part 2, AR 37-104) was or was not requested and denied by the Allotments and Deposits Operations, Finance Center, U.S. Army.

(6) Selective Service number.

(7) Date of current enlistment or entry on active duty. (In the case of Reserve component personnel, both will be included.)

(8) Prior service.

(9) Whether the applicant is under charges, in confinement, under investigation for separation by reason of homosexuality or under the military personnel security program, or is being processed for discharge or retirement for physical disability.

6-7. Evidence required. *a.* The evidence required for dependency or hardship separation normally will be in affidavit form. The evidence must substantiate dependency or hardship conditions upon which the application for separation is based.

b. The evidence required will include affidavits or statements submitted by or in behalf of the individual's dependents and by at least two disinterested persons or agencies having firsthand knowledge of the circumstances. If dependency or hardship is the result of disability of a member of the individual's family, a physician's certificate should be furnished showing specifically when such disability occurred, the nature thereof, and prognosis for recovery. There also will be furnished the names, ages, occupations, home addresses, and monthly incomes of other members of the applicant's family. The affidavits of disinterested individuals and agencies should include reasons within their knowledge that these members of the family can or cannot aid in the financial or physical care of the dependents con-

earned for the period the enlisted person has remaining to serve on his current tour of duty.

6-8. Procedure. *a.* Upon receipt of a written application, together with the required supporting evidence from an individual, the commanders specified in section VI, chapter 2, will—

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

(2) Procure any additional information that may be necessary to determine the validity of the request. The services of the American National Red Cross may be utilized when the information contained in the application is not sufficient to base a decision to approve or disapprove the request (para 6-9).

(3) Take final action to approve or disapprove the application except in cases wherein *b* below, applies.

b. When an application for separation is submitted by an individual who was inducted into the military service under the Universal Military Training and Service Act, or who is serving in an initial enlistment, the following procedure will apply:

(1) If the application does not contain conclusive evidence upon which to base a clear-cut decision that release is or is not warranted, the application and supporting evidence will be forwarded by letter to the Director of Selective Service of the State in which the individual's local board of jurisdiction is located. The letter will request a statement as to whether the circumstances presented in the application would result in deferment on the basis of undue and genuine hardship to the individual's dependents if he were being considered for induction. The letter to the State Director of Selective Service will also include the enlisted person's Selective Service number, and in dependency cases when the inductee or reservist has no allotment for claimed dependency, a statement that a determination of dependency for benefits under Dependents' Assistance Act of 1950 (section A, chapter 2, part 2, AR 37-104) was or was not requested and denied by the Allotments and Deposits Operations, Finance Center, U.S. Army. It is not mandatory in any way that the officer having discharge authority follow the recommendation of the State Director of Selective Service, but when such statement is received it will be considered in relation to other supporting evidence. When the need arises, the recommendation of the State Director may be disclosed. If a report by the American National Red Cross is appropriate, it will be handled as prescribed in paragraph 6-9*b*(3). All subsequent applications for hardship or dependency discharge from the same inductee or enlistee also will be referred to Selective Service. Recommendations made by the Selective Service System become part of the application for separation and will be placed in an individual's Military Personnel Records Jacket, U.S. Army.

(2) At the discretion of the commanders having discharge authority, the procedure described in (1) above, may be followed even though the application indicates that the release from active military service is warranted.

c. All commanders taking action on applications of individuals for dependency or hardship separation under this regulation will insure the expeditious handling of applications. In the event the individual is transferred to another major command (including overseas) after submission of his request for separation but before final action has been taken thereon, the application will be processed to completion, including final decision, in the command in which submitted. The commander who had discharge authority over the enlisted person in the losing area will notify him promptly at his new address of the final action taken on the application and will forward the application, including final decision, to the major commander in the gain-

CHAPTER 8

DISCHARGE OF ENLISTED WOMEN—MARRIAGE, PREGNANCY, OR PARENTHOOD

Section I. GENERAL

8-1. Scope. This chapter establishes policy, sets forth procedures, and provides authority for discharge of enlisted women by reason of marriage, pregnancy, or parenthood.

8-2. Authority to discharge. Commanders specified in section VI, chapter 2, are authorized to approve the discharge of enlisted women under this chapter.

Section II. MARRIAGE

8-3. Enlisted or reenlisted prior to 1 July 1965. An enlisted woman who enlisted or reenlisted prior to *1 July 1965* may be discharged by reason of marriage at her own request providing she meets the following requirements:

a. Served on active duty for not less than 1 year subsequent to basic training and any additional specialist training received prior to her first duty assignment.

b. Completed the period of service subsequent to attendance at a service school required by AR 600-200.

c. Completed 1 year of her current oversea tour in the oversea command.

8-4. Enlisted or reenlisted on or after 1 July 1965 and prior to 20 June 1966. An enlisted woman who enlisted or reenlisted on or after *1 July 1965 or prior to 20 June 1966* may be discharged by reason of marriage at her own request providing she meets the following requirements:

a. The applicant is not—

(1) Assigned to a duty station which is sufficiently close to her husband's location to permit establishment of a joint household.

(2) Serving on either an extension of an enlistment or on a reenlistment which has been entered into after her marriage.

b. The applicant has—

(1) Been denied reassignment, requested in accordance with AR 614-6, to a duty station sufficiently close to her husband's location to permit establishment of a joint household.

(2) Completed the longest of the following applicable minimum service periods:

(*a*) 12 months from date of assignment at current duty station.

(*b*) If the member has attended a service school or ATC Course prior to first duty assignment:

1. 18 months from date of completion for courses of 20 weeks or less duration.

2. 24 months from date of completion for courses of more than 20 weeks duration.

(*c*) If the member has attended a service school subsequent to first permanent duty assignment, the specific period of service required by AR 600-200.

8-5. Delay discharge. Commanders specified in section VI, chapter 2, may delay the discharge for a period not to exceed 120 days from date

of request if such action will materially contribute to a more orderly replacement process.

8-6. Type of certificate to be furnished and authority for discharge. *a.* An honorable or general discharge certificate will be furnished in accordance with section III, chapter 1.

b. Authority (section II, chapter 8, AR 635-200) and SPN 220 will be included in directive or orders directing the individual to report to the appropriate transfer activity.

8-7. When not eligible for discharge. *a.* Women enlisting or reenlisting *on or after 20 June 1966* are not eligible for discharge solely for reason of marriage.

b. Women will not be eligible for discharge solely for reason of marriage during war or national emergency declared by the Congress.

Section III. PREGNANCY

8-8. Requirement for discharge. *a.* Discharge will be accomplished at the earliest practicable date when—

(1) It has been determined by a medical officer that an enlisted woman is pregnant.

(2) It has been determined by a medical officer that an enlisted woman has been pregnant at any time during the present enlistment.

(3) The enlisted woman gives birth to a child during present enlistment.

b. Exceptions to the above are as follows:

(1) If a legitimate pregnancy is terminated without live issue prior to the effective date of discharge or the child dies prior to the effective date of discharge, the enlisted woman may request waiver for discharge in order to be retained on active duty. The request for waiver will be forwarded through military channels to The Adjutant General, Department of the Army, ATTN: AGPO-SS, Washington, D.C., 20315, for final determination. The request will be accompanied by proper verification and history. The following information will be included in the forwarding comments:

(*a*) The enlisted woman's conduct and efficiency ratings.

(*b*) The WAC unit officer's recommendation.

(*c*) The circumstances involved.

(2) When medical examination discloses conditions, in addition to pregnancy, which require medical treatment and/or hospitalization, the enlisted woman will be retained until such time as maximum benefits of hospitalization have been attained. If it appears that the enlisted woman may be permanently physically disabled for any reason, the case will be processed under AR 635-40A.

(3) When it has been determined by a medical officer that a lawfully married enlisted woman is pregnant and the woman has 18 or more years' active Federal service as of the date of certification of pregnancy, the enlisted woman may request waiver of discharge and retention on active duty or request retirement, if otherwise eligible, as indicated below. Processing of such applications will be expedited.

(*a*) An enlisted woman having 20 years' active Federal service will be afforded the opportunity to submit an application for retirement to be effective immediately. The application for retirement together with the Report of Medical Examination (SF 88) will be submitted in accordance with AR 635-230. When an enlisted woman refuses to apply for retirement, a report will be forwarded to The Adjutant General, Department of the Army, ATTN: AGPO-SS, Washington, D.C., 20315, as to her refusal. The certification of pregnancy from the medical officer will be attached to the report.

(b) An enlisted woman having 18 or more years' active Federal service but less than 20 years, will be afforded the opportunity of requesting waiver of discharge in order to be retained on active duty. The request for waiver of discharge will be made immediately after certification of pregnancy. The request for waiver will be forwarded through military channels to The Adjutant General, Department of the Army, ATTN: AGPO-SS, Washington, D.C., 20315, for final determination. The following will be included in the request for waiver and forwarding comments:

1. A statement signed by the enlisted woman as follows: "I certify I will apply for retirement from the Army upon completion of 20 years' active Federal service notwithstanding my (extension) (reenlistment)."
2. Proper medical verification and history to include estimated confinement date.
3. The enlisted woman's conduct and efficiency ratings.
4. The WAC unit officer's recommendation.
5. A statement giving circumstances which will indicate that the child will not hinder the enlisted woman's performance of duty and continuation on active duty will not result in neglect of the child.
6. Date and period of enlistment.
7. Total length of active Federal service.
8. Request for leave of absence (including request for accrued leave and request for excess leave) to cover the prenatal period and at least 6 weeks following birth of the child. (For purposes of this regulation, the prenatal period begins upon verification of pregnancy.) Leave required in excess of that which is accrued to the applicant will be requested under the provisions of paragraph 21, AR 630-5. (Advanced leave will not, under any circumstances, be granted.) Pending receipt from Headquarters, Department of the Army, of discharge instructions or approval of waiver and excess leave, the unit commander will grant the ordinary leave. In the event the enlisted woman has less than 21 days' accrued leave, the appropriate commander will authorize leave in accordance with the provisions of paragraph 21b, AR 630-5, effective upon termination of individual's ordinary leave. The intent of these provisions is to provide for the assumption of a leave status by the enlisted woman upon verification of pregnancy or as soon thereafter as possible.

(c) When an enlisted woman's current term of service expires prior to the date she will complete 20 years' active Federal service, one of the following will be included in the request for waiver:

1. Request for extension of enlistment when an enlisted woman will require no more than 11 months' service subsequent to expiration of current period of service to qualify for retirement.
2. Request for discharge and reenlistment 1 above, is not appropriate. In the event the individual is not otherwise qualified for reenlistment, a request for waiver of such disqualification will be included.

(4) Nothing contained herein will act as a bar to a commander taking disciplinary or elimination action under other regulations if circumstances warrant.

8-9. Responsibility of WAC unit officer. *a.* The WAC unit commander will direct the enlisted woman, whose physical condition indi-

cates the possibility of pregnancy, to report at once to a medical officer for diagnosis. The WAC unit commander will also initiate discharge proceedings immediately upon medical certification of pregnancy or recent termination of pregnancy.

b. Every assistance will be given by the unit commander or a designated officer of the Women's Army Corps to the enlisted woman. The enlisted woman will be counseled by a WAC officer concerning all the rights, privileges, and benefits to be obtained as a result of her military service. She will also be assisted in contacting administering agencies for aid and advice in applying for such rights, benefits, and privileges. If the enlisted woman desires, the officer will refer her to a representative of the American National Red Cross or to other appropriate agencies for assistance.

8–10. Medical examination and diagnosis. *a.* Examination for pregnancy will be conducted as a complete medical examination. Standard Forms 88 and 89 will be utilized. When such examination results in a determination of pregnancy or of recent termination of pregnancy, no additional medical examination is required prior to discharge, provided discharge from the service is accomplished within the 6-month period specified in paragraph 10–17*a*(2), chapter 10, AR 40–501, and there is no change in the enlisted woman's medical condition other than her pregnancy.

b. The diagnosis will be certified by a medical officer as soon as possible. This does not preclude observation of the enlisted woman for a reasonable period of time in which to insure that the diagnosis is correct. In establishing the diagnosis, the medical officer may utilize biological or other tests for pregnancy without cost to the patient.

8–11. Discharge action. *a.* The interval between diagnosis and discharge will be held to a minimum. For personnel stationed within the United States, discharge normally will not be later than 7 days after receipt of certified diagnosis. Personnel arriving in CONUS from an oversea tour will be processed for discharge in accordance with paragraph 5*f*, AR 635–61. The discharge will be accomplished without reference to a medical or physical evaluation board unless this procedure is required for reason other than pregnancy.

b. Discharge will not be accomplished within an oversea command unless the enlisted woman's home is located there. Return travel of personnel to the United States will be expedited and normally will be by air rather than surface means.

c. The enlisted woman may remain on duty in the interval prior to discharge if, in the opinion of the medical officer, her physical condition permits and if the WAC unit commander deems it appropriate.

d. If, during the processing for discharge under another chapter or regulation, an enlisted woman is found to be pregnant, she will not be discharged under this regulation except as indicated in *e* below. Discharge will be accomplished under the chapter or regulation under which separation processing was initiated. In such cases, a notation of pregnancy will be made on Standard Form 88.

e. An enlisted woman under investigation, court-martial charges, or sentence of court-martial charges, or sentence of court-martial who is certified by a medical officer to be pregnant may be discharged under this chapter only with the written consent of the commander exercising general court-martial jurisdiction over the enlisted woman.

f. Commanders of U.S. Army oversea replacement stations may retain an enlisted woman en route overseas to establish whether she is pregnant in those cases where the enlisted woman either claims that she is pregnant or when her physical condition indicates such possibility.

8–12. Type of certificate to be furnished and authority for discharge. *a.* An honorable or general discharge certificate will be furnished, in accordance with section III, chapter 1. Determination of the type of discharge to be furnished will be made without regard to the marital status of the enlisted woman.

b. Authority (sec. III, chapter 8, AR 635-200) and SPN 221 will be included in directive or orders directing the individual to report to the appropriate transfer activity.

8-13. **Maternity care.** An enlisted woman discharged from the Army under honorable conditions who is pregnant at the time of discharge is entitled to maternity care as provided by AR 600-110 and paragraph 22, AR 40-3. The medical benefits to which an enlisted woman is entitled are limited to care in military hospitals and do not, regardless of the circumstances, include care obtained in civilian hospitals. An enlisted woman who is pregnant at time of retirement is entitled to maternity care as a retired member.

8-14. **Release of information concerning pregnancy.** The release of information concerning pregnancy will be governed by AR 345-20 and AR 345-200.

Section IV. PARENTHOOD

8-15. **Requirement for discharge.** *a*. An enlisted woman will be discharged when she becomes the parent by adoption, the stepparent, foster parent, or custodian of a child under 18 years of age who resides within the household of the enlisted woman for a period of 30 consecutive days a year, except as indicated in *b* below.

b. A waiver to *a* above, may be granted when it is established the child will not hinder the enlisted woman's performance of duty, and continuation on active duty will not result in neglect of the child.

c. The commander having discharge authority will render final decision on request for waiver. He may also order revocation of waiver upon determination that the child interferes with the enlisted woman's performance of duty or her continuation on active duty is resulting in neglect of the child.

8-16. **Type of certificate to be furnished and authority for discharge.** *a*. An honorable or general discharge certificate will be furnished, in accordance with section III, chapter 1.

b. Authority (sec. IV, chapter 8, AR 635-200) and SPN 222 will be included in directive or orders directing the individual to report to the appropriate transfer activity.

CHAPTER 10

DISCHARGE FOR THE GOOD OF THE SERVICE

10-1. When tendered. An individual whose conduct has rendered him triable by court-martial for an offense punishable by a bad conduct or dishonorable discharge may submit a request for discharge for the good of the service in lieu of trial. An individual who is under a suspended sentence of a punitive discharge may likewise submit a request for discharge for the good of the service.

10-2. Personal decision. Commanders will insure that there is no element of coercion in submitting a request for discharge for the good of the service. The member will be given a reasonable time (not less than 48 hours) to consult with counsel (para 1-10*a*(2)) and to consider the wisdom of submitting such a request for discharge. If he elects to submit the request, the member will personally sign the written request, certifying that he understands that he may receive a discharge under other than honorable conditions and that he understands the adverse nature of such a discharge and the possible consequences thereof. The member's counsel shall sign as a witness, indicating whether he is qualified under Article 27(*b*)(1) of the Uniform Code of Military Justice, if he is not a member of The Judge Advocate General's Corps. If the member refuses all counsel (para 1-10*a*(2)), his request for discharge must explicitly state that fact.

10-3. Preparation and forwarding. *a.* A request for discharge for the good of the service will be submitted as shown in figure 2.

b. The request for discharge will be forwarded through channels to the officer who has general courts-martial jurisdiction over the individual concerned. Commanders through whom the request for discharge is forwarded will recommend either approval or disapproval with the reasons for the recommendation; if approval is recommended, the type discharge to be issued also will be recommended.

c. The following data will accompany the request for discharge:

(1) A copy of the court-martial charges.

(2) Report of a medical examination as prescribed in chapter 10, AR 40-501.

(3) A complete copy of all reports of investigation.

(4) Any statement, documents, or other matter considered by the commanding officer in arriving at his conclusion and making his recommendation.

(5) A statement of any reasonable ground for belief that the individual is, or was, at the time of his misconduct, mentally defective, deranged, or abnormal. When appropriate, evaluation by a psychiatrist will be included.

d. When an individual is under a suspended sentence of discharge, a copy of the court-martial orders, or a summary of facts which relate to the conduct upon which the request for discharge is predicated, will be forwarded.

10-4. Medical examination. An individual who submits a request for discharge for the good of the service will undergo a medical examination of the scope prescribed in chapter 10, AR 40-501. The report of medical examination will accompany the request for discharge.

10-5. Discharge authority. Commanders exercising general courts-martial jurisdiction are authorized to approve requests for discharge for the good of the service and to order

the discharge of individuals or to disapprove such requests.

10-6. Discharge certificate issued. An undesirable discharge certificate will normally be furnished an individual who is discharged for the good of the service. However, the discharge authority may direct an honorable discharge, if warranted (sec. II, chapter 2). The reason and authority for discharge (item 11c, DD Form 214) will be—"For the good of the service, SPN 246."

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