

ATCL-JA 24 AUG 1999

MEMORANDUM FOR Commanders, Fort Lee, Virginia

SUBJECT: Administrative Separations

1. Enclosed are checklists, which detail the required documentation for administrative separation packages initiated under AR 635-200. These checklists will serve as a guide in developing separation packages.
2. A legal review is required for all administrative separation packages in order to ensure that due process was observed. Administrative due process consists primarily of notice and an opportunity to be heard. To this end, it is important that soldiers are properly counseled. Enclosed is a sample DA Form 4856 that contains the minimum counseling requirements: (a) the reason for counseling; (b) that separation action may be initiated if the behavior continues; and (c) the types of discharge that could result from the possible separation action and the effect of each type.
3. This regulation is subject to frequent changes, consequently, the information contained herein may not remain current. The checklists are no substitute for a thorough reading of the regulation and legal advice. Contact your legal advisor if you need any assistance or have any questions.

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ADVERSE ADMINISTRATIVE SEPARATIONS
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COMMON CONCERNS INVOLVING CHAPTER ACTIONS

- Processing Time. Processing time for separations when the Notification Procedure is used should not normally exceed 15 working days. Processing time when the Administrative Board Procedure is used should not normally exceed 50 working days. Soldiers will be separated using the Notification Procedure for all chapters except: where the Commander notifies the soldier of the possibility of separation with characterization of service as Under Other than Honorable Conditions (OTH); separation for Homosexual Conduct UP AR 635-200, Chap. 15; or, where the soldier has more than six years of service and requests an administrative board. To reduce processing time, it is imperative that all required documents are included in the chapter packet when it is sent to the Brigade or Group Legal Office.
- Counseling. Adequate counseling and a reasonable opportunity (30 days) to overcome identified deficiencies is required **prior to** initiation of separation action under the following chapters: involuntary separation due to parenthood (para. 5-8); other designated physical or mental condition (para. 5-18); personality disorder (para. 5-13); entry level performance/conduct (chap. 11); unsatisfactory performance (chap. 13); and minor disciplinary infractions or pattern of misconduct (para. 14-12a or b).

Counseling must be IAW AR 635-200, para. 1-18 and must be recorded in writing on DA Form 4856 (General Counseling Form). At a minimum, adequate counseling must contain the following: (a) reason for the counseling; (b) that separation action may be initiated if the behavior continues; and, (c) the types of discharge that could result from the possible separation action and the effect of each type. An example of adequate counseling is attached.

- Medical Examinations. Medical examinations are required for soldiers being processed for separation under chapter 5 (para 5-3 involuntary separation only), paras 5-11 and 5-12; chapter 8, 9, 11 (para 11-3b only), 12, 13, 14 (section III only), 15 and 18; and for

certain other soldiers as required by AR 40-501, para 8-23 and table 8-3.

- ETS. The command cannot retain a soldier beyond his or her ETS date in order to process separation proceedings, AR 635-200, para 1-28.
- Soldier's Rights. All soldiers facing involuntary separation have the right to consult with an attorney concerning their rights. Unless a soldier voluntarily and affirmatively states that he/she does not want to see an attorney, escort him/her with the separation packet to the Trial Defense Service (TDS), bldg. 1110. TDS can be reached at ext. 52290.
- MEB. If a soldier you are trying to chapter under AR 635-200, chapters 7, 14 or 15 is pending a Medical Evaluation Board (MEB), special rules apply. If an MEB determines that the soldier should be referred to a Physical Evaluation Board (PEB), that determination and the chapter will be forwarded to the CG. The CG will determine which course of action is appropriate, either approving the chapter or sending the soldier through the PEB process IAW AR 635-200, para. 1-35. Therefore, get the MEB paperwork from KAHC before initiating separation action.
- Typed of Discharges. The following types of characterization of service are authorized unless limited by the reason for separation: honorable; general, under honorable conditions; under other than honorable conditions; and, uncharacterized (entry level separation).

CHAPTER 5-8: INVOLUNTARY SEPARATIONS DUE TO PARENTHOOD

(LACK OF AN ADEQUATE FAMILY CARE PLAN)

Soldiers will be considered for involuntary separation when parental obligations interfere with fulfillment of military responsibilities.

1-18 Counseling Required (DA Form 4856): Yes, (5-8b), (1-18a(1))

Rehab Transfer Required: No (1-18c)

Medical Required: No (1-34a)

Mental Required: No (1-34b)

Approval Authority: Bde Cdr (1-21c(1))

Type of Discharge Authorized: honorable, general* (5-1a)

Procedure: Notification (2-2)

Note: Command does not have to wait the full amount of time (30 days) between counseling and initiation of separation **IF** soldier provides statement stating inability to provide an adequate family care plan now or in the future.

* Under chapter 5-8(a), no soldier can be awarded a general under honorable conditions discharge unless the soldier is notified of the specific factors in his or her service record that warrant such a characterization.

Documents Required for Chapter:

() Request for separation

() DA Form 5304/5305-R, Family Care Counseling IAW AR 600-20, para 5-5

() All counseling statements including paragraph 1-18 counseling statement regarding inability to perform due to parenthood (DA Form 4856).

() Education benefits counseling

- () Debt avoidance counseling
- () DA Form 2A
- () DA Form 2-1
- () FLAG for elimination

CHAPTER 5-13: SEPARATION BECAUSE OF PERSONALITY DISORDER

Soldiers will be considered for involuntary separation when diagnosed with a personality disorder that interferes with assignment to or performance of duty.

1-18 Counseling Required: Yes, (1-18a(2))

Rehab Transfer Required: No (1-18c)

Medical Required: No (1-34a)

Mental Required: Yes (1-34b)

Approval Authority: Bde Cdr (1-21c(1))

Type of Discharge Authorized: honorable (5-13h)

Procedure: Notification (2-2)

Documents Required for Chapter:

- () Request for separation
- () Mental Examination signed by Psychiatrist or Licensed Clinical Psychologist
- () All counseling statements including paragraph 1-18 counseling statement describing inability to perform because of personality disorder.
- () Education benefits counseling
- () Debt avoidance counseling
- () DA Form 2A
- () DA Form 2-1
- () FLAG for elimination

CHAPTER 5-18: SEPARATION BECAUSE OF OTHER PHYSICAL OR MENTAL CONDITION

Soldiers will be considered for involuntary separation under this paragraph on the basis of other physical or mental conditions not amounting to disability (AR 635-40), and excluding conditions appropriate for separation processing under paragraph 5-11 or 5-13, that potentially interfere with assignment to or performance of duty.

1-18 Counseling Required: Yes, (1-18a(2))

Rehab Transfer Required: No (1-18c)

Medical Required: Yes (1-34a) (if applicable)

Mental Required: Yes (1-34b) (if applicable)

Approval Authority: Bde Cdr (1-21c(1))

Type of Discharge Authorized: honorable or general* (5-1a)

Procedure: Notification (2-2)

* Under chapter 5-18, no soldier can be awarded a general under honorable conditions discharge unless the soldier is notified of the specific factors in his or her service record that warrant such a characterization.

Documents Required for Chapter:

- () Request for separation
- () Mental Examination signed by Psychiatrist or Licensed Clinical Psychologist
- () or Medical Examination
- () All counseling statements including paragraph 1-18 counseling statement describing inability to perform because of personality disorder
- () Education benefits counseling
- () Debt avoidance counseling
- () DA Form 2A
- () DA Form 2-1
- () FLAG for elimination

CHAPTER 6: SEPARATION BECAUSE OF DEPENDENCY OF HARDSHIP

This chapter is a unit function (S-1) and is not handled by the Military Justice Section. This chapter is requested by the soldier (DA Form 4187) to be discharged for Dependency or Hardship. AR 635-200, paragraph 6-3 defines Dependency as "Dependency exists when death or disability of a member of a soldier's (or spouse's) immediate family causes that member to rely upon the soldier for principal care or support". AR 635-200 paragraph 6-3 defines Hardship as "Hardship exists when in circumstances not involving death or disability of a member of the soldier's (or spouse's) immediate family, separation from the Service will materially affect the care or support of the family by alleviating undue or genuine hardship".

1-18 counseling Required: No (1-18a)

Rehab Transfer Required: No (1-18c)

Medical Required: No (1-34a)

Mental Required: No (1-3b)

Approval Authority: Bde Cdr (1-21c(1))

Type of Discharge Authorized: honorable, general* (6-11)

Procedure: Notification (2-2)

* Under chapter 6, no soldier can be awarded a general under honorable conditions discharge unless the soldier is notified of the specific factors in his or her service record that warrant such a characterization.

Documents Required for Chapter:

- () DA Form 4187 or Affidavit from soldier explaining conditions. The DA Form 4187 will be approved/disapproved by the Co Cdr and forwarded thru the chain of command by endorsement

to the approval authority. The intermediate commander(s) will either disapprove the request or recommend approval and if recommending approval, will specify which characterization of discharge is appropriate, either Honorable, or General, Under Honorable Conditions.

- () Affidavit or statement from family member on behalf of the soldier substantiating the dependency or hardship claim.
- () Affidavits by least 2 agencies or individuals other than family members substantiating the dependency or hardship claim (i.e. Red Cross, Chaplain, Family Physician).
- () Detailed statement to establish monthly income and expenses (If the basis is financial difficulty).
- () Death certificate or valid proof of death in the family (If the basis is because of a death).
- () Physicians statement with diagnosis and date of disability (If the basis is because of a disability).
- () If sole parenthood results from divorce or legal separation, a judicial decree or court order awarding child custody to the soldier will also be included.
- () Education benefits counseling
- () Debt avoidance counseling
- () DA Form 2A
- () DA Form 2-1

CHAPTER 7: FRAUDULENT ENLISTMENT

Fraudulent enlistment is the procurement of an enlistment, reenlistment, or period of active service through any deliberate material misrepresentation, omission, or concealment of information which, if known and considered by the Army at the time of enlistment or reenlistment, might have resulted in rejection. Some examples of fraudulent enlistment are:

1. Concealment of Prior Service
2. Concealment of True Citizenship Status
3. Concealment of Conviction by Civil Court
4. Concealment of Record as a Juvenile Offender
5. Concealment of Medical Defects
6. Concealment of Absence Without Leave or Desertion from Prior Service
7. Concealment of Preservice Homosexuality
 - Misrepresentation of Intent with Regard to Legal Custody of Children

1-18 Counseling Required: No (1-18a)

Rehab Transfer Required: No (1-18c)

Medical Required: No (1-34a)

Mental Required: No (1-34b)

Approval Authority: Bde Cdr (1-21c(1)) or CG

Type of Discharge Authorized: honorable, general, other than honorable (CG is Sep

Authority)

Remarks: IAW AR 635-200, para 7-20b(4), the separation authority cannot suspend the approved discharge

Procedure: Notification (2-2) if notifying of possibility of honorable or general, Board (2-4, appointed by CG) if notifying of possibility of OTH.

Documents Required for Chapter:

- () Request for separation
- () Enlistment contact
- () Evidence of enlistment fraud
- () Education benefits counseling
- () Debt avoidance counseling
- () DA Form 2A
- () DA Form 2-1
- () FLAG for elimination

CHAPTER 8: SEPARATION OF ENLISTED WOMEN – PREGNANCY

Like Chapter 6, this chapter is a unit function (S1) and not handled by the Military Justice Section. This chapter establishes policy and procedures, and provides authority for voluntary separation of enlisted women because of pregnancy.

1-18 Counseling Required: No (1-18a) but immediate commanders will ensure that the soldier completes the Pregnancy Counseling Checklist (Fig. 8-1, AR 635-200).

Rehab Transfer Required: No (1-18c)

Medical Required: Yes (1-34a)

Mental Required: No (1-34b)

Approval Authority: Bn Cdr (1-21d)

Type of Discharge Authorized: honorable, general* (8-3)

Procedure: Notification (2-2)

* Under chapter 8, no soldier can be awarded a general under honorable conditions discharge unless the soldier is notified of the specific factors in his or her service record that warrant such a characterization.

Remarks: An enlisted woman who is pregnant and elects to remain on active duty when counseled may, if she is still pregnant, subsequently request separation. Separation authority (Bn Cdr) must separate the soldier, but may set the separation date (8-8g).

NOTE: An enlisted woman who requested separation in writing may subsequently request withdrawal of the separation request. The separation authority (Bn Cdr), based on the circumstances of the case and the best interest of the Army, will determine in writing if the soldier is to be separated, as previously requested, or is to be retained (8-8h).

Documents Required for Chapter:

- () Pregnancy Counseling Checklist (pgs 76 and 77, AR 635-200)

- () Medical Examination confirming pregnancy
- () Statement of pregnancy
- () Education benefits counseling
- () Debt avoidance counseling
- () DA Form 2A
- () DA Form 2-1

CHAPTER 9: ALCOHOL OR OTHER DRUG REHABILITATION FAILURE

This chapter provides the authority for discharging soldiers for alcohol or other drug abuse rehabilitation failure. Discharge of a soldier occurs when the commander feels that further rehabilitation efforts are not practical, rendering the soldier a rehabilitation failure. This determination will be made in consultation with the rehabilitation team (ADAPCP Counselor).

1-18 Counseling Required: No (1-18a)

Rehab Transfer Required: No (1-18c)

Medical Required: Yes (1-34a)

Mental Required: No (1-34b)

Approval Authority: Bn Cdr (1-21d), Bde Co if soldier requests Board (para 1-21d)

Type of Discharge Authorized: honorable, general (9-4)

Procedure: Notification (2-2)

Remarks: Read ADAPCP counselor's report. If self-referral is mentioned in the report, the soldier receives an automatic honorable discharge. The soldier must currently be enrolled in ADAPCP to be declared a rehabilitative failure.

Documents Required for Chapter:

- () Request for separation
- () Statement from ADAPCP Counselor indicating rehabilitation failure
- () Medical examination
- () Education benefits counseling
- () Debt avoidance counseling
- () DA Form 2A
- () DA Form 2-1
- () FLAG for elimination

CHAPTER 10: SEPARATION IN LIEU OF COURT-MARTIAL

This chapter is not and cannot be a command initiated chapter.

A soldier who has committed an offense or offenses, the punishment for which, under the UCMJ and the MCM, 1984, includes a bad conduct or dishonorable discharge, may submit a request for discharge in lieu of trial by court-martial. This chapter is requested by the soldier through the U.S. Army Trial Defense Service.

1-18 Counseling Required: No (1-18a). However, the soldier must be given a reasonable

amount of time to consult with counsel and to consider the wisdom of submitting a request for discharge.

Medical Required: No (1-34a), unless requested by soldier

Mental Required: No (1-34b), unless medical exam requested by soldier

Approval Authority: CG (1-21a)

Type of Discharge Authorized: honorable(only in extraordinary cases), general, under other than honorable conditions (10-8)

CHAPTER 11: ENTRY LEVEL STATUS PERFORMANCE AND CONDUCT

In order for a soldier to qualify for this chapter, the command must initiate the chapter while the soldier is on the initial 180 days of continuous active military service. Soldier qualifies for separation under this chapter if soldier displays unsatisfactory performance or unsatisfactory conduct (or both) as evidenced by inability, lack of reasonable effort, of failure to adapt to the military environment or minor disciplinary infractions.

1-18 counseling Required: Yes (1-18a(3))

Rehab Transfer Required: Yes (1-18c) (may be waived by Separation Authority (1-18d))

Medical Required: No (1-34a) but check 11-3b for pregnant females

Mental Required: No (1-34b)

Approval Authority: Bn Cdr (1-21d)

Type of Discharge Authorized: Uncharacterized entry level separation (11-8)

Procedure: Notification (2-2)

Remarks: If BASD and info on DA Form 2A conflict, date on enlistment contract starts the clock.

Documents Required for Chapter:

- () Request for separation
- () All counseling statements including paragraph 1-18 counseling describing soldier's inability to adapt to the military environment.
- () Debt avoidance counseling
- () Education benefits counseling
- () DA Form 2A
- () DA Form 2-1
- () FLAG for elimination

CHAPTER 13: SEPARATION FOR UNSATISFACTORY PERFORMANCE

Commanders will separate a soldier for unsatisfactory performance when it is determined that-- the soldier will not develop sufficiently to participate satisfactorily in further training and/or become a satisfactory soldier, or the seriousness of the circumstances is such that the soldier's retention would have an adverse impact on military discipline, good order, and morale, and it is likely that the soldier will be a disruptive influence in present or future duty assignments and it is likely that the circumstances forming the basis for initiation of separation will continue or

recur. This chapter applies to those soldiers who fail two consecutive record APFTs, or are NCOES disciplinary drops.

1-18 counseling Required: Yes (13-4 and 1-18a(4))

Rehab Transfer Required: Yes (1-18c) (may be waived by Separation Authority (1-18d))

Medical Required: Yes (1-34a)

Mental Required: Yes (1-34b)

Approval Authority: Bn Cdr (1-21d), Bde Co if soldier requests board

Type of Discharge Authorized: honorable, general (13-11); OTH not authorized (3-7c(4))

Procedure: Notification (2-2)

Remarks: AR 350-41, Training in Units(pg 17) and FM 21-20 Physical Fitness Training (pg 14-11) both state that in the event of a record test failure, commanders may allow soldiers to retake the test as soon as the soldier and the commander feel the soldier is ready. Soldiers without a medical profile will be retested no later than 3 months following the initial APFT failure.

When a soldier fails an initial record APFT, the soldier should be counseled IAW AR 635-200, para.1-18. In addition, the soldier should be informed of the date of their next record APFT which, for the purposes of this chapter, must be scheduled before the 90 days have expired. Soldiers do not have to wait for the scheduled record APFT date and can request, in writing, that they be able to retake the record APFT as soon as the soldier feels ready and with the understanding that if the soldier fails their second record APFT, they can be separated.

Documents Required for Chapter:

() Request for separation

() All counseling statements including paragraph 1-18 counseling statement, especially important after initial APFT failure.

() For APFT Failures: DA Form 705 – APFT Scorecard with "record" and at least 90 days in between record APFTs. If the time between record APFTs does not equal 90 days, also include the statement from the soldier indicating their desire to retake the test before the required waiting period has expired. For NCOES disciplinary drops: Any documents reflecting soldier's disenrollment from the school, especially DA Form 1059.

() Medical examination

() Mental examination

() Debt avoidance counseling

() Education benefits counseling

() DA Form 2A

() DA Form 2-1

() FLAG for elimination

CHAPTER 14-5: CONVICTION BY CIVIL COURT

A soldier may be considered for discharge when convicted by civil authorities where a punitive discharge (Bad Conduct Discharge or Dishonorable Discharge) would be authorized for the

same or a closely related offense under the MCM, 1984, as amended, or where the sentence by civil authorities includes confinement for 6 months or more, without regard to suspension or probation.

1-18 counseling Required: No (1-18a)

Rehab Transfer Required: No (1-18c)

Medical Required: No (1-34a)

Mental Required: No (1-34b)

Approval Authority: Bde Cdr, (1-21c(2)(a)) or CG if OTH

Type of discharge: Honorable, General under honorable conditions, Bde Cdr can approve ONLY if notification procedure used. If board procedures used because of OTH possibility, only CG can approve discharge, whether Honorable, General or OTH.

Procedure: Notification (2-2) if notified of possibility of honorable or general; Board (2-4, appointed by CG) if notified of possibility of OTH.

Remarks: Initiation of separation action is NOT mandatory. (14-5b). A soldier convicted by a civil court or adjudged a juvenile offender by a civil court will be reduced in rank or considered for reduction.

Note: When a soldier waives his or her right to a hearing before an administrative board because of an OTH recommendation, the case will be processed without convening a board. However, the separation authority (CG) will be the same as if the board was held (2-5a).

Documents Required for Chapter:

- () Request for separation
- () Any court documents reflecting the conviction by civil authorities and the sentence imposed.
- () Education benefits counseling
- () Debt avoidance counseling
- () DA Form 2A
- () DA Form 2-1
- () FLAG for elimination

CHAPTER 14-12a and 14-12b: PATTERNS OF MISCONDUCT

Soldiers are subject to separation under this chapter for a pattern of misconduct consisting solely of minor military disciplinary infractions (14-12a) or consisting of discreditable involvement with civil or military authorities and/or conduct prejudicial to good order and discipline (14-12b). Discreditable conduct and conduct prejudicial to good order and discipline includes conduct violative of accepted standards or personal conduct found in the UCMJ, Army regulations, the civil law, and time-honored customs and traditions of the Army.

1-18 counseling Required: Yes (1-18a(5))

Rehab Transfer Required: Yes (1-18c) may be waived by Separation Authority (1-18d)

Medical Required: Yes (1-34a)

Mental Required: Yes (1-34b)

Approval Authority: Bde Cdr or CG if OTH

Type of Discharge: Honorable, General under honorable conditions - Bde Cdr, can approve ONLY if notification procedure used. If board procedures used because of OTH possibility, only CG can approve discharge, whether Honorable, General, or OTH.

Procedure: Notification (2-2) if notified of possibility of honorable or general; Board (2-4, appointed by CG) if notified of possibility of OTH.

REMARKS: When a soldier waives his or her right to a hearing before an administrative board because of an OTH recommendation, the case will be processed without convening a board. However, the separation authority (CG) will be the same as if the board was held (2-5a).

Documents Required for Chapter:

- () Request for separation
- () Counseling statements including paragraph 1-18 counseling detailing soldier's pattern of misconduct.
- () Evidence of misconduct to include Summary Courts-Martial Result of Trial (DA Form 2329) to include JAG Review Endorsement, Article 15s, bad check notification, letter of reprimand, bar to reenlistment, etc.
- () Medical examination
- () Mental examination
- () Education benefits counseling
- () Debt avoidance counseling
- () DA Form 2A
- () DA Form 2-1
- () FLAG for elimination

CHAPTER 14-12c: COMMISSION OF A SERIOUS OFFENSE

A soldier may be separated for a commission of a serious offense if the specific circumstances of the offense warrant separation and a punitive discharge would be authorized for the same or a closely related offense under the MCM and for the following reasons:

- An absentee returned to military control from a status of AWOL or desertion may be separated for commission of a serious offense.
- Abuse of illegal drugs is serious misconduct.
 - First-time drug offenders below the grade of sergeant, or with less than 3 year of total military service, Active or Reserve, may be processed for separation upon discovery of a drug offense (14-12c(2)).
- First-time drug offenders in the grade of sergeant and above, and all soldiers with 3 years or more of total military service, Active or Reserve, will be processed for separation upon discovery of a drug offense (14-12c(2)(a)).
- Drug offenders must be processed for separation after a second offense (14-12c(2)(b)).

1-18 counseling Required: No (1-18a)

Rehab Transfer Required: No (1-18c)

Medical Required: Yes (1-34a)

Mental Required: Yes (1-34b)

Approval Authority: Bde Cdr, (1-21c(2)(a)) or CG if OTH

Type of Discharge: Honorable, General under honorable conditions - Bde Cdr, can approve ONLY if notification procedure used. If Board Procedures used because of OTH possibility, only CG can approve discharge, whether Honorable, General or OTH.

Procedure: Notification (2-2) if notified of possibility of honorable or general; Board (2-4, appointed by CG) if notified of possibility of OTH.

NOTE: When the sole basis for separation is serious offense which resulted in a conviction by a court-martial authorized to but not imposing a punitive discharge, (Bad-Conduct Discharge or Dishonorable Discharge), the soldier's service may not be characterized Under Other Than Honorable Conditions unless such characterization is approved by the Secretary of the Army (3-8e).

Documents Required for Chapter:

() Request for separation

() Evidence of misconduct to include Summary Courts-Martial Results of Trial (DA Form 2329)

to include JAG Review Endorsement, Article 15's, bad check notification, letter of reprimand, bar to reenlistment, etc.

CHAPTER 14-12c: COMMISSION OF A SERIOUS OFFENSE

(continued)

() Medical examination

() Mental examination

() Education benefits counseling

() Debt avoidance counseling

() DA Form 2A

() DA Form 2-1

() FLAG for elimination

CHAPTER 15: DISCHARGE FOR HOMOSEXUAL CONDUCT

Before initiating any action regarding homosexuality, CONTACT YOUR TRIAL COUNSEL!!!

A soldier may be separated under this chapter if the soldier has engaged in, attempted to engage in, or solicited another person to engage in a homosexual act or acts. This includes pre-service, prior service or current service misconduct.

1-18 counseling Required: No (1-18a)

Rehab Transfer Required: No (1-18c)

Medical Required: Yes (1-34a)

Mental Required: Yes (1-34b)

Approval Authority: Bde Cdr, (1-21(3)(a)), or CG if OTH

Type of Discharge: honorable, general. (OTH authorized but see note below).

Procedure: Board (2-4, appointed by Bde Cdr if notified of possibility of honorable of general; appointed by CG if notified of possibility of OTH)

Remarks: If soldier notified of general discharge, is requested, Bde Cdr can approve (1-21c(3)(4)).

NOTE: CG must convene board to approve discharge if command seeks OTH. UP AR 635-200, paragraph 15-4a, when the sole basis for separation is homosexual conduct, a discharge under other than honorable (OTH) conditions may be issued only if there is a finding that during the current term of service the soldier attempted, solicited, or committed a homosexual act under the following circumstances:

- By using force, coercion or intimidation;
- With a person under 16 years of age;
- With a subordinate in circumstances that violate customary military superior-subordinate relationship;
- Openly in public view;
- For compensation; or,
- Aboard a military vessel or aircraft.

Documents required for Chapter:

() A statement by the soldier that demonstrates a propensity or intent to engage in homosexual acts or any evidence required to support the recommendation for an other than honorable conditions discharge.

Or

() Documentation showing that the soldier has engaged in homosexual acts.

() Medical examination

() Mental examination

() Education benefits counseling

() Debt avoidance counseling

() DA Form 2A

() DA Form 2-1

() FLAG for elimination

CHAPTER 16: VOLUNTARY SEPARATION OF SOLDIERS DENIED REENLISTMENT

Like Chapter 6 and Chapter 8, discharging a soldier under this provision is a unit function (S1) and is not handled by the Military Justice Section. This chapter is requested by soldiers who want to be discharged because they are barred from reenlistment. There are three different categories of a discharge: DA Imposed Bar, Locally Imposed Bar and a Declination of Continued Service Statement.

1-18 counseling Required: No (1-18a)

Medical Required: No (1-34a)

Mental Required: No (1-34b)

Approval Authority: Bde Cdr, (1-21d)

Type of Discharge: Honorable (16-5i)

- HQDA IMPOSED BAR

Soldiers who perceive that they will be unable to overcome an HQDA bar to reenlistment will be discharged upon their request. Soldiers may request discharge at any time after receipt of the HQDA bar to reenlistment from unit commanders or upon notification that an appeal of the bar to reenlistment was disapproved.

Documents Required for Chapter:

() Statement of Option, DA Form 4941-R located in AR 601-280, chapter 10.

() Education benefits counseling

() Debt avoidance counseling

() DA Form 2A

() DA Form 2-1

- LOCALLY IMPOSED BAR:

Soldiers who perceive that they will be unable to overcome a locally imposed bar to reenlistment may request immediate separation. The soldier's request will be submitted on DA Form 4187.

Documents Required for Chapter:

() Personnel Action, DA Form 4187 requesting for failure to overcome a locally imposed bar.

() Bar Certificate, DA Form 4126-R with supporting evidence.

() Education benefits counseling

() Debt avoidance counseling

() DA Form 2A

() DA Form 2-1

- Declination of Continued Service Statement (DCSS):

Soldiers who decline to meet service remaining requirements and who have signed DCSS may request immediate separation. Soldiers who have signed a DCSS and are subsequently alerted for schooling or an assignment for which they have sufficient service remaining, must request early separation within 30 days of the alert, or else comply with the reassignment instructions. The soldier's request will be submitted on a DA Form 4187.

Documents required for Chapter:

() Personnel Action, DA Form 4187 requesting separation.

() Declination of Continued Service Statement, DA Form 4991-R.

() Education benefits counseling

() Debt avoidance counseling

() DA Form 2A

() DA Form 2-1

CHAPTER 18: FAILURE TO MEET BODY FAT STANDARDS

Soldiers who fail to meet the body fat standards set forth in AR 600-9 are subject to separation per this chapter when such condition is the sole basis for the separation. IAW AR 600-9 and IAW AR 635-200 a commander may separate a soldier for failing to meet body fat standards using one of the following four criteria.

- Failure to make satisfactory progress after any two consecutive monthly weigh-ins while enrolled in the Army Weight Control Program (AR 600-9, para 21e(2)).
- If no medical condition exists, initiation of separation proceedings is required for soldiers who do not make satisfactory progress in the program after period of 6 months, unless the responsible commander chooses to impose a bar to reenlistment per AR 601-280, Chapter 6 (AR 635-200, para 18-2a).
- Initiation of separation proceedings is required for soldiers who fail again to meet screening table weight and body fat standards during the 12-month period following removal from the weight control program, provided no medical conditions exist (18-2a).
- Soldiers without medical limitations who exceed the screening table weight and body fat standards after the 12 month period but prior to 36 months following removal from the program, and who do not meet the standards during the 90-day grace period prescribed by AR 600-9, will be processed for separation.

1-18 counseling Required: No (1-18a) (Dietary/Nutritional counseling required IAW AR 600-9)

Rehab Transfer Required: No (1-18c)

Medical Required: Yes (1-34a)

Mental Required: No

Approval Authority: Bn Cdr, (1-21d)

Type of Discharge: Honorable (18-2e)

Procedure: Notification* (2-2)

* The soldier must be notified in writing pursuant to para 1-21, AR 600-9.

REMARKS: Below is a proposed course of action for those commanders who identify a soldier who is overweight:

- Soldier is weighed and taped and determined to exceed the screening table weight (pg 7, AR 600-9) and determined to exceed the body fat standard (pg 4, AR 600-9 as amended in IC 1, 4 Mar 94).
- Commander initiates flag.
- The commander informs the soldier of enrollment into the overweight program in memorandum format. When the soldier acknowledges receipt of the memorandum, the clock starts for the purposes of chapter action.
- Commander refers the soldier to the nutritionist for nutritional counseling and proper weight-loss counseling. This is done by memorandum and must take place as soon as the soldier is enrolled in the program.
- Commander refers the soldier to the TMC for medical screening to determine if there is a medical condition which will preclude the soldier from losing weight. This is also done by memorandum and also must take place as soon as possible after the soldier has been enrolled in the program.

- Conduct monthly weigh-ins. If the soldier shows no improvement in any two consecutive monthly weigh-ins, chapter. If after six months, the commander determines that the soldier has not shown adequate improvement, the commander can either impose a bar to reenlistment or can chapter.
- If the soldier meets the body fat standard and the screening table weight as prescribed in AR 600-9, remove the soldier from the overweight program. This removal is thru memorandum and should be kept on file in the unit for the next 36 months.

Documents Required for Chapter:

- () Request for Separation
- () Notification from Cdr and receipt of notification from soldier acknowledging entry into Weight Control Program (pg 8, AR 600-9). The clock starts ticking upon receipt from the soldier.
- () Memorandum from health care personnel indicating no medical condition exists which precludes the soldier from losing weight (pg 9, AR 600-9). Completed and DATED.
- () Memorandum from nutritionist indicating the soldier was provided nutrition education and weight reduction counseling (pg 10, AR 600-9). Completed and DATED.
- () If the chapter is for a soldier who re-enters the overweight program, evidence of prior disenrollment from the weight control program (pg 10, AR 600-9).
- () Monthly weigh-in sheets
- () Medical examination
- () Debt avoidance counseling
- () Education benefits counseling
- () DA Form 2A
- () DA Form 2-1
- () FLAG for elimination

REVOKING AN APPROVED CHAPTER THAT HAS BEEN SUSPENDED

A highly deserving soldier may be given a probation period to show successful rehabilitation before the soldier's enlistment or obligated service expires. The separation authority may suspend (except fraudulent enlistment or homosexuality) execution of an approved separation for a period of full-time military duty not to exceed 6 months (1-20). Upon satisfactory completion of the probation period, or earlier if rehabilitation has been achieved, the authority who suspended the separation will cancel execution of the approved separation. If the soldier engages in conduct similar to that for which separation was approved, but suspended, or otherwise fails to meet the appropriate standards of conduct and duty performance, the separation authority will take the following actions:

- Advise the soldier in writing that vacation action is being considered and the reasons/evidence of misconduct that warrant such considerations.
- Advise and give the soldier 3 duty days to consult with counsel and submit a written statement in his or her own behalf or decline to make any statement.
- The commander taking the action will consider any information the soldier submits. If the soldier identifies specific legal issues for consideration for separation authority will have the matter reviewed by the unit Trial Counsel.

- The separation authority may either:
 - Vacate suspension of the approved separation and execute the separation.
- Continue to suspend execution of the approved separation for the remainder of the probation period.

Appendix

General Counseling Form (DA Form 4856)

<h2 style="margin: 0;">GENERAL COUNSELING FORM</h2> <p style="margin: 5px 0 0 0;">For use of this form, see AR 635-200; the proponent agency is MILPERCEN</p>			
DATA REQUIRED BY THE PRIVACY ACT OF 1974			
<p>AUTHORITY: 5 USC 301, 10 USC 3012(G). PRINCIPAL PURPOSE: To record counseling data pertaining to service members.</p> <p>ROUTINE USES: Prerequisite counseling under paragraphs 5-8, 5-13, chapters 11, 13, or section III, chapter 14, AR 635-200. May also be used to document failures of rehabilitation efforts in administrative discharge proceedings.</p> <p>DISCLOSURE: Disclosure is voluntary, but failure to provide the information may result in recording of a negative counseling session indicative of the subordinate's lack of desire to solve his or her problems.</p>			
PART I - BASIC DATA			
1. NAME <i>(last, first, MI)</i>	2. SOCIAL SECURITY NO.	3. GRADE	4. SEX
5. UNIT	<i>FOR TRAINING UNITS ONLY</i>		
	6. WEEK OF TRAINING	7. TRAINING SCORES	
		HIGH _____ MED _____ LOW _____	
PART II - OBSERVATIONS			
8. DATE AND CIRCUMSTANCES			

9. DATE AND SUMMARY OF COUNSELING

You are advised that separation action may be initiated under the provision of Army Regulation 635-200 if this behavior/conduct continues. If separated, you could receive an Honorable Under Honorable Conditions, or Under Other Than Honorable Conditions, discharge or characterization of service, or an Entry Level Separation (uncharacterized), if authorized. If separated with less than an Honorable discharge/characterization, you could receive substantial prejudice in civilian life, and it may affect civilian employment, veterans' benefits, and related matters. It is unlikely that you would be successful in any attempt to have the character of your service changed.

DISPOSITION INSTRUCTIONS

This form will be destroyed upon: reassignment (other than rehabilitative transfers), separation at ETS, or upon retirement.

DA FORM 4856 (EG), JUN 85

EDITION OF JUL 84 IS OBSOLETE.

PART III - AUTHENTICATION

10. NAME, GRADE, SIGNATURE OF COUNSELOR	DATE
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11. I acknowledge having been counseled by the above individual and understand the reason for this counseling session. I concur/nonconcur that the information above accurately reflects this counseling session. I nonconcur for the following reasons:

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12. NAME, GRADE, SIGNATURE OF INDIVIDUAL COUNSELED	DATE
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13. IF COUNSELED INDIVIDUAL REFUSES TO SIGN COUNSELING NOTES, COUNSELOR WILL INITIAL THIS BLOCK.

PART IV - REHABILITATION

14. REHABILITATION RESULTS/COMMENTS

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15. NAME, GRADE, SIGNATURE OF INDIVIDUAL COUNSELED	DATE
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16. NAME, GRADE, SIGNATURE OF COUNSELOR	DATE
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PART V - UNIT COMMANDER INTERVIEW

17. INTERVIEW RESULTS AND RECOMMENDATION

18. NAME, GRADE, SIGNATURE OF UNIT COMMANDER

DATE

back