

In the United States Court of Federal Claims

MICHAEL J. FORBES, <i>pro se.</i>)	
)	
<i>Plaintiff,</i>)	No. 1:2024-cv-01953
)	
v.)	REPLY TO DEFENDANT’S
)	OPPOSITION TO PLAINTIFF’S
THE UNITED STATES)	MOTION TO SUPPLEMENT
)	DEFENDANT’S ADMINISTRATIVE RECORD
<i>Defendant.</i>)	(Judge Hadji)

SETTING THE STAGE TO WIN

1. In this filing, the Plaintiff will simply point out some of the evidentiary and logical holes in the Defendant’s recent filings (ECF 31 & 32) that prove the intent of winning at all costs, and proves the need for supplementation. The Plaintiff will also list some of the unaddressed arguments to assist in any tests required to adjudicate elements of this case.
2. This case is important on multiple levels. It exemplifies: 1) the abuse of discretion surrounding unchecked regulations and policies; 2) the failures of Inspector General “watchdogs” due to their lack of autonomy from command, 3) the unconscionable “spin” or blaming the victims of abuse for the actions, or lack thereof, of leaders; 4) the inflexibility of an entire organization to simply accept that it violated the Constitution, our laws and regulations, and; 5) the absurd calculus used to support wrongful termination of a Senior Noncommissioned Officer (NCO) at all costs.
3. These problems are defended by whistleblower reprisal or retaliatory actions, otherwise known as victim-blaming, which results in deflection of responsibility and accountability resulting in misleading and/or subjective legal arguments of “harmless error” or “accidents.” Hence, this is why we, as a citizenry, need fair adjudications before our federal Court system (arguably, the best in the world). It is with that belief the Plaintiff now seeks to use the recent

filings to further prove that the Defendant still displays a singular motive to win. It is paramount that the Army wins, regardless of what is right, and regardless of the cost.

THE SLIGHT OF WORD

4. It has been previously argued (ECF 27 & 28 generally) the Defendant attempted misleading tomfoolery in their Administrative Record (AR) submission. Now, it continues this strategy by layering illogical statements on top of a regurgitated foundation of hearsay and opinion located in the unsubstantiated investigation. This 'slight of word' will be identified with a less than inclusive sampling of examples from ECFs 31 & 32 below.

SUMMARY OF PERTINENT FACTS FOR THIS FILING

5. The Defendant did not provide adequate proof of counterproductivity, nor disrespect. The investigation only provided hearsay and opinion of witnesses and investigator-written third-party memoranda, which, oddly, permeates the entire investigation and now this Court's docket. The slanderous, *ad hominem* attacks began after the Plaintiff engaged in a series of protected communications with the Inspector General's office (November 30, 2022) and the Military Police (December 14, 2022). Examples are below as it continues in this case.

LACK OF EVIDENCE FOR GOMOR AND RFC

6. In fact, the Defendant's AR shows no evidence that the Plaintiff received any counseling form for disrespect or counterproductivity from September 1, 2022 (the evaluation period start date), through December 18, 2022 (when he was fired from his position and reassigned). None of the required counseling forms, except for the unsigned initial counseling form (ECF 19-1 at 000571), was submitted in the AR supporting his removal or Relief for Cause (RFC).

7. Moreover, the Plaintiff is the party that submitted the required counseling forms, (ECF 27-2 at 152-154 & 177-178)¹ not to support the RFC, but as evidence of the alleged multiple entrapment attempts (ECF 28-1 at 2) that began long after his firing and removal from his tenured² position as the S2 NCOIC (NCO in charge) brigade staff position. Since the Plaintiff's Motion to Supplement (ECF 27) was filed, he found another omission; the Defendant submitted a blank STATEMENT OF OPTIONS (ECF 19-2 at 001072), when the truth is found in Exhibit S02; it's form that was emailed to the Battalion Commander.

CYBERSECURITY ISSUES GROW

8. As a Personnel Security Manager and as an appointed Information Security Officer, the Plaintiff noticed a severe increase of daily security infractions were occurring. The assault (ECF 19-1 at 000500-000504) that occurred was related to this. The Plaintiff was invited in front of the formation to inform fellow Soldiers that phones were prohibited in the HQ facility which was when he was assaulted by a higher ranking NCO (the BN CSM). This singular, criminal, and highly visible action, provided the proverbial 'gasoline thrown on a fire' for what was to come. It can be inferred that this violent act, and the Plaintiff's reporting of it to the Inspector General and the Military Police, heightened the need for the Defendant to undermine the Plaintiff's character; and to minimize the veracity of his complaints.

AD HOMMEM ATTACKS ARE EMPLOYED

9. It can also be inferred that the Plaintiff's character and credibility had to be destroyed, because his reputation of remediating issues with the Inspector General was evidently well known to his leadership (ECF 19-2 at 001514-001515). Next, the video feed of the three

¹ The Plaintiff failed to add the May 11, 2023 counseling that contained the GOMOR recommendation by the Brigade Commander; it is available upon request, if deemed material.

² The Plaintiff had a demonstrated excellence in his performance reflected in two NCOERs prior to his firing, *see* ECF 19-2 at 001608-001609 & ECF 91-2 at 001610-001611)

cameras that covered the formation area was wrongfully erased; the Plaintiff personally witnessed the end result of this erasure and reported it to the Military Police and the Inspector General. In other words, a preemptive strike on the Plaintiff's credibility was necessary before anyone arrived asking about what happened that morning (hence the December 12, 2022 urgent counseling form) or the events that led to it. The most egregious *ad hominem* attack was the first one on January 10, 2022 (ECF 27-2 at 157-158).

AN INVESTIGATION WAS LAUNCHED

10. How this investigation started is central to this case because it led directly to its wrongful result, the Plaintiff's separation 'at all costs.' It was controlled by the Colonel and it drove every personnel action after his recommendation for the Plaintiff to receive a GOMOR (General Officer Memorandum of Record). After a long, dutiful, documented, successful, and unblemished service record, including nearly two years of dutiful, direct, and personally acknowledged exemplary support for the Colonel, this same Colonel used a singular, short conversation and two anonymous complaints to launch an investigation on the Plaintiff.
11. This is the same investigation that the Defendant stubbornly relies on to justify its administrative separation of a promotable Senior NCO and Sergeant First Class (SFC) in the United States Army, thereby stripping him of his career, retirement, and more. After all of the deployments, all of the awards, all of the extremely positive evaluations, all of the mentorship, and most importantly, all of the professional courage to stand up for Soldiers in a slanted system, the Plaintiff was separated using the Defendant's 'certified' AR. Notably, they just added another singular missing exhibit to it (ECF 31-1) and it is still incomplete.

A BIRD'S EYE VIEW

12. Worse yet, a ‘bird’s-eye’ view exposes the utter simplicity of this case. The Commander, and other unit members, violated laws to such depth and breadth that they had nowhere to go but through the Plaintiff’s character to obfuscate them, to win at all costs. The violations, and the Plaintiff’s complaints about them, produced a clear battle-line with polarized opponents. As previously stated, the Plaintiff’s reputation evidently preceded him (ECF 19-2 at 001514-001515), much like CPO Michael “By-the-Book” Tuffariello (arguably the ‘Father’ of the Military Whistleblower Protection Act).³ Hence, it can be inferred that the Plaintiff’s leaders analyzed the situation and decided to launch a clandestine opening salvo to attack the Plaintiff via a flawed 15-6⁴ investigation. Finding him guilty of anything would minimize the impact of his complaints about DEI surveys, and assault and prohibited phones; this sparked a battle that began with the Plaintiff standing alone (while mistakenly believing the Inspector General would ensure fairness).
13. Today, over two and a half years later, this battle is hopefully nearing its completion. The most recent Defendant filings (ECF 31 & 32) did not address all of the Plaintiff’s claims but they did clearly expose the three main strategies used in its responses: 1) redefining or misleading issues (oft used by politicians unwilling to answer a question); 2) ‘harmless’ partial admissions (oft used by children to get out of trouble) and, 3) projection or *ad hominem* attacks (oft used by the guilty).

³ To learn more about CPO Tuffariello, see <https://www.youtube.com/watch?v=0yb6lr9JdXk>.

⁴ A “15-6” investigation refers to an investigation conducted under the procedures of Army Regulation 15-6.

UNADDRESSED ARGUMENTS

14. The major unaddressed arguments that the Defendant fails to mention in either ECF 31 or ECF 32 are: (1) the “Special Defense of Article 89,”⁵ (2) the “Inference of Causation,” (3) the myriad falsifications contained in the Defendant’s AR and (4) the procedural impostor of due process it claims occurred. The ‘Special Defense’ is indefensible as the Plaintiff will later show he never had an opportunity to raise the defense, yet he addressed due process *ad nauseum*. The Inference of Causation is buried in an IG Report that is now unreachable due to some layered and new investigation. The previously listed falsifications (ECF 28, generally) are *prima facie* in nature. And, the lack of due process is procedurally wrong but has been normalized in all branches for over two decades (*see* ECF 34 for in-depth analysis).
15. The Plaintiff trusts the Court as case law is replete with myriad misleading strategies that can be identified in the Defendant’s arguments; the Plaintiff wished to briefly mention two examples. For instance, the SAIG decision seemingly serves to protect the Whistleblower investigation and could be inferred was sent to the Plaintiff to dissuade the Plaintiff from suggesting to the Court that it should subpoena it and factor its contents as well. Naturally, any contrarian opinions of it could be embarrassing to the Defendant. And, as for the Company Commander’s blatant bias towards the Plaintiff, coupled with the myriad lies placed on government forms by others, these are as indefensible to the written laws and regulations, as they are unseeable to the naked eye or the Court. Therefore, the Plaintiff trusts the Court will place appropriate weight on any of Defendant’s argument gaps as appropriate.

⁵ The Special Defense under UCMJ Article 89 of the Manual for Courts Martial was previously briefed in the complaint (ECF5) as well as in ECF-28.

EXAMPLES OF REDEFINING ISSUES

16. Here are a few notable quotes from both of the Defendant's filings (emphasis added):

*His motion rests on the **mistaken premise** that the Court may expand the administrative record to incorporate evidence that he unilaterally deems relevant...* (ECF 31 at 5)

*[The Plaintiff] sought to challenge his separation **but opted** to file a complaint with this Court rather than seek correction of his records before the Army Board for Correction of Military Records.* (ECF 31 at 6)

*Instead, [the Plaintiff] **chose to bypass** the ABCMR and file suit directly in this Court.* (ECF 31 at 11)

Yet, the Court of Appeals has "explained that resort to the [a correction board] was a permissive remedy, not a mandatory precondition to filing suit." (*Martinez v. United States*, 333 F.3d 1295, 1304-05 (Fed. Cir. 2003) (en banc)).⁶ And remand is not necessary as:

[a]lthough the Court of Federal Claims does not have general equity jurisdiction, the Tucker Act provides that in cases based on actions for monetary relief, the court may issue such orders as are necessary '[t]o provide an entire remedy and to complete the relief afforded by the judgment,' including 'as an incident of and collateral to any such judgment, issue orders directing restoration to office or position, placement in appropriate duty or retirement status, and correction of applicable records.' 28 U.S.C. § 1491(a) (2). (*Martinez*, 2003)

17. The Defendant's attempt to redefine and shift the responsibility onto the Plaintiff because he decided to bypass ABCMR and bee-line to the judiciary, (instead of simply complying fully with RCFC 26 in good faith), is appalling; it could have simply supplied all of the pertinent items it owned and controlled and accepted this Court's jurisdiction. Instead, the Plaintiff was forced to submit many documents on behalf of the Defendant to this Court in his Motion to Supplement (ECF 27).

18. In fact, the Plaintiff has explained the violations, the lack of due process, and/or the Special Defense in previous internal correspondence to rectify this situation, as well as in his Complaint (ECF 5) and throughout Court filings. Moreover, the Defendant's habit of

⁶ *Deskbook for Practitioners* (United States Court of Federal Claims Bar Association, 2017), p. 45, footnote 45.

ignoring the Plaintiff's allegations of violations as a causal relationship to the personnel actions is not a problem of the Plaintiff's making. After all, the Defendant controls and owns all of the relevant evidence, including a completed (and hidden from view) whistleblower reprisal investigation; the only exception is the Plaintiff's privately sent communications. Omitting this evidence, including as the DASEB and ARBA⁷ submissions, etc., (decisions that could have changed the separation) is misleading and serves as a convenient tactic to justify an outcome it wants (at all costs), regardless of how it looks and to whom.

19. Yet another quote deserves a spotlight:

*These actions were based on findings of misconduct, **not on** his alleged resistance to the HPW program.* (ECF 32 at 16).

The redefined focus of “misconduct” and “resistance” is now on the docket. But the truth lies in the Defendant's AR. The alleged “misconduct” was the alleged “disrespect” (ECF 19-2 at 001455), which is what the Defendant alone referred to as “resistance” in the above conclusory statement. Does that mean that the Plaintiff's request for the two of the four informed consent components (“scope” and “statutory support/regulatory basis”), which should have been lawfully delivered prior to, or concurrently with, the order, considered ‘resistance’ by the Defendant? The Plaintiff deems this information as ‘required by law’ and a form of compliance. His intent was to process it, and when it was missing begin to provide assistance, via a deficiency request. In fact, the Plaintiff resisted nothing! The Plaintiff simply attempted to comply by invoking his right to formally deny his participation on the statutorily required informed consent form, sign it, copy it, and hand it back to leadership.

⁷ DASEB = Dept of the Army Suitability Evaluation board, ARBA = Army Review Boards Agency

EXAMPLES OF PARTIAL ADMISSIONS

20. Here are more notable quotes from both recent filings (emphasis added)

*Aside from certain documents that **the United States agrees** may be unredacted,...* (ECF 31 at 5, emphasis added)

*...it appears that he seeks documents that fall within three general categories: (1) unredacted versions of intentionally or **accidentally redacted documents** that already appear in the administrative record, ...* (ECF 31 at 7)

*...specifically, OMB Memorandum M-10-23, AR 157, and portions of the APA ethics guidance, AR 618-635, appear to be improperly redacted or obstructed in the administrative record....**These are publicly accessible** and were included in the administrative record in some form. Upon review, the Government does not object to the inclusion of clean, publicly available versions of these documents in the administrative record, as they are already part of the record in substance **and their unredacted form would not alter the agency's decision-making basis.*** (ECF 31 at 15)

The “accidentally redacted documents” arguably accomplished three things for the Defendant:

1) it wasted space and time of the Plaintiff to address them; 2) it provided the possibility that the Plaintiff would not see them, nor decide to address them, and; 3) it provided the possibility that the court would not ‘publicly access’ them. This could be considered bad faith given the magnitude, and specific scope, of the redacted content as argued prior (ECF 27 at 3-7). Furthermore, it is eerily reminiscent of a ‘criminal throwing the drugs out of the car as they are getting pulled over;’ the cops don’t appreciate it, but they go into the woods and find the baggie anyway. The Plaintiff asks the Court to consider these actions as they are justiciable aspects of this case with regard to the Defendant’s submitted AR as applied to RCFC Rule 26. He asks this regardless of whether its redaction would have “altere[d] ... decision-making...” (ECF 31 at 15) or not; it wasn’t redacted for decision-making purposes. After all, decision-making wasn’t the point, winning this case was, and is, the point.

21. The Plaintiff ensured that, at least, some of the redactions were replaced on the docket (ECF 27 at 7) for the Court. That said, the Defendant’s most recent filings again show that they are

prone to make convenient mistakes comprised of ‘accidental’ redactions that result in the purported ‘harmless error,’ when it is anything but.

EXAMPLES OF *AD HOMINEM* ATTACKS

22. Notable quotes from both filings (emphasis added):

*[Plaintiff] seeks to supplement the administrative record with a **broad collection of documents that were neither presented to, nor considered by, the Army at the time of the decisions he now challenges.*** (ECF 31 at 5)

*Although **his requests are largely difficult to decipher**...* (ECF 31 at 7)

*The administrative record must capture what **the Army actually considered – not what Mr. Forbes believes it should have considered in hindsight** - in order to avoid de novo review* (ECF 31-15).

*In response, **[the Plaintiff’s] argument are unavailing.*** (ECF 32 at 8)

*...**he instead proffered his subjective belief that the investigation and was an illegitimate retaliation**...*(ECF 32 at 6)

He is mistaken. ECF 32 at 8

*[The Plaintiff’s] reliance on *Kassel v. U.S. Veterans’ Admin.*, 709 F. Supp 1194 (D.N.H. 1989), is **misplaced.***

23. First, the *Kassel* case is used persuasively, not as a precedent. Regarding the misleading commentary about the Plaintiff not submitting the supplemented information to the Qualitative Management Program (QMP) Board, most of the Plaintiff supplemented documents are prohibited to be admitted at the QMP Board by Army regulation. This is especially true once any accompanying explanation (such as those found in the Plaintiff CMJAR, ECF 28) if submitted to the Board would violate the regulation,⁸ which states that any evidence which “criticizes or reflects on the character, conduct or motives of any other

⁸ See AR 635-200, *Active Duty Enlisted Administrative Separations*, Ch. 16-11., g.(2), June 28, 2021, *more explanation on the next page.*

Soldier will not be provided to the board.”⁹ Therefore, the Plaintiff was disallowed key relevant evidence in the venue of the QMP board. The QMP Board by its rules denies the Plaintiff (and other similarly situated soldiers) due process. (*see* ECF 34) Thankfully this judicial venue allows for candid argument.

24. Second, this extension of the Defendant’s trend of *ad hominem* attacks has continued. Instead of staying focused on the issues of fact at conflict, the Defendant has continued to wrongfully rely upon a deeply flawed investigation, coupled with tired clichés of painting the Plaintiff as a stereotypical *pro se* litigant. One must assume that the Defendant’s lack of having an internal battlefield of choice has forced it to rely upon an investigation with no tangible evidence or admission that could possibly support a GOMOR or a Relief for Cause evaluation as its center-of-gravity to win.

25. Lastly, the unfounded and unsubstantiated allegations that were levied in the investigation of “racism, homophobia, thievery, bullying, blackmail and more” (ECF 28 at 19) have been multiplied in recent legal filings. They now add to the above cited referenced attacks, the following, that the Plaintiff is: ‘confusing’ (“difficult to decipher”) ‘ineffective’ (“unavailing”), ‘misconceiving’ (“not what Mr. Forbes believes it should have considered in hindsight”), “mistaken,” (in err) “misplaced” (in the wrong place) and “subjective,” (proffered an unsubstantiated opinion), etc. An *ad hominem* strategy is inappropriate in this court and the Plaintiff relies on our legal system to see past the personal attacks and rest its adjudication on the evidence as it applies to our Constitution, our laws and, as parties to the conflict are service members all, our regulations.

⁹ Ibid.

SNAFUS or ABSURDITIES

26. The Plaintiff has claimed wrongful separation, a QMP separation decision that occurred before the DASEB board considered the Plaintiff's submission. Note, there is no proof in the Defendant's AR (ECF 19-2 & 19-2) that the ARBA even convened on the matter. Both of these boards could have impacted the separation decision had they occurred prior to separation and acknowledged the Plaintiff's council represented submissions. With this in mind, here is the absurd comment made:

... regarding the DASEB and ASRB materials, they are not necessary for effective judicial review for two independent reasons. First, [the Plaintiff] does not allege in his complaint that he submitted an application to either board.... Second, his complaint does not allege any legal error stemming from their adjudications [The Plaintiff] attaches no applications or final decisions, and he asserts no claim for relief based on either board's action. (ECF 31 at 16).

In response, the DASEB is not the separation decision authority (the QMP Board was).¹⁰

Regardless, it did not convene until December 17, 2024 (ECF 19, 001147 and 001519). This was ***after the Plaintiff filed his amended complaint*** (ECF 5, December 9, 2024) and ***after his separation*** (November 30, 2024); moreover the board did not write its report until January 31, 2025 (effective date, ECF 19, 001145 and 001519). So, it is an absurd impossibility for the Plaintiff to put any DASEB claim, or a relief request for it, in his complaint.

27. Moreover, the Plaintiff did not see the DASEB results until the Defendant's AR was submitted to this court on April 9, 2025. The ARBA report was non-existent in the AR and is still not in the record as of today. *So, the Plaintiff could NOT have put either of Boards' findings in his amended complaint filed December 9, 2024!* Again, this exemplifies that the Defendant's willingness to attempt any argument (even absurd ones) to win.

SUBSEQUENT EFFORTS TO PROVE DISRESPECT EXPOSED IF SUPPLEMENTED

¹⁰ See AR 635-200, Active Duty Enlisted Administrative Separations, Ch. 1-20., a., June 28, 2021

28. Next topic is the parasitic allegation of disrespect of the 15-6 investigation, resulting from the Defendant's failure to follow laws and standing Executive Orders; disrespect attached itself to the unlawful order on November 29, 2022 and remains attached to this case today. It launched the initial investigation (ECF 19-2 at 001631). It transcended the GOMOR (ECF 19-2 at 001365) and the Relief for Cause (ECF 19-2 at 001629-001630), both of which triggered the QMP Board. It permeated the DASEB Board (ECF 19-2 at 001522) and it touches every aspect even remotely associated with the separation. Finally, it is the lynchpin of the Defendant's defense. Other allegations are unsubstantiated or offset by evaluations.
29. In short, both the disrespect and counterproductivity allegations were necessitated by the Defendant's material failures. A nexus if you will. The disrespect allegation is countered by the Plaintiff's unblemished service record, awards and character reference letters; while the counterproductivity allegation is squarely countered by the ignored evidentiary GOMOR rebuttal, previous evaluations completed (at this unit), and extremely positive comments from the same Colonel who orchestrated the separation. The abhorrent use of this 60 second conversation in this manner to besmirch the unblemished record of a Senior NCO is, by definition, a harmful 'action' under any 'outcome based' test; the Plaintiff simply refuses to call it an error as a reasonable person would likely find that the supplemental evidence supplied shows this separation as something much different. This all happened solely because the Plaintiff requested a required form for an illicit personally identifiable survey.
30. In summary, "Board decisions are subject to judicial review and can be set aside if they are arbitrary, capricious....,"¹¹ negligent and/or "contrary to law, (ECF 31 at 12)"¹² In ECF 34 the Plaintiff will show that the mere 'establishment' of the QMP Board in AR 635-200 (in

¹¹ *Lewis v. United States*, 458 F.3d 1372, 1376 (Fed. Cir. 2006) (citation omitted, at para. 16)

¹² *Ibid.*

2005) is what created the arbitrary and capricious nature of this wrongful separation. For this filing, the Plaintiff argues that the Court, just like the QMP Board, cannot adjudicate these issues fully without the submitted evidence.

SUPPLEMENTATION IS PERMITTED AND NECESSARY

31. Furthermore, moving the Court to supplement the Defendant's AR is permitted. The Court must have the evidence that the QMP Board forbids¹³ in order to consider the Plaintiff's requested relief due to the "wrongful, involuntary" (ECF 5-1 at 3) "separation" claims (ECF 5-1 at 1,3,4,5, & 6). Without this supplemental information, the Court would only see what the Defendant allows them to see and may affect some of the justiciable issues. In fact, the Defendant openly acknowledged that, "[a] QMP board subsequently recommended separation, and [the Plaintiff] was separated on November 29, 2024" (ECF 31 at 6), therefore the Court can and should allow for information because the Plaintiff alleges the agency conducted a 'wrongful separation:'

when the agency failed to consider factors relevant to its final decision, ... when a case is so complex that a court needs more evidence to enable it to understand the issues clearly...where evidence arising after the agency action shows whether the decision was correct or not ...where the agency is sued for a failure to take action.... Esch v. Yuetter (DC 1988, 876 F2d 976).

32. Exposing more aspects of the wrongful termination via supplementation is evidence that the Defendant has been unswervingly slow and unfair in this case. It can be assessed that its only goal emerged as a poorly obfuscated mission of retribution for protected communications regarding their violations, a mission to exact some significant amount of retribution on the Plaintiff for daring to speak up. This mission is evident in the Defendant's AR that indicates its myopic goal was to justify the Plaintiff's separation. This is so pervasively obvious that only an efficient, outside and impartial adjudication can remediate it (one outside the chain of

¹³ See AR 635-200, Active Duty Enlisted Administrative Separations, Ch. 16-11, g., (2)., June 28, 2021.

command and outside the still unfinished and conflicted IG saga). The Defendant's strategy to win without accountability of leaders' conduct, becomes more apparent if supplementation is permitted. The Plaintiff now (after filing ECF 20) sees the benefits and the efficiency provided by this Court's Appendix K and its board-like, 'file-dump,' competitive structure.

33. Yet, there is another attempt to obfuscate the Plaintiff's arguments that supports supplementation. It lies in the Defendant's attacks on other cited laws and regulations in the Plaintiff's CMJAR (ECF 28):

[The Plaintiff] asserts that a number of authorities were violated, including Officer's requirements of exemplary conduct, 10 U.S.C. § 7233, Executive Order M-10-23 providing guidance on Federal agency use of third-party websites, and dozens of other statutes and regulations in his MJAR.... [The Plaintiff] identifies a number of new statutes and regulations, the majority of which he did not allege violations of in his complaint, in an attempt to disturb the Army's decision to separate [the Plaintiff] from service. But merely identifying these authorities is not enough under this Court's precedent. [The Plaintiff] must first demonstrate from the administrative record that the Army violated these authorities while reaching the decisions to reprimand and separate him. He makes no such showing. Even if he did, the violations of regulations must amount to harmful error.

This is argued more substantively in ECF 34 but initially, it is likely a fair assertion that courts typically view Constitutional violations as 'harmful error,' But, to stay on topic, these additions the Defendant cites, such as, "Officer's requirements of exemplary conduct, 10 U.S.C. 7233, Executive Order M-10-23..." (ECF 32 at 13) are apropos.

34. The 'exemplary conduct' law is asserted because the Plaintiff relies on it to demonstrate the legal infirmity of the Defendant's actions and its arguments to the contrary, rather than the Plaintiff's entitlement to money damages and administrative remediation (even though they could be added as such). Separately, the Executive Order was claimed (ECF 5 at 3, para. 19). Therefore, the Executive Order was not a newly "identifie[d]... authorit[y]."The Plaintiff, in fact, *has* argued that the Military Pay Act and the APA (Administrative Procedures Act),

both of which vests this Court with jurisdiction over his claims. This facial example directly conflicts with the Defendant's above assertion and when considered with the unnecessary redactions found in the Defendants AR, further supports supplementation of the record.

SUPPLEMENTING THE RECORD

35. Supplementation is permitted pursuant to RCFC 26 (e):

A party must make its initial disclosures based on the information then reasonably available to it. A party is not excused from making its disclosures because it has not fully investigated the case or because it challenges the sufficiency of another party's disclosures or because another party has not made its disclosures.

The list of Plaintiff communications included, an extensive GOMOR rebuttal, three Article 138s, three board filings (QMP, DASEB, and ARBA), over 4 agency complaints (AHRPO, DHA, SAIG, DCSE), at least four Inspector General complaints to 4 separate IG offices, not to mention multiple FOIA and Congressional complaints; all of which, repeated some aspect of the violations of law that precipitated and directly caused the Defendant's multiple investigations, and eventual separation, of the Plaintiff.

36. If this isn't a significant trend resulting in an indication of bad faith, then the Plaintiff should have written more agencies. The repeated "stonewalling" of any acknowledgment of the Plaintiff's evidentiary allegations are not a problem of the Plaintiff's making, no matter how much the Defendant wills it to be, no matter how much the Defendant wants to win at all costs. If that weren't enough, the Plaintiff's wife sent a letter to the Secretary of the Army that was ignored and subsequently placed in the Plaintiff's AMHRR file as evidence of something; its relevance unknown.

TO COMPEL OR NOT TO COMPEL?

37. Supplementation is permitted and, moreover, warranted given the aforementioned behaviors of the Defendant in this case. That said, the violations of laws and disobedience of an Executive Order are *prima facie* without supplementation; supplementation only adds a deeper understanding of the possible reasons for the retaliation, which further lends itself to an appropriate adjudication of the arbitrary, capricious, negligent, and/or contrary to law nature of the Defendant's decisions. Moreover and pursuant to RCFC Rule 34, the Plaintiff requests that the Court compel the production of the command directives since the Defendant asserted in its AR that "[t]he 528th SB (SO) (A) Soldiers will complete a Human Performance and Wellness (HPW) assessment to meet USASOC and 1st SFC directive" (ECF 19-1 at 000412). This directive is a key piece of evidence which the court should have.

LACK OF DUE PROCESS AND ITS RELATIONSHIP TO SUPPLEMENTATION

38. The Plaintiff never got an impartial venue to present any defense, let alone argue the Special Defense of a disrespect allegation. An officer not performing their duties or responsibilities is one thing, but not doing them because to obfuscate the fact that they violated laws is a deeper issue that should carry with it severe and material ramifications. This is precisely why an impartial venue was immediately sought by the Plaintiff in a Court of law. It was necessary, not for accountability; the Court's jurisdiction does not provide for that. It was sought to compensate for a lack of accountability the QMP Board's structure¹⁴ provides the culpable.

¹⁴ See AR 635-200, *Active Duty Enlisted Administrative Separations*, Ch. 16-11, June 28, 2021.

THE ARMY'S DIRTY LITTLE SECRET, SOUNDPROOF TUNNEL

39. The QMP process is the metaphorical “dark tunnel” dug from every Brigade Commander’s office, under the base perimeter, ending outside the bounds of service. It serves to provide a path that any Commander (with a General’s support) can arbitrarily choose to muzzle, cuff and send any Senior NCO ‘down and out’ for any contrived reason, which ensures the quarantine of any legitimate defense to the Commander’s recommendations for separation; it also quarantines documented allegations of violations. The Senior NCO’s screams of a corrupted process, or violated laws, will not be heard. At the end of the journey, when daylight is reached, the Senior NCO is stripped of his/her uniform and occupation, stripped of almost all of their most significant benefits, stripped of their tenured property interest in their contract, and cast out. They are fired like at-will employees. ECF 34 alleges that this process was created from an improper interpretation of the bounds of statutory guidance included in 10 U.S.C. § 1169 and thereby undermines the Constitution’s 5th Amendment. This tunnel should be destroyed. As stated, more is to follow on that issue.
40. Why would the Colonel not separate the Plaintiff himself? After all, the Defendant references “disrespect” 21 times in the Defendant’s MJAR (ECF 24), plus 2 times, and 5 times, in its supplement, and CMJAR responses, respectively. If the Plaintiff was found guilty of ‘disrespect,’ which is an Article 89 offense, why was he not proffered NJP¹⁵ or court-martial charges under the UCMJ as a punishment? The Colonel has that authority. Why was he, instead, administratively separated? Who made this decision and why? The obvious answer is that the existence of the Special Defense to the ‘disrespect’ allegations meant the Plaintiff could defeat the charge in a Court Martial, by proving the Colonel’s order unlawful and/or the Psychologist’s expertise deficient. Would this risk transparent exposure of the violations?

¹⁵ NJP = Non-Judicial Punishment, under Article 15 of the Uniform Code of Military Justice. T

THE ZERO-SUM GAME

41. These opposing forces of an officer's violations vs. the violation's exposure, has existed since the dawn of sentient human behavior. It naturally, creates the equivalent of a zero-sum-game; a game that evidently someone in 2005 decided the Army should not lose (*see* ECF 34). That year, an addition to AR 635-200 was sought to provide the needed firing of a tenured Senior NCO at-will (concurrently it by-passed tenured Senior NCO's possible documented defense as 'not permitted'); hence, the Qualitative Management Program was modified and moved from AR 601-280 'Retention' and put under AR 635-200 'Separation.'
42. The situational lead-up to the QMP Board game is unique every time it is used, but its players are always unfairly stacked and racked against insurmountable odds. It posits officers vs. Senior NCOs in an uneven procedural battle. In this case, it placed the Colonel opposite an intelligence analyst. A battle stage was set, one of violations vs. law, and agency purported due process vs. the Constitution. After all, recommending the GOMOR started a process that ultimately ended in the QMP Board's consideration that employs an atmosphere conducive to an unfair adjudication (*again see* ECF 34).

CONCLUSION

43. After all, how can the Plaintiff's Special Defense be documented or considered (even if submitted) if it is disallowed to be submitted before the separation authority (the QMP Board).¹⁶ Therefore this unfair Board game will likely always be won by the Defendant if it so chooses. Evidently neither this board, nor the Defendant, was ever "instructed that it could not excuse a constitutional violation as a harmless error" (*see Ward*, 634 F.3d at 1276 and Defendant arguments, generally). Hence, here we are. The Plaintiff asks the Court to Grant the Motion to Supplement the Administrative Record (ECF 27).

¹⁶ *See* AR 635-200, *Active Duty Enlisted Administrative Separations*, Ch. 1-20., a., June 28, 2021.

44. If the Court disagrees with the Plaintiff's supplementation request, please allow the Defendant's AR to stand alone against the nucleus of their stubbornness to win 'at all costs.' Let the Defendant stand naked before the quintessential and unconstitutional fuel it autocratically implemented, and siphoned, to remain obstinate in the face of the Plaintiff's repeated complaints of the Colonel's and Psychologist's violations; the Defendant relied on one normalized, and self-purported, lie. An unsupportable lie that becomes excruciatingly apparent in the Plaintiff's accompanying reply (ECF 34) to the Defendant's repetitive redefinitions and deflections argued above. These arguments pertain to the wrongful separation decision (or lie) and the unconstitutional manner it was used. Myriad personnel of all branches have been affected by it since its "[e]stablish[ment of] the Qualitative Management Program."¹⁷

July 7, 2025

Date

614 Northampton Road
Fayetteville, NC 28303



Signature of Plaintiff

Cell: (910) 336-5966
Email: forbes2024cfc@yahoo.com

¹⁷ See quote in Exhibit S01 (second to last bullet in the "Summary of Changes," undocketed pg. 4), because this historical and unaltered version cannot be found online; only a Rapid Action Revision can be found with the above quote eliminated, AR 635-200, *Active Duty Enlisted Administrative Separations*, Ch 19, *Qualitative Management Program*, June 6, 2005.

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¹⁸ Only current Army Regulations are available online at: <https://armypubs.army.mil/>.

EXHIBIT S01

Army Regulation 635–200

Personnel Separations

**Active Duty
Enlisted
Administrative
Separations**

Headquarters
Department of the Army
Washington, DC
6 June 2005

UNCLASSIFIED

SUMMARY of CHANGE

AR 635-200

Active Duty Enlisted Administrative Separations

This rapid action revision dated 6 June 2005---

- o Substitutes the term "memorandum" for the term "endorsement" to comply with AR 25-50, Preparing and Managing Correspondence (throughout).
- o Requires commanders having separation authority to comply with AR 635-10 and Army Pamphlet 635-4 (para 1-20a).
- o Requires the chain of command recommend approval or disapproval when forwarding a request for separation under the provision of secretarial plenary authority (para 5-3).
- o Establishes a service obligation (normally 3 years) for soldiers assigned to a lifecycle unit (para 12-8b(1)).
- o Changes the minimum time for soldiers to submit retirement applications from 2 to 9 months (para 12-12c).

This revision dated 15 July 2004--

- o Changes the existing retirement authority for voluntary retirements from General court-martial-convening authority to Commander, Human Resources Command-Alexandria for all active duty soldiers in the grade of SSG(P) and above. General court-martial-convening authority remains the approval authority for voluntary retirements of enlisted Soldiers in the grade of SSG and below and those soldiers denied continued service under retention control point policy (paras 1-19, 12-1, 12-2, 12-4, 12-6, 12-7, 12-9, 12-12, 12-13, 12-14, 12-15, 12-18, 12-19, 12-20, and 12-29).
- o Requires soldiers to indicate a reason for requesting voluntary separation under the provision of paragraph 4-4 (para 4-4a(1)).
- o Updates references and makes administrative changes throughout.

This revision dated 19 December 2003--

- o Renames the regulation "Active Duty Enlisted Administrative Separations" to more aptly identify the purpose of this regulation.
- o Expands the applicability to give the Chief, Army Reserve and the Chief, National Guard Bureau review authority for all separation actions pertaining to Active duty soldiers of the Active Guard/Reserve or Army National Guard of the United States.
- o Delegates separation authority for soldiers discovered to have enlisted with Existed Prior to Service conditions to those commanders who have a Judge Advocate available to them (para 1-19d).

- Provides soldiers their entitlement to legal counsel when being considered for separation (para 2-2c).
- Authorizes characterization of service other than (uncharacterized) for those soldiers with less than 181 days of continuous active military service who have received a military occupational specialty and have been reassigned from the training base (para 3-9a).
- Changes medical references for Existed Prior to Service soldiers and gives further clarification of their legal rights (para 5-11).
- Clarifies separation policy for Active Guard/Reserve soldiers on active duty as recruiter (para 5-15).
- Deletes requirement for an honorable discharge certificate for soldiers separated for alcohol or drug abuse rehabilitation failure (para 9-4).
- Changes description "for the good of the service" to "in lieu of trial by court-martial" (fig 10-1).
- Clarifies counseling requirements for retirement eligible soldiers (para 12-8e).
- Clarifies authorization for retirement in lieu of permanent change of station (para 12-9).
- Allows soldiers who attain retention control point with more than 18 years active Federal service to be extended for retirement purposes (para 12-13e(3)).
- Authorizes separation of soldiers with less than 181 days active Federal service for unsatisfactory performance if they have been awarded a military occupational specialty and completed initial entry training (para 13-1).
- Authorizes characterization of service for soldiers with less than 181 days active Federal service who have received a military occupational specialty and completed initial entry training (paras 14-3c and d).
- Changes grade requirement for U.S. Army Reserve Active Guard/Reserve noncommissioned officers from sergeant to staff sergeant for Qualitative Management Program consideration (para 19-4).
- Allows Active Guard/Reserve soldiers with 17 years 9 months active Federal service identified for Qualitative Management Program to be extended for retirement purposes (para 19-13c).
- Changes the acronyms PERSCOM and AR-PERSCOM to USA HRC.
- Updates office symbols throughout.

- o Updates internal and external references throughout.

This revision dated 1 November 2000--

- o Incorporates new procedures for separation prior to retention control point for those soldiers serving on voluntary indefinite re-enlistments (chap 4).
- o Allows male and female soldiers to be separated if unable to properly care for family members (chap 6).
- o Deletes the requirement for command sergeants major and sergeants major to submit retirement requests to PERSCOM (chap 12).
- o Deletes the authority for Regular Army soldiers to be transitioned to an AGR enlisted tour prior to ETS (chap 16).
- o Allows soldiers with baccalaureate degrees to apply for ROTC (chap 16).
- o Establishes the Qualitative Management Program, transferred from AR 601-280, as a separation (chap 19).
- o Updates all addresses for AR-PERSCOM, HQ, USAEREC, as well as APO and FPO addresses.

Headquarters
Department of the Army
Washington, DC
6 June 2005

***Army Regulation 635–200**

Effective 6 July 2005

Personnel Separations

Active Duty Enlisted Administrative Separations

By Order of the Secretary of the Army:

PETER J. SCHOOMAKER
General, United States Army
Chief of Staff

Official:



SANDRA R. RILEY
Administrative Assistant to the
Secretary of the Army

History. This publication is a rapid action revision. The portions affected by this partial revision are listed in the summary of change.

Summary. This regulation on enlisted personnel separations implements Department of Defense Directive 1332.14, 21 December 1993, Subject: Enlisted Administrative Separations. This revision establishes Army Regulation 635–200 as a stand-alone regulation and incorporates major Department of the Army changes in the enlisted separations programs. Statutory authority for this regulation is established under Sections 1169, 12313(a), and 12681, Title 10, United States Code.

Applicability.

a. This regulation applies to all enlisted soldiers serving on active duty in the Active Army, including United States Army Reserve soldiers serving on extended active duty. It also applies to Army National Guard of the United States and United States Army Reserve soldiers serving on active duty under Title 10 of the United States Code, which includes active duty for training, full-time active duty in the Active Guard Reserve Program, active duty for special work, temporary tours of active duty, and order-to-active-duty for

contingency operations. Except for chapter 10, this regulation does not apply to soldiers serving on annual training. This regulation does not apply to Army National Guard of the United States soldiers serving on full-time National Guard duty under Title 32 of the United States Code. It does not pertain to Army National Guard of the United States, or United States Army Reserve soldiers who are not serving on active duty or active duty for training. Administrative separation of these soldiers is governed by National Guard Regulation 600–200 or Army Regulation 135–178.

b. Chapter 12 governs the retirement of Regular Army, Army National Guard of the United States, and United States Army Reserve soldiers who are retiring from active duty in their Army enlisted status.

c. This regulation also applies during full and partial mobilization. During mobilization, chapters and policies contained in this regulation may be modified by the proponent.

d. Active duty determinations requiring action by Commanding General, United States Army Human Resources Command, as set forth in this regulation, will be forwarded to United States Army Human Resources Command (ATTN: AHRC–EPR–F), 2461 Eisenhower Avenue, Alexandria, VA 22332–0478, unless otherwise specified.

Proponent and exception authority.

The proponent of this regulation is the Deputy Chief of Staff, G–1. The proponent has the authority to approve exceptions or waivers to this regulation that are consistent with controlling law and regulations. The proponent may delegate this approval authority, in writing, to a division chief within the proponent agency or a direct reporting unit or field operating agency of the proponent agency in the grade of colonel or the civilian equivalent. Such approval is hereby delegated to the

Chief, Enlisted Career Systems Division (DAPE–MPE). Activities may request a waiver to this regulation by providing justification that includes a full analysis of the expected benefits and must include formal review by the activity's senior legal officer. All waiver requests will be endorsed by the commander or senior leader of the requesting activity and forwarded through their higher headquarters to the policy proponent. Refer to Army Regulation 25–30 for specific guidance.

Army management control process.

This regulation contains management control provisions in accordance with Army Regulation 11–2, but it does not identify key management controls that must be evaluated.

Supplementation. Supplementation of this regulation and establishment of command and local forms are prohibited without prior approval from the Deputy Chief of Staff, G–1, ATTN: DAPE–MPE, 300 Army Pentagon, Washington, DC 20310–0300.

Suggested improvements. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to the United States Army Human Resources Command, ATTN: AHRC–EPR–F, 2461 Eisenhower Avenue, Alexandria, VA 22332–0478.

Distribution. This publication is available in electronic media only and is intended for command levels A, B, C, D, and E for Active Army, Army National Guard of the United States, and U.S. Army Reserve.

* This Army regulation supersedes AR 635–200 dated 15 July 2004.

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Glossary

Chapter 1

General Provisions

Section I

General

1–1. Purpose

a. This regulation sets policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

b. The separation policies in this regulation promote the readiness of the U.S. Army by providing an orderly means to—

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

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

(3) Achieve authorized force levels and grade distribution.

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

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

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

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

(3) The Army makes a substantial investment in training, time, equipment, and related expenses when persons enter into military service. Separation prior to completion of an obligated period of service is wasteful because it results in loss of this investment and generates a requirement for increased accessions. Consequently, attrition is an issue of significant concern at all levels of responsibility within the Army.

(a) Diligent efforts will be made to identify soldiers who exhibit a likelihood for early separation and to improve their chances for retention through counseling, retraining, and rehabilitation prior to initiation of separation proceedings.

(b) Soldiers who do not conform to required standards of discipline and performance and soldiers who do not demonstrate potential for further military service should be separated in order to avoid the high costs in terms of pay, administrative efforts, degradation of morale, and substandard mission performance.

d. This regulation provides—

(1) The authority for separation of soldiers upon expiration of term of service (ETS) or fulfillment of active duty obligation.

(2) The authority and general provisions governing the separation of soldiers before ETS or fulfillment of active duty obligation to meet the needs of the Army and its soldiers.

(3) The procedures to implement laws and policies governing voluntary retirement of soldiers of the Army for length of service.

(4) The criteria governing uncharacterized separations and the issuance of honorable, general, and under other-than-honorable-conditions discharges.

1–2. References

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

1–3. Explanation of abbreviations and terms

Abbreviations and terms used in this publication are explained in the glossary.

1–4. Responsibilities

a. The Deputy Chief of Staff, G–1 (DCS, G–1) establishes personnel policies relating to enlisted separations.

b. The Commanding General (CG), U.S. Army Human Resources Command establishes standards and operating tasks for the enlisted separation program.

c. The Judge Advocate General (TJAG), upon request, reviews DA administrative changes to verify the legality of prescribed policies and changes.

d. The Commandant, Adjutant General School, ensures that lesson programs of instruction incorporate the provisions of this regulation.

e. Commanders of all major Army commands (MACOMs) monitor the administration of the enlisted separation program to ensure compliance with the policies and operating tasks established by this regulation.

1–5. Statutory authority

Principal laws pertaining to, or effecting, enlisted separations are cited below. Questions concerning the applicability of these laws in individual cases should be referred to the servicing Staff Judge Advocate. All references are to sections of Title 10 of the United States Code (10 USC).

a. 10 USC 507 provides authority in certain cases to retain soldiers on active duty beyond expiration of term of service.

b. 10 USC 651 establishes the initial military service obligation and provides for transfer to a Reserve Component (RC), in certain cases, upon release from active duty.

c. 10 USC 654 contains congressional findings and policy on homosexuality in the Armed Forces.

d. 10 USC 972 requires a soldier to make up lost time due to being absent without leave (AWOL), confinement, and so forth, prior to separation.

e. 10 USC 1141 through 1153 describe benefits and services available to soldiers who are being voluntarily or involuntarily separated.

f. 10 USC 1168 stipulates that a discharge certificate or certificate of release from active duty must be given to each soldier discharged or released from active duty.

g. 10 USC 1169 confers broad authority on the Secretary of the Army to order separation of a Regular Army (RA) soldier prior to ETS.

h. 10 USC 1170 provides authority for separation on the grounds of minority age (under 18 years of age).

i. 10 USC 1171 provides authority to separate a soldier up to three months before ETS.

j. 10 USC 1173 provides authority for discharge due to hardship of a soldier who has dependents.

k. 10 USC 1174 provides for separation pay to certain soldiers involuntarily discharged or released from active duty.

l. 10 USC 1174a provides for special separation benefits (lump-sum payment) for certain soldiers who separate voluntarily.

m. 10 USC 1175 provides for a voluntary separation incentive (annual payment) for certain soldiers who separate voluntarily.

n. 10 USC 1176 establishes rules for retention on active duty to retirement eligibility of soldiers with 18 or more years of service.

o. 10 USC 12305 describes the President's authority to suspend laws pertaining to separation or retirement during any period RC soldiers are serving on active duty under various mobilization scenarios.

p. 10 USC 12313 provides Secretarial authority to release RC soldiers from active duty.

q. 10 USC 12681 provides Secretarial authority for discharge of RC soldiers.

r. 10 USC 12684 authorizes the Secretary of the Army to drop RC soldiers from the rolls of the Army under certain circumstances.

s. 10 USC 12686 establishes rules for retention on active duty of RC soldiers who are within two years of retirement eligibility.

t. Laws pertaining to retirement for length of service are explained in chapter 12, section II, of this regulation.

1–6. Separation pay

Eligibility for, and payment of, separation pay is governed by Department of Defense (DOD) Instruction 1332.29.

1–7. Processing goals

a. Processing time for separations when the notification procedure is used will not normally not exceed 15 working days.

b. Processing time when the administrative board procedure is used will not normally exceed 50 working days.

c. Processing time will be measured from the date the soldier acknowledges receipt of the notification of the proposed separation to the date the separation authority directs separation. (See para 2–2*h* concerning the receipt of notification.)

d. Shorter processing times are encouraged, particularly for cases in which prompt action is likely.

e. Failure to process an administrative separation within these timeframes will not prevent separation or characterization of service.

f. DA Form 5138 is used to ensure processing goals are met. (This form is available on the Army Publishing Directorate (APD) Web site at <http://www.apd.army.mil>.)

1–8. Suspension of favorable personnel action

When suspension of favorable personnel action, per Army Regulation (AR) 600–8–2, is initiated solely because a soldier is being considered for separation under chapter 13, 14, or 15, and it is later determined that the soldier will be processed for separation for medical reasons (see para 1–33), the soldier’s immediate commander will expedite action to remove the suspension action. This will prevent delay in disposition of the case through medical channels.

1–9. The enlisted discharge/transfer process

The enlisted transfer/discharge process is divided into the following sub-functions:

- a. Voluntary release from active duty or discharge.
- b. Involuntary release from active duty or discharge.
- c. Miscellaneous types of separations.
- d. Retirement for length of service.

1–10. Leave in conjunction with separation

Granting of leave in conjunction with separation will be per AR 600–8–10.

1–11. Separation orders

a. Authority for separation (per this regulation) will be included in directives or orders directing soldiers to report to the appropriate transition center (TC) for separation processing. (See AR 600–8–105.)

b. Except as provided in (1) and (2), below, Army National Guard of the United States (ARNGUS) personnel will be released from active duty (AD) or active duty for training (ADT) and returned to the control of the appropriate State National Guard authorities. U.S. Army Reserve (USAR) personnel will be released from AD or ADT and returned to their appropriate USAR status.

(1) *ARNGUS*.

(a) An ARNGUS soldier who is being separated for any reason for which a Regular Army soldier would be discharged will be discharged from his/her Reserve of the Army status. The soldier will be returned to the appropriate State National Guard authorities for discharge from the Army National Guard (ARNG).

(b) When a soldier is to be separated because of a void enlistment (see paras 7–4, 7–9, 7–15e or f, 7–18, or 7–22) an order, stating specific reasons, will be issued releasing the individual from the custody and control of the Army. The order will return the individual to the appropriate State Adjutant General for disposition. The order will include the statement, “This voids individual’s enlistment in the Army Reserve.”

(c) When an ARNGUS soldier is to be transferred to the Individual Ready Reserve (IRR) per section VII of this chapter, the soldier will be released from active duty. The soldier will be returned to the appropriate State Adjutant General for discharge from his/her State status and transferred to the IRR (appropriate USAR control group).

(d) The military personnel records jacket (MPRJ) or local file, as appropriate, with a copy of the separation order and documentation of the separation action, will be sent expeditiously to the appropriate State Adjutant General for disposition. In addition, when the soldier is transferred to the IRR, a copy of the order will be sent to Commander, United States Army Human Resources Command (USA HRC) (DARP–PR), 1 Reserve Way, St. Louis, MO 63132–5200.

(2) *U.S. Army Reserve*.

(a) A USAR soldier who is being separated for any reason for which a Regular Army soldier would be discharged, will also be discharged. If the RA soldier would be released from custody and control because of a void enlistment, the USAR soldier will be released from custody and control by reason of a void enlistment.

(b) When a USAR soldier is to be transferred to the IRR per section VII of this chapter, the soldier will be released from active duty. The soldier will be transferred to the appropriate USAR control group to complete his/her military service obligation.

(c) If the soldier is being discharged or transferred to the IRR, the MPRJ or local file, as appropriate, a copy of the separation order and documentation of the separation action will be sent expeditiously to Commander, USA HRC, (DARP–PR), 1 Reserve Way, St. Louis, MO 63132–5200. In all cases, a copy of the separation order will be sent to the soldier’s USAR unit of assignment.

1–12. Separation of soldiers with access to special intelligence, other compartmented information, or sensitive programs

When a soldier has had access to sensitive compartmented information (SCI), special access programs (SAPs), Nuclear Weapon Personnel Reliability Program, Single Integrated Operation Program-extremely sensitive information (SIOP-ESI), or has been assigned to presidential support activities, and a discharge under other than honorable conditions is being considered, the action must be coordinated with the intelligence officer (S2/G2), director of security (DSEC), security manager, prior to initiation of the proposed separation. The following information will be reported to S2, G2,

DSEC, security manager: name, grade, social security number (SSN), date and place of birth, length of service, and reason for proposed discharge.

1–13. Reduction in grade

When a soldier is to be discharged under other than honorable conditions, the separation authority will direct an immediate reduction to the lowest enlisted grade per AR 600–8–19, chapter 7.

1–14. Disposition of proceedings/records

a. When separation is ordered, the approved proceedings will be sent to the commander who has the soldier's records for separation processing per AR 635–10. The original copy of the proceedings will be filed in the permanent section of the soldier's MPRJ or local file, as appropriate, per AR 600–8–104.

b. If the separation authority recommends involuntary separation of a soldier with 18 or more years of active Federal service, the proceedings, with complete documentation and the recommendation of the separation authority, will be sent to Headquarters, Department of the Army (AHRC–EPR–F), 200 Stovall Street, Alexandria, VA 22332–0478, for final determination. (See para 1–19*f* for exceptions.)

c. When the separation authority does not order separation, the proceedings will be filed at that headquarters. The soldier's commanding officer will be notified of the final action. When practicable, the separation authority will direct reassignment of the soldier to a different organization. Ultimate disposition of the board proceedings will be governed by AR 25–400–2.

d. When the soldier is considered for discharge because of fraudulent entry and retention is directed, the retention constitutes a waiver of the fraudulent entry. The following statement will be entered in item 27, DA Form 2–1 (Personnel Qualification Record-Part II): "Discharge action based on fraudulent entry is waived and retention is authorized on (date)." The original approved document will be forwarded to the following authorities for inclusion in the soldier's official military personnel file (OMPF):

(1) For RA personnel: Commander, U.S. Army Enlisted Records and Evaluation Center, 8899 East 56th Street, Indianapolis, IN 46249–5301.

(2) For ARNGUS personnel: The appropriate State Adjutant General.

(3) For USAR personnel: Commander, USA HRC, 1 Reserve Way, St. Louis, MO 63132–5200.

e. The respondent, whether to be separated or retained, will be furnished a copy of the board proceedings. The proceedings will not include any written medical testimony or reports that would prove injurious to the respondent's physical or mental health. Classified documents attached to the board proceedings may be summarized.

(1) The respondent's copy of the proceedings will be marked "Copy for (name and SSN of the soldier)." This copy will be given to the respondent or his/her counsel. A signed receipt will be obtained from the soldier or his/her counsel and filed with the original board proceedings. If the soldier refuses to sign the receipt, a statement to that effect will be submitted.

(2) If the soldier or his/her counsel does not want a copy of the board proceedings, or if a copy is not furnished, a notation will be made on the soldier's copy to accompany the original. Only the Commander, USA HRC, St. Louis, MO, may release this copy thereafter.

f. When the separation authority approves a soldier's discharge from a Reserve commission or warrant, he/she will send a copy of the approved proceedings to the Commander, USA HRC (DARP-PAT-R), 1 Reserve Way, St. Louis, MO 63132–5200, for appropriate action. (See AR 135–175.) Action prescribed in AR 135–175 will be taken after the soldier's separation from an enlisted status.

g. When an ARNGUS trainee is released from ADT per chapter 4, 13, or 15, a copy of the approved proceedings will be sent to the State Adjutant General of the appropriate State. However, all proceedings under chapter 9, and any proceedings under chapter 13 or 14, containing limited-use evidence (see para 3–8*g*) will be disclosed per AR 600–85, chapter 6, section III, to the appropriate State Adjutant General only if that officer is federally recognized.

h. When the soldier is the subject of DD Form 553 (Deserter/Absentee Wanted by the Federal Armed Forces), a report of return to military control must be sent to the Commander, U.S. Army Personnel Control Facility, ATTN: ATZK–PMF–DIP, Bldg. 1481, Fort Knox, KY 40121.

i. When material errors and discrepancies are noted before accomplishing separation, the type of separation directed by the separation authority per this regulation may be changed by the separation authority at any time prior to the full execution of the separation. If another headquarters office processing the case (transfer activities) finds material errors or discrepancies in approved board proceedings prior to the full execution of separation, the case will be returned to the separation authority for review before separation.

j. Active duty determinations requiring action by the Commanding General, USA HRC, as set forth in this regulation, will be forwarded to USA HRC (AHRC–EPR–F), 2461 Eisenhower Avenue, Alexandria, VA 22332–0478, unless otherwise specified. Forward USAR AGR separation actions to the U.S. Army Reserve Personnel Command, 1 Reserve Way, St. Louis, MO 63132–5200. Forward ARNGUS AGR separation actions to the National Guard Bureau (NGB).

Section II

Guidelines on Separation

1–15. Guidance

A substantial investment is made in training persons enlisted or inducted into the Army; therefore, this general guidance will be considered when initiating separation action.

a. Unless separation is mandatory, the potential for rehabilitation and further useful military service will be considered by the separation authority; where applicable, the administrative separation board will also consider these factors. If separation is warranted despite the potential for rehabilitation, consider suspending the separation, if authorized.

b. Adequate counseling and rehabilitation measures will be taken before initiating separation action against a soldier when the reason for separation so specifies. An alleged or established inadequacy in previous rehabilitation efforts does not provide a legal bar to separation.

c. When deciding retention or separation in a case, consider the following factors:

(1) The seriousness of the events or conditions that form the basis for initiation of separation proceedings. Also consider the effect of the soldier's continued retention on military discipline, good order, and morale.

(2) The likelihood that the events or conditions that led to separation proceedings will continue or recur.

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

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

(5) The soldier's rehabilitative potential.

(6) The soldier's entire military record, including—

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

(b) Memoranda of reprimand or admonition, counseling records, records of nonjudicial punishment, records of conviction by court-martial and records of involvement with civilian authorities.

(c) Any other matter deemed relevant by the board or the separation authority, including specialized training, duties, and experience of persons entrusted by this regulation with making recommendations or decisions on separation or retention.

(d) Adverse information from a prior enlistment or period of military service only when such information would have a direct and strong probative value in determining whether separation is appropriate.

1. This includes records of nonjudicial punishment and convictions by court-martial. Such information ordinarily will be used only in those cases involving conduct repeated over an extended period of time.

2. In unusual situations, conduct from a prior enlistment that does not constitute a pattern of conduct manifested over an extended period of time may be considered in determining whether retention or separation is warranted. For example, a single incident of misconduct occurring in the prior period of service that, by itself, would warrant separation may be considered if the officials in the soldier's chain of command neither knew, nor reasonably should have known of, at the time the soldier re-enlisted.

3. Commanders who believe that a soldier's case represents an unusual situation within the meaning of this paragraph should request guidance from the Commanding General (AHRC-EPR-F), 200 Stovall Street, Alexandria, VA 22332-0478.

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

1–16. Counseling and rehabilitative requirements

a. General. Army leaders at all levels must be continually aware of their obligation to provide purpose, direction, and motivation to soldiers. It is essential that soldiers who falter, but have the potential to serve honorably and well, be given every opportunity to succeed. Effective leadership is particularly important in the case of soldiers serving their initial enlistments. Except as otherwise indicated in this regulation, commanders must make maximum use of counseling and rehabilitation before determining that a soldier has no potential for further useful service and, therefore, should be separated. In this regard, commanders will ensure that adequate counseling and rehabilitative measures are taken before initiating separation proceedings for the following reasons:

(1) Involuntary separation due to parenthood. (See para 5–8.)

(2) Personality disorder. (See para 5–13.)

(3) Other designated physical or mental conditions. (See para 5–17)

(4) Entry-level performance and conduct. (See chap 11.)

(5) Unsatisfactory performance. (See chap 13.)

(6) Minor disciplinary infractions or a pattern of misconduct. (See para 14–12*a* and *b*.)

(7) Failure to meet body fat standards. (See chap 18.)

b. Counseling. When a soldier's conduct or performance becomes unacceptable, the commander will ensure that a responsible official formally notifies the soldier of his/her deficiencies. At least one formal counseling session is required before separation proceedings may be initiated for one or more of the reasons specified in *a*, above. In addition, there must be evidence that the soldier's deficiencies continued after the initial formal counseling.

(1) The number and frequency of formal counseling sessions are discretionary. Such factors as the length of time since the prior counseling, the soldier's performance and conduct during the intervening period, and the commander's assessment of the soldier's potential for becoming a fully satisfactory soldier, must be considered in determining if further counseling is needed.

(2) Counseling will be comprehensive and in accordance with chapter 17 of this regulation and will include the reason(s) it is being administered, the date, the fact that separation proceedings may be initiated if the deficiencies continue, and other guidance as appropriate.

(3) Each counseling session must be recorded in writing. DA Form 4856 (General Counseling Form) will be used for this purpose.

(4) The soldier's counseling or personal records must reflect that he/she was formally counseled concerning his/her deficiencies and given a reasonable opportunity to overcome or correct them.

c. Rehabilitation. Except as provided in *d*, below, the following rehabilitative measures are required prior to initiating separation proceedings for entry-level performance and conduct (see chap 11), unsatisfactory performance (see chap 13), or minor disciplinary infractions/patterns of misconduct (see chap 14):

(1) *Trainees.* Soldiers undergoing initial entry or other training will be recycled (reassigned between training companies or, where this is not feasible, between training platoons) at least once.

(2) *Other than trainees.* Soldiers not in training status will be locally reassigned at least once, with a minimum of 3 months of duty in each unit. Reassignment should be between battalion-sized units or between brigade-sized or larger units when considered necessary by the local commander.

(3) *Permanent change of station (PCS) transfer.* PCS funds normally will not be used for rehabilitative transfers. However, in meritorious cases where it is determined that a soldier with potential to be a distinct asset to the Army would benefit from a change in commanders, associates, and living or working conditions, the commander exercising general court-martial jurisdiction may authorize PCS transfer within the same command. As an alternative, a request for reassignment to another command may be submitted to Headquarters, Department of the Army (AHRC-EP-appropriate career branch), 2461 Eisenhower Avenue, Alexandria, VA 22332-0478.

d. Waivers.

(1) Waiver of the counseling requirement is not authorized.

(2) The rehabilitative transfer requirements in chapters 11, 13, and 14 may be waived by the separation authority in circumstances where common sense and sound judgment indicate that such transfer will serve no useful purpose or produce a quality soldier. Such circumstances may include:

(a) Two consecutive failures of the Army physical fitness test.

(b) Pregnancy while in entry-level status.

(c) Highly disruptive or potentially suicidal behavior, particularly in reception battalions.

(d) Active resistance of rehabilitative efforts.

(e) Soldiers assigned to small installations or at remote locations.

(f) Situations in which transfer to a different duty station would be detrimental to the Army or the soldier (for example, indebtedness, participation in the Alcohol and Drug Abuse Prevention and Control Program, Mental Health Treatment Program, and so forth).

(3) Waiver of rehabilitative transfer may be granted at any time on or before the date the separation authority approves or disapproves the separation proceedings. Waiver authority may be withheld by a higher separation authority in a particular case, a class or category of cases, or all cases. Decision to withhold waiver authority will be announced in writing.

1-17. Restrictions on administrative separation and board hearings

a. Separation action for the reasons indicated in paragraph 1-16a will not be started until a soldier has been counseled by a responsible person about his/her deficiencies and offered a reasonable opportunity to overcome them.

b. Separation per this regulation normally should not be based on conduct that has already been considered at an administrative or judicial proceeding and disposed of in a manner indicating that separation was not warranted. Accordingly, administrative separations under the provisions of chapters 11, 13, 14, and 15 and AR 380-67 are subject to the following restrictions. No soldier will be considered for administrative separation because of conduct that—

(1) Has been the subject of judicial proceedings resulting in an acquittal or action having the effect thereof. Only Headquarters, Department of the Army (HQDA) will decide that an action does not have the effect of an acquittal. The convening authority must submit a request for such a determination through command channels to Headquarters, Department of the Army (AHRC-EPR-F), 200 Stovall Street, Alexandria, VA 22332-0478.

(2) Has been the subject of a prior administrative board in which the board entered an approved finding that the

evidence did not sustain the factual allegations concerning the conduct, except when the conduct is the subject of a rehearing ordered on the basis of fraud or collusion.

(3) Has been the subject of an administrative separation proceeding resulting in a final determination by a separation authority that the soldier should be retained, except when—

(a) The soldier's subsequent conduct or performance forms the basis, in whole or in part, for a new proceeding. Such conduct need not independently justify the soldier's discharge, but it must be serious enough to raise a question as to his/her potential for further useful military service.

(b) Fraud or collusion is discovered that was not known at the time of the original proceeding and that will probably produce a result much less favorable for the soldier at a new hearing.

(c) Substantial new evidence is discovered that was not known at the time of the original proceeding despite the exercise of due diligence.

(4) Has been the subject of a judicial proceeding resulting in acquittal based on a finding of not guilty only by reason of lack of mental responsibility. Soldiers in this category will normally be separated utilizing Secretarial plenary authority (see para 5–3), unless separation for disability is appropriate. (See AR 635–40.)

c. The provisions of *b*, above, do not preclude a soldier convicted by a court-martial whose sentence does not include a punitive discharge from being processed for administrative separation under chapters 13, 14, or 15 at any time after sentencing. Conduct that was the subject of such a court-martial may be considered in determining retention or separation and, if appropriate, characterization of service.

d. Criminal history information from personnel investigative (PSI) reports requested within the first 90 days of a soldier's initial enlistment may be used to support separation proceedings initiated under paragraph 5–14 and chapter 7, sections III and IV. Use of PSI reports in connection with all other separation proceedings is prohibited unless specific authorization is granted in accordance with AR 380–67, paragraph 10–100. Requests for such authorization may be submitted on a case-by-case basis through command channels to Headquarters, Department of the Army (AHRC–EPR–F), 2461 Eisenhower Avenue, Alexandria, VA 22332–0478.

1–18. Suspension of execution of approved separation

a. A highly deserving soldier may be given a probation period to show successful rehabilitation before the soldier's enlistment or obligated service expires.

(1) The separation authority or higher authority may suspend (except fraudulent entry or homosexual conduct) execution of an approved separation for a period of full-time military duty not to exceed 12 months. (See chap 2.)

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

(a) During the period of suspension, the soldier must show that he/she is able to behave properly under varying conditions.

(b) The soldier can also show that he/she can perform assigned duties efficiently.

b. Upon satisfactory completion of the probation period, or earlier if rehabilitation has been achieved, the authority that suspended the separation will cancel execution of the approved separation. If the soldier has been transferred to the command of another separation authority, the separation will be canceled by the new separation authority or higher authority.

c. If the soldier engages in conduct similar to that for which separation was approved, but then was suspended, or otherwise fails to meet the appropriate standards of conduct and duty performance, the commander concerned, the convening authority, or the separation authority will take one of the following actions:

(1) Initiate punitive or new administrative action in spite of the suspension of execution of the approved discharge.

(2) Withhold action in the case of a soldier who is absent without authority or in civilian confinement by delivery under Uniform Code of Military Justice (UCMJ), Article 14 (Absence Without Authority), or while in civilian confinement. The provisions of either (1), above, or (3), below, will be complied with when the soldier returns to military control and before the period of probation expires.

(3) Advise the soldier, in writing, that vacation of the suspension is being considered and the reasons that warrant such consideration.

(a) The soldier will be given 3 duty days to consult with counsel and submit a written statement in his/her own behalf or decline to make any statement.

(b) The commander taking the action will consider any information the soldier submits. If the soldier identifies specific legal issues for consideration, the separation authority will have the matter reviewed by an officer of the Judge Advocate General's Corps. The separation authority may—

1. Vacate suspension of the approved action and execute separation, or

2. Continue to suspend execution of the approved separation for the remainder of the probation period.

Section III Separation Authority

1–19. Authority to approve or disapprove separation

a. Except for Secretarial plenary authority (see para 5–3); separation due to reduction in force, strength limitations, or budgetary constraints (see para 16–7); the Qualitative Management Program (see chap 19); voluntary separation of soldiers serving indefinite enlistments (see para 4–4); conviction by a foreign court (see paras 14–1*a* and *d* and 14–9*a*); and the early release from active duty of RC personnel serving Active Guard Reserve (AGR) tours under 10 USC 12301(d) (see para 5–15), commanders who are general court-martial convening authorities (GCMCA) and their superior commanders are authorized to approve or disapprove separation per this regulation. This includes the authority to convene administrative separation boards when required by this regulation. (See *l*, below, for delegation of authority to approve discharge in chapter 10 AWOL offense cases.) (See also para 3–7*d*.)

b. A general officer in command who has a judge advocate or legal advisor available is authorized to approve or disapprove the separation or release from AD or ADT of soldiers per this regulation. This includes the authority to convene administrative separation boards when required by this regulation. This general officer, unless also the GCMCA, cannot order separation or release for lack of jurisdiction (see para 5–9) or discharge in lieu of trial by court-martial. (See chap 10.)

c. Commanders who are special court-martial-convening authorities are authorized to approve or disapprove separation under the following chapters:

(1) Chapters 5 (except for para 5–9), 6, 7 (except for the issuance of a discharge under other than honorable conditions based on fraudulent entry), 8, 9, 11, 13, 16, and 18.

(2) Chapter 14 when—

(*a*) Discharge under other than honorable conditions is not warranted under paragraph 3–7*c* and the notification procedure is used. An Honorable Discharge may be ordered only when the commander exercising general court-martial jurisdiction has authorized the exercise of separation authority in the case.

(*b*) An administrative separation board recommends an entry-level separation or discharge with a General Discharge certificate.

(*c*) An administrative board recommends discharge with an Honorable Discharge and the commander exercising general court-martial jurisdiction has authorized the exercise of separation authority in the case.

(3) Chapter 15 when

(*a*) Discharge under other than honorable conditions is not warranted under paragraph 15–4 based on the facts known before convening an administrative separation board.

(*b*) An administrative separation board recommends entry-level separation or separation with honorable or under honorable conditions characterization.

(4) This includes the authority to convene an administrative board when required by this regulation for actions either initiated under the notification procedure (see chap 2, sec I) or based upon homosexual conduct in which a characterization of service under other than honorable conditions is not authorized under paragraph 15–4 based upon the facts known before convening an administrative separation board.

(*a*) A board convened by a special court-martial convening authority is not authorized to recommend discharge under other than honorable conditions.

(*b*) A special court-martial convening authority is not authorized to convene administrative separation boards in misconduct actions when a characterization of service under other than honorable conditions is contemplated because such actions must be initiated under the administrative board procedure. (See chap 2, sec II.)

(5) Chapter 10 when authority to approve requests for discharge has been delegated per *l*, below.

(*a*) This authority is limited to cases in which the soldier—

1. Has been AWOL for more than 30 days.
2. Has been dropped from the rolls of his/her or her unit as absent in desertion.
3. Has been returned to military control.
4. Is currently at the personnel control facility (PCF).
5. Is charged only with AWOL for more than 30 days.

(*b*) This authority does not include cases involving any other charged offense, including desertion.

(*c*) This special court-martial convening authority cannot disapprove a request for discharge in lieu of trial by court martial. The request for discharge must be approved prior to trial. (See the initial Article 39(a) session for general and special courts-martial, the initial convening of a summary court-martial.)

(*d*) A copy of the delegation of authority will be made a part of the permanent record of each chapter 10 discharge approved under this paragraph.

d. The following commanders who have a judge advocate or legal advisor available are authorized to approve or disapprove separation under paragraph 5–11 and chapters 8, 11, and 16; and under chapters 9, 13, and 18 in those cases

in which the notification procedures (see chap 2, sec I) are used. This includes all chapter 9, 13, and 18 cases that are not processed by the administrative board procedures (see chap 2, sec II.):

- (1) Commanders in the grade of lieutenant colonel or above.
- (2) Commanders in the grade of major, who are on an approved recommended list for promotion to lieutenant colonel and who are assigned to command any unit authorized a commander in the grade of lieutenant colonel, or above. This authority does not include officers in the grade of major, who are acting commanders, even if on an approved recommended list for promotion to lieutenant colonel.
- e.* The authority granted under *b*, *c*, and *d*, above, may be withheld by a higher separation authority in a particular case or class of cases. Such authority will be in writing and will be valid until revoked in writing.
- f.* Except when discharged pursuant to the approved sentence of a court-martial or for physical disability (AR 635–40), any soldier who has completed 18 or more years of active Federal service will not be involuntarily discharged or released from active duty without approval at HQDA level. These separation actions will be submitted to HQDA (AHRC–EPR–F) for forwarding to the proper authority. Requests for voluntary separation (for example, those submitted under chaps 6, 10, or 16) need not be sent to HQDA for approval.
- g.* The authority to convene an administrative separation board, when required by this regulation, may not be delegated.
- h.* Unit commanders are authorized to order discharge for immediate re-enlistment (see para 16–3) under the provisions of AR 601–280.
- i.* The authority to approve or disapprove requests for length-of-service retirement is as specified in paragraph 12–2.
- j.* The general court-martial authority, or a general officer in command who has a judge advocate or legal advisor available, may delegate to other officials of his/her or her staff the authority to approve, disapprove, or otherwise appropriately dispose of cases under chapter 6 (when an honorable discharge certificate will be awarded) and chapter 16.
- k.* Commanders of recruiting battalions (RBNS) in grade of lieutenant colonel or higher are authorized to void enlistments under paragraph 7–15*e*.
- l.* The GCMCA or higher authority at installations having PCFs may delegate the authority to approve separations in lieu of trial by court-martial (see chap 10) to the commander exercising special court-martial convening authority over the soldier who submitted the request for discharge in cases in which the soldier—
 - (1) Has been AWOL for more than 30 days.
 - (2) Has been dropped from the rolls of his/her unit as absent in desertion.
 - (3) Has been returned to military control.
 - (4) Currently is at the PCF.
 - (5) Is charged only with AWOL for more than 30 days.
- m.* The authority referred to in *l*, above, does not include cases involving any other charged offense, including desertion. The request for discharge must be approved prior to trial (the initial Article 39(a) session (Uniform Code of Military Justice (UCMJ)) for general or special courts-martial, the initial convening of a summary court-martial). Authority to disapprove separations for the good of the Service (see chap 10) remains at the GCMCA or higher authority and may not be delegated. All delegations must be in writing and will be valid until revoked in writing. A copy of the delegation of authority will be made a part of the permanent record of each chapter 10 discharge approved under this authority.

1–20. Action by commanders having separation authority

- a.* Commanders having separation authority directing separation or release from active duty of a soldier will comply with AR 635–10 and Army Pamphlet 635–4.
- b.* Recoupment of the unearned portion of an enlistment or re-enlistment bonus is required by law (37 USC 308) when a soldier is separated voluntarily or because of misconduct.
 - (1) In implementation of the law, DOD 7000.14–R, volume 7A, paragraph 0904, contains specific separation reasons for which bonus recoupment is required.
 - (2) Semiannual by-name reports reflecting the Army’s success at actual recoupment are required by Congress.
 - (3) Individual commanders must screen actions to ascertain recoupment requirements and then counsel soldiers about their repayment responsibilities.
- c.* Counseling concerning earned education benefits is required by law. For voluntary separations under the provisions of chapters 5, 8, and 16, as well as other provisions of this regulation that involve separation as an exception to policy more than 90 days before ETS, separation authorities will take an active role in this counseling process as follows:
 - (1) Soldiers with less than 20 months of a 24-month initial enlistment, and less than 30 months of a 36-month-or-longer initial enlistment at the time of separation must be counseled that loss of accrued benefits will occur and that monies deducted from pay are not refundable.

(2) Approval of separation under these provisions is contingent upon this counseling, and a statement of understanding must be included in the approval packet.

d. Commanders, in coordination with the servicing staff judge advocate, will counsel permanent resident aliens enlisted in the Army for three or more years who wish to fulfill naturalization requirements through honorable military service (8 USC 1439). Counseling should include an explanation that voluntary or involuntary separation could affect fulfillment of the naturalization requirements.

Section IV

Separation After Expiration of Term of Service/Period of Active Duty/Active Duty Training

1–21. Time lost to be made good

Every soldier in active Federal service who is unable for more than 1 day to perform duty will complete the full term of service or obligation, exclusive of such time lost. The term will be served when the soldier returns to full duty status.

a. Lost time refers to periods of more than 1 day when a soldier on active duty cannot perform duty because of

- (1) Desertion.
- (2) Absence without proper authority.
- (3) Confinement under sentence.
- (4) Confinement while awaiting trial or disposition of soldier's case, if trial results in conviction.
- (5) Intemperate use of drugs or alcohol. (See AR 600–85.)
- (6) Disease or injury, the result of soldier's misconduct.

b. Time lost during an enlistment period will be made good at the end of the enlistment period. 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 HQDA. Recommendations for waiver of time lost will be submitted to Headquarters, Department of the Army (AHRC–EPR–F), 2461 Eisenhower Avenue, Alexandria, VA 22332–0478, when the separation authority considers that because of unusual circumstances, waiver of time lost is in the best interest of the soldier and the Government.

c. Reserve Component personnel ordered to initial active duty for training (IADT) will make up time lost.

(1) Commanding officers of training installations can waive this requirement if the soldier has completed the required training and the commander determines that it would not be in the best interest of the Service to retain the soldier on active duty for training to make good time lost.

(2) Commanding officers of training installations are authorized to endorse the orders extending the initial period of ADT for reservists who must make good the time lost during IADT. One copy of the memorandum will be furnished the State Adjutant General or the commander that issued the original ADT orders and the soldier's unit commander.

d. Soldiers of the ARNGUS and the USAR being released from active duty because the unit in which they were ordered to active duty is released from active duty status will not be retained on active duty to make good time lost.

1–22. When investigation is initiated with view to trial by court-martial or soldier is awaiting trial or result of trial

a. A soldier may be retained after his/her term of service has expired when one of the following applies:

- (1) An investigation of his/her conduct has been started with a view to trial by court-martial.
- (2) Charges have been preferred.
- (3) The soldier has been apprehended, arrested, confined, or otherwise restricted by the appropriate military authority.

b. If charges have not been preferred, the soldier will not be retained more than 30 days beyond the ETS unless the general court-martial convening authority approves retention. (See para 1–31.)

c. A soldier who is awaiting trial or result of trial by court-martial when he/she would otherwise be eligible for discharge or release from AD will not be discharged or released until final disposition of the court-martial charges. (For effective date of discharge, see sec V of this chapter.)

d. Soldiers under sentence to an unsuspended dishonorable or bad conduct discharge will not be discharged before appellate review is completed, unless so directed by HQDA. If the soldier is absent without leave at the time appellate review is completed, the punitive discharge may still be carried out. This paragraph does not apply to soldiers processed for discharge under the provisions of chapter 10.

1–23. En route to United States or to territory of origin

When a soldier is held in service after period of service expires under the conditions in *a* and *b*, below, the soldier will be retained for the convenience of the Government.

a. *As a casual for separation.* A soldier en route to the United States from overseas as a casual will not be separated until arrival at destination.

b. *As soldiers of an organization.* Soldiers whose periods of service expire while at sea en route to the United States

with their organization and who signify intention to re-enlist for the same organization on the day following discharge will be discharged and re-enlisted at sea. Those who do not signify their intention to re-enlist will be held in the Service until they arrive in the United States.

1–24. Medical/dental care required or sick in hospital when period of service expires

a. A soldier may only be considered for retention past the set release date when one or both of the following apply:

- (1) Continued health care is required (must be in-hospital status but not necessarily occupying a bed).
- (2) Physical disability processing is required or has been initiated. The request for retention will be submitted per *b* and *c*, below. Soldiers determined medically fit for retention or separation will not be retained past the set release date.

b. A soldier being retired for maximum length of service or maximum age will not be retained on active duty unless his/her medical condition indicates referral of the case to a physical evaluation board. When retention is required, the hospital commander will notify Headquarters, Department of the Army (AHRC–EPR–F), 200 Stovall Street, Alexandria, VA 22332–0478, and request the soldier’s retirement orders be rescinded. The request will include the medical diagnosis and expected date of case referral to the physical evaluation board for processing.

c. No soldier will be retained beyond his/her scheduled release date without written consent signed by the soldier. (See fig 1–1.)

(1) If the soldier is mentally incompetent or otherwise unable to sign, the next of kin or legal representative will be requested to sign for the soldier.

(2) The consent affidavit will be filed in the soldier’s MPRJ or local file, as appropriate, U.S. Army. (See DA Form 201.)

(3) A soldier retained under this paragraph is subject to favorable or adverse personnel action including actions per this regulation. However, if the soldier later demands discharge, he/she cannot be retained on active duty for the sole purpose of taking such administrative action. An officer authorized by law to administer oaths under the UCMJ, Article 36, will swear the soldier (insuring that the soldier personally appears before the officer), and tell the soldier—

(*a*) How he/she will benefit from remaining on active duty in the Army beyond the scheduled date of release to complete hospital care or a physical evaluation (or both) under chapter 61, 10 USC.

(*b*) If he/she elects to be discharged or released from active duty as scheduled, he/she will not, after such discharge or release from active duty, be eligible for separation or retirement for physical disability.

d. Note: If the soldier is unable to sign and the next of kin or legal representative cannot be located or will not indicate whether or not the soldier will be retained, the soldier will be retained. The hospital commander will supply full details of the case including actions taken to secure consent for retention. The hospital commander will notify—

(1) The nearest military commander exercising general court-martial (GCM) authority for Regular Army soldiers.

(2) The appropriate State Adjutant General for ARNGUS (AGR) personnel.

(3) The Commander, USA HRC (DARP-ARE), 1 Reserve Way, St. Louis, MO 63132–5200, for USAR (AGR) soldiers.

e. The medical facility commander will—

(1) Send requests for retention, endorsed by the soldier’s unit commander, to the nearest GCMCA for the following personnel:

(*a*) Regular Army personnel.

(*b*) ARNGUS and USAR personnel on IADT or AGR tours. Retention of ARNGUS personnel must be coordinated with the appropriate State Adjutant General. The Adjutant General (ATTN: AHRC–PDZ–B) will be the approval authority for ARNGUS and USAR soldiers on IADT or Active Guard/AGR tours.

(2) Include the following information in the request:

(*a*) Soldier’s name, grade, and SSN.

(*b*) Reason for separation (such as ETS).

(*c*) Scheduled release date.

(*d*) A copy of the signed affidavit consenting to retention.

(*e*) Medical reason for retention.

(*f*) Medical recommendation (approval or disapproval).

f. Retention requires approval by the GCMCA. The GCMCA may delegate this authority to other military or civilian officials on his/her staff. Every action taken according to such a delegation will state that it is taken “pursuant to authority delegated by ____ dated ____.” The Adjutant General (ATTN: TACP–PDZ–B) will be the approval authority for ARNGUS and USAR soldiers on initial active duty for training or Active Guard/AGR tours.

(1) A copy of the retention action on Regular Army personnel will be sent to Commander, U.S. Army Enlisted Records and Evaluation Center, 8899 East 56th Street, Indianapolis, IN 46249, for filing in the OMPF.

(2) A copy of the retention action for ARNGUS personnel will be sent to the appropriate State Adjutant General.

(3) A copy of the retention action for USAR (AGR) personnel will be sent to Commander, USA HRC, (DARP-FS) 1 Reserve Way St. Louis, MO 63132–5200.

- a.* The types of discharge certificates.
- b.* The basis for issuance of each type of certificate.
- c.* The possible effects of the various certificates on re-enlistment, civilian employment, veterans' benefits, and related matters.
- d.* The likelihood that the soldier will be successful in any attempt to have the character of his/her discharge changed.

17-4. Time of instruction

This instruction will be given to enlisted personnel upon entry into the Service or within 60 days thereafter. It will be given again—

- a.* Upon completion of 6 months of service.
- b.* After the second article 15 (company grade) or first field grade article 15 in an enlistment.
- c.* After any court-martial in which the soldier is not discharged, first positive drug test, and so forth.

17-5. Recording

The DA Form 2-1 (Personnel Qualifications-Part II) of each individual receiving instruction in the benefits of an honorable discharge will be annotated in item 19 (Specialized Training) as follows: "UCMJ (date) and Bfts of Hon Disch (date)."

Chapter 18

Failure to Meet Body Fat Standards

18-1. Policy

Soldiers who fail to meet the body fat standards set forth in AR 600-9 are subject to involuntary separation per this chapter when such condition is the sole basis for separation.

18-2. Procedures

a. Separation proceedings may not be initiated under this chapter until the soldier has been given a reasonable opportunity to meet the body fat standards, as reflected in counseling or personnel records.

(1) Soldiers who have been diagnosed by health care personnel as having a medical condition that precludes them from participating in the Army body fat reduction program will not be separated under this chapter.

(2) If there is no underlying medical condition and a soldier enrolled in the Army Weight Control Program fails to make satisfactory progress in accordance with AR 600-9, separation proceedings will be considered.

(3) Initiation of separation proceedings is required for soldiers who fail to meet body fat standards during the 12-month period following removal from the program, provided no medical condition exists.

b. Separation action under this chapter will not be initiated against a soldier who meets the criteria for separation under other provisions of this regulation. For example, a soldier beyond entry-level status who, wholly apart from failure to meet body fat standards, is an unsatisfactory performer, will be processed for separation under the provisions of chapter 13.

c. The notification procedure (see chap 2, sec I) will be used for separation under this chapter.

d. The provisions of chapter 1, section VII, will govern whether the soldier will be released from AD with transfer to IRR or be discharged. See paragraph 1-11 for additional instructions on ARNGUS and USAR personnel.

e. The service of those separated per this chapter will be characterized as honorable, unless an uncharacterized description of service is required for soldiers in entry-level status.

f. Except as provided in paragraph 1-19f, commanders specified in paragraph 1-19 are authorized to order separation under this chapter.

Chapter 19

Qualitative Management Program

Section I

General

19-1. General

a. This chapter contains policies and procedures for voluntary and involuntary separation, for the convenience of the Government, of RA NCOs and USAR NCOs serving in AGR status, under the QMP.

b. The service of a soldier discharged under this chapter will be characterized as honorable.

19–2. Policy

a. NCOs whose performance, conduct, and/or potential for advancement do not meet Army standards, as determined by the approved recommendations of HQDA centralized selection boards responsible for QMP screening, will be denied continued service.

b. The QMP is not intended as a substitute, and does not relieve commanders of the responsibility, for initiation of separation proceedings under other provisions of this regulation when required or appropriate.

19–3. Objectives

The QMP is designed to:

- a.* Enhance the quality of the career enlisted force.
- b.* Selectively retain the best qualified soldiers.
- c.* Deny continued service to nonproductive soldiers.
- d.* Encourage soldiers to maintain their eligibility for further service.

19–4. QMP applicability

a. Except as indicated in *b*, below, the QMP applies to RA and USAR AGR NCOs in the grades of SSG through CSM/SGM.

b. The QMP does not apply to soldiers who—

- (1) Hold the grade of SGT and below.
- (2) Have an approved retirement application.
- (3) Have been selected for QMP by a previous board and retained on active duty, provided no new bases for QMP were documented since the earlier retention determination.

19–5. Implementation

The QMP is implemented by the Commander, USAEREC, for RA NCOs; the Commander, USA HRC (St. Louis, MO) for USAR AGR NCOs. Mailing addresses for QMP matters are:

- a.* RA: Commander, USAEREC (PCRE-RP-Q), 8899 E. 56th St., Indianapolis, IN 46249–5301.
- b.* USAR AGR: Commander, USA HRC (ARPC–ARE–S), 1 Reserve Way, St. Louis, MO 63132–5200.

Section II

Qualitative Screening

19–6. Screening procedures

a. Screening for QMP is accomplished by HQDA boards that may be convened for other purposes as well, such as promotion selection at USAEREC (RA) and USA HRC (USAR AGR), St. Louis, MO. Board schedules and QMP zones of consideration are announced by electronic message.

b. The appropriate board reviews the performance portion (P-fiche) of the OMPF, Personnel Qualification Record (DA Forms 2A and 2–1 or Enlisted Record Brief produced by SIDPERS), official photograph, and other authorized documents pertaining to soldiers in the QMP zone of consideration. This material forms the basis for the board's evaluation of the soldier's past performance and potential for continued service, leading to a determination of whether the soldier does or does not warrant retention.

19–7. Selection criteria

QMP selection criteria include, but are not limited to—

- a.* Moral or ethical conduct incompatible with the values of the NCO corps and the Army ethic.
- b.* Lack of potential to perform NCO duties in current grade.
- c.* Decline in efficiency and performance over a continuing period, as reflected by noncommissioned officer evaluation report (NCOER) or failure of noncommissioned officer education system (NCOES) courses.
- d.* Recent or continuing disciplinary problems, as evidenced by conviction by court-martial, nonjudicial punishment, or administrative reprimand.
- e.* Other discriminators such as imposition of a field commander's bar to re-enlistment, inability to meet physical fitness standards, and failure to comply with requirements of the Army body composition program.

19–8. Approval authority

The DCS, G–1, or his/her designee, is authorized to approve the recommendations of QMP boards. The DCS, G–1, or his/her designee, is also the authority for separation under this chapter.

Section III

Soldier Notification and Option Provisions

19-9. Notification memorandum

a. Soldiers selected for denial of continued service under the QMP are notified by individually addressed memorandums prepared and dispatched by Commander, USAEREC (RA) and Commander, USA HRC (USAR AGR). Notification memorandums are placed in sealed envelopes and forwarded by transmittal memorandum to the installation, overseas, or other appropriate commander, together with administrative instructions for further processing.

(1) The soldier is also furnished a copy of the performance portion (P-fiche) of his/her OMPF as well as a listing of those documents indicating areas of deficiency or weakness that most significantly contributed to the selection board's decision to deny the soldier continued service under the QMP.

(2) The responsible commander expeditiously forwards the notification memorandum by memorandum to the first LTC or higher commander in the soldier's chain of command for further action.

(3) The installation or other commander retains responsibility for overseeing subsequent processing of the action and may utilize the servicing career counselor, legal advisor, or other appropriate official for program control functions such as monitoring the soldier notification and option selection process.

(4) Detailed guidance is included in administrative instructions provided by Commander, USAEREC (RA) and Commander, USA HRC (USAR AGR).

b. Upon receipt of the notification memorandum, the LTC or higher commander expeditiously presents the notification to the soldier and counsels him/her on the ramifications. Counseling must be accomplished in writing and must stipulate that the soldier has been informed that he/she is in a non-promotable status, is stabilized in assignment, and understands the options available.

19-10. Soldier options

The soldier and commander complete DA Form 4941 (Statement of Options, Qualitative Management Program) within 7 days of receipt of the QMP notification memorandum, in accordance with administrative instructions furnished by Commander, USAEREC (RA) and Commander, USA HRC (USAR AGR). (This form is available on the APD Web site at <http://www.apd.army.mil>.)

19-11. Appeal provisions

a. A soldier denied continued service under the QMP may appeal the determination and request retention on active duty on the basis of improved performance and/or presence of material error in the soldier's record when reviewed by the selection board.

(1) A soldier may submit only one appeal, and requests for reconsideration of denied appeals are not authorized. The soldier may submit any relevant material in support of the appeal.

(2) Material error criteria and other appeal guidelines are included in administrative instructions provided to the appeals board by Commander, USAEREC (RA) and Commander, USA HRC (USAR AGR).

b. Suspense for appeals submission is as follows:

(1) RA soldiers must submit their appeals to their commanders within 60 days of completion of DA Form 4941.

(a) Each commander in the chain of command, through the GCMCA or general officer commander, will add substantive comments regarding the soldier's performance and potential and recommend approval or disapproval of the appeal.

(b) The command will complete comments and forward the appeal to Cdr, USAEREC, within 30 days of receipt from the soldier.

(2) Because of geographical separation and limitations on access to commanders and legal advisors, USAR AGR soldiers are granted a maximum of 90 days from completion of DA Form 4914 to submit their appeals to their chain of command. Commander memorandums, with comments and recommendations, must reach Cdr, USA HRC, within 30 days of receipt of the soldier's appeal.

c. A commander in the grade of LTC or higher may submit an appeal on behalf of a soldier selected for QMP on the basis of the soldier's current performance and potential. Such an appeal must be based on the commander's judgment that the soldier merits retention after comparing the soldier's current performance with the documents cited as grounds for the denial of continued service.

(1) A commander's appeal is separate and distinct from the soldier's own appeal since it is based on different criteria.

(2) Commander appeals must be processed through the soldier's chain of command and must reach USAEREC (RA) and USA HRC (USAR AGR) within 120 days of the date that the soldier is notified of QMP selection.

d. Appeals are considered by QMP appeals boards normally conducted in conjunction with HQDA centralized promotion selection boards convened at USAEREC (RA) and USA HRC, St. Louis, MO (USAR AGR). The appeals board will consider all information considered by the QMP board and all information included in the appeal under the criteria listed in paragraph 19-3.

(1) The mere fact that a soldier's performance has improved or that the soldier's file contains material error is not necessarily sufficient to overcome the reason for QMP selection. The appeal board may determine that the reason for QMP selection still applies even in light of the improved performance or correction of an error.

(2) Successful appeals result in removal of the denial of continued service determination.

Section IV

Separation Provisions

19–12. Involuntary discharge

a. Except as otherwise provided in this section, soldiers who choose not to appeal the QMP selection for denial of continued service, or whose appeal is denied, will be involuntarily discharged. Soldiers who elect to appeal but fail, without compelling justification, to submit the appeal within the time prescribed by paragraph 19–11*b*, will also be involuntarily discharged. Such discharge will occur 90 days after the soldier receives pre-separation counseling as required by law (10 USC 1142), which may be scheduled before a final determination of discharge has been made or as soon as possible after a final determination has been made.

b. The provisions of this regulation pertinent to counseling and rehabilitative transfer (see para 1–16), notification of separation recommendation (see chap 2, sec I), and hearing before an administrative separation board (see chap 2, sec II), do not apply to involuntary discharge under this chapter.

19–13. Voluntary separation

a. Except as otherwise provided in this section, soldiers who choose not to appeal may request voluntary discharge. Such discharge will occur 90 days after the soldier receives pre-separation counseling as required by law (10 USC 1142). Pre-separation counseling must be scheduled as soon as the soldier chooses the voluntary discharge option (DA Form 4941). Requests for voluntary discharge, once submitted, may not be withdrawn.

b. AGR soldiers to whom *c*, below, does not apply, may request voluntary discharge. Soldiers in this category may not request release from active duty (REFRAD).

c. AGR soldiers with at least 17 years, 9 months, but less than 20 years, of qualifying service for nonregular retired pay (10 USC 12732) at the time of notification of QMP selection, who choose not to appeal or whose appeal is denied, and whose ETS occurs prior to the 20-year point, may extend their enlistments for the minimum period required to qualify for nonregular retirement as prescribed by 10 USC 1176(b). AGR soldiers with 20 years or more of qualifying service for non-regular retired pay may elect voluntary REFRAD with concurrent transfer to the Retired Reserve. Such REFRAD will occur 90 days after the soldier receives pre-separation counseling.

19–14. Expiration of term of service

a. Unless ineligible to extend for a reason other than QMP selection (for example local bar to re-enlistment or approved separation under another chapter of this regulation), soldiers with less than 120 days to ETS at the time of notification of QMP selection may have their enlistments extended a sufficient amount of time to permit processing an appeal.

b. Unless another basis of separation exists, and except as provided in paragraph 19–15, soldiers with less than 120 days to ETS at the time of decision not to appeal, or denial of appeal, will not be discharged prior to ETS. Soldiers in this category will be discharged at ETS under the provisions of chapter 4.

19–15. Active duty retirement

a. Soldiers with 20 or more years of active Federal service at the time of notification of QMP selection, who choose not to appeal or where appeal is denied, may apply for voluntary retirement under the provisions of chapter 12 of this regulation. Retirement must not occur earlier than 90 days or later than 180 days from the date the soldier selects the retirement option (DA Form 4941) or the appeal is denied. Soldiers who decline to apply for retirement are subject to discharge in accordance with paragraphs 19–12 or 19–14.

b. Soldiers with a minimum of 17 years, 9 months of active Federal service at the time of notification of QMP selection, who choose not to appeal, will be retained to 20-year retirement eligibility upon request.

(1) Those who appeal will also be retained to retirement eligibility upon request if the appeal is denied. Soldiers in this category must apply for retirement (see chap 12) to be effective no later than the first day of the month following the month in which they complete 20 years of active Federal service.

(2) Soldiers with at least 17 years, 9 months of active Federal service at the time of QMP selection notification whose ETS occurs prior to the 20-year point may have their enlistments extended to allow them to reach retirement eligibility.

c. Consistent with 10 USC 1176(a), RA soldiers whose appeals are denied and who have 18 or more years of active Federal service on the designated date of separation will be retained to 20-year retirement eligibility upon request.

Appendix A References

Section I Required Publications

AR 40-501

Standards of Medical Fitness. (Cited in paras 1-32a, 1-33b, 4-2c, 5-11b(2), 5-12a(2), 5-17b, 7-15h(2), 7-16g, 8-6a, 10-6, 12-28c, and 12-28d.)

AR 600-8-105

Military Orders. (Cited in paras 1-11a, 4-2k(1), 7-15e(2), and 12-18a.)

AR 600-85

Army Substance Abuse Program (ASAP). (Cited in paras 1-14g, 1-21a(5), 2-2c(3), 2-4b(2), 2-6h, 3-8a, 3-8g, 9-1c(2), 9-1e, 9-4, 9-7, 14-3c(2), and 14-12c.)

AR 635-5

Separation Documents. (Cited in paras 1-29f, 3-2, 3-3, 3-15, 7-15f(5), 12-21, and 12-24c.)

AR 635-5-1

Separation Program Designators (SPD) Codes. (Cited in para 3-13.)

AR 635-10

Processing Personnel for Separation. (Cited in paras 1-14a, 1-20a, 1-45, 3-14b, 4-6, 6-8b(3) and d(3), 7-10a, 12-13a(4) and b(1), 12-20a and b, 12-21, and 12-24g.)

AR 635-40

Physical Evaluation for Retention, Retirement or Separation. (Cited in paras 1-17, 1-19, 1-29a(2), 1-30, 1-33b(1), 1-35b(6), 4-2c, 5-11e, 5-12d, 5-13, 5-13c, 5-17a, 6-6b(4), 7-15h(2), 7-16g, 8-6c and 16-6f(1).)

DA Pam 600-8-11

Military Personnel Office Separation Processing Procedures. (Cited in paras 4-2f, 6-8f, 12-9a, 12-9d(2), and 12-20a.)

Section II Related Publications

A related publication is a source of additional information. The user does not have to read it to understand this publication. The United States Code is available at <http://www.gpoaccess.gov/uscode/index.html>.

AR 15-6

Procedure for Investigating Officers and Boards of Officers

AR 15-80

Army Grade Determination Review Board and Grade Determinations

AR 25-55

The Department of the Army Freedom of Information Act Program

AR 25-400-2

The Army Records Information Management System (ARIMS)

AR 27-40

Litigation

AR 27-50/SECNAVINST 5820.4G

Status of Forces Policies, Procedures, and Information

AR 40-3

Medical, Dental, and Veterinary Care

AR 40–29

Medical Examination of Applicants for United States Service Academies, Reserve Officer Training Corps (ROTC) Scholarship Programs, Including Two- and Three-Year College Scholarship Programs (CSP), and the Uniformed Services University of the Health Sciences (USUHS)

AR 40–400

Patient Administration

AR 50–5

Nuclear Surety

AR 135–18

The Active Guard Reserve (AGR) Program

AR 135–91

Service Obligations, Methods of Fulfillment, Participation Requirements, and Enforcement Procedures

AR 135–175

Separation of Officers

AR 135–178

Enlisted Administrative Separations

AR 140–111

U.S. Army Reserve Reenlistment Program

AR 145–1

Senior Reserve Officers' Training Corps Program: Organization, Administration, and Training

AR 190–9

Absentee Deserter Apprehension Program and Surrender of Military Personnel to Civilian Law Enforcement Agencies

AR 190–40

Serious Incident Report

AR 195–2

Criminal Investigation Activities

AR 340–21

The Army Privacy Program

AR 350–1

Army Training and Education

AR 380–67

The Department of the Army Personnel Security Program

AR 600–4

Remission or Cancellation of Indebtedness for Enlisted Members

AR 600–8–2

Suspension of Favorable Personnel Actions (Flags)

AR 600–8–6

Personnel Accounting and Strength Reporting

AR 600–8–10

Leaves and Passes

AR 600–8–14

Identification Cards for Members of the Uniformed Services, Their Family Members, and Other Eligible Personnel

AR 600–8–19

Enlisted Promotions and Reductions

AR 600–8–24

Officer Transfers and Discharges

AR 600–8–104

Military Personnel Information Management/Records

AR 600–8–105

Military Orders

AR 600–8–22

Military Awards

AR 600–9

The Army Weight Control Program

AR 600–20

Army Command Policy

AR 600–25

Salutes, Honors, and Visits of Courtesy

AR 600–43

Conscientious Objection

AR 600–62

United States Army Personnel Control Facilities and Procedures for Administering Assigned and Attached Personnel

AR 600–110

Identification, Surveillance, and Administration of Personnel Infected with Human Immunodeficiency Virus (HIV)

AR 601–210

Regular Army and Army Reserve Enlistment Program

AR 601–280

Army Retention Program

AR 612–201

Initial Entry/Prior Service Trainee Support (RCS MILPC–17(R1))

AR 612–205

Appointment and Separation of Service Academy Attendees

AR 614–30

Overseas Service

AR 614–200

Enlisted Assignments and Utilization Management

AR 630–10

Absence Without Leave, Desertion, and Administration of Personnel Involved in Civilian Court Proceedings

AR 635–4

Preseparation Guide

AR 670–1

Wear and Appearance of Army Uniforms and Insignia

DA Pam 600–8

Management and Administrative Procedures

DA Pam 635–4

Preseparation Guide

DOD 7000.14–R (Volume 7A)

Department of Defense Financial Management Regulations (Military Pay Policy and Procedures—Active Duty and Reserve Pay). (Available at <http://www.dtic.mil/whs/directives>.)

DODD 1332.14

Enlisted Administrative Separations. (Available at <http://www.dtic.mil/whs/directives>.)

DODD 6490.1

Mental Health Evaluations of Members of the Armed Forces. (Available at <http://www.dtic.mil/whs/directives>.)

DODI 1332.29

Eligibility of Regular and Reserve Personnel for Separation Pay. (Available at <http://www.dtic.mil/whs/directives>.)

DODI 1332.40

Separation Procedures for Regular and Reserved Commissioned Officers. (Available at <http://www.dtic.mil/whs/directives>.)

JFTR

Joint Federal Travel Regulations. (Available at <http://www.dtic.mil/perdiem/trvlregs.html>.)

MCM 2002

Manual for Courts-Martial, 2002. (Available at <http://www.apd.army.mil/pdffiles/mcm2002.pdf>.)

NGR 600–200

Enlisted Personnel Management. (Available at <http://www.ngbpdc.ngb.army.mil/arngfiles.asp>.)

UCMJ (10 USC Chapter 47)

Uniform Code of Military Justice. (Available at <http://www.au.af.mil/au/awc/awcgate/ucmj.htm>.)

5 USC 8301

Uniform retirement date

8 USC 1439

Naturalization through service in the Armed Forces

8 USC 1440

Naturalization through active-duty service in the Armed Forces during World War I, World War II, Korean hostilities, Vietnam hostilities, or other periods of military hostilities

10 USC Chap 61

Retirement or separation for physical disability

10 USC 101

Definitions

10 USC 507

Extension of enlistment for members needing medical care or hospitalization

10 USC 651

Members: required service

10 USC 654

Policy concerning homosexuality in the Armed Forces

10 USC 883 Art. 83

Fraudulent enlistment, appointment, or separation

10 USC 972

Members: effect of time lost

10 USC 1141

Involuntary separation defined

10 USC 1142

Preseparation counseling; transmittal of medical records to Department of Veterans Affairs

10 USC 1143

Employment assistance

10 USC 1143a

Encouragement of postseparation public and community service

10 USC 1144

Employment assistance, job training assistance, and other transitional services

10 USC 1145

Health benefits

10 USC 1146

Commissary and exchange benefits

10 USC 1147

Use of military family housing

10 USC 1148

Relocation assistance for personnel overseas

10 USC 1149

Excess leave and permissive temporary duty

10 USC 1150

Affiliation with Guard and Reserve units: waiver of certain limitations

10 USC 1151

(Repealed)

10 USC 1152

Assistance to eligible members and former members to obtain employment with law enforcement agencies

10 USC 1153

Assistance to separated members to obtain employment with health care providers

10 USC 1168

Discharge or release from active duty: limitations

10 USC 1169

Regular enlisted members: limitations on discharge

10 USC 1170

Regular enlisted members: minority discharge

10 USC 1171

Regular enlisted members: early discharge

10 USC 1172

Enlisted members: during war or emergency; discharge

10 USC 1173

Enlisted members: discharge for hardship

10 USC 1174

Separation pay upon involuntary discharge or release from active duty

10 USC 1174a

Special separation benefits programs

10 USC 1175

Voluntary separation incentive

10 USC 1176

Enlisted members: retention after completion of 18 or more, but less than 20, years of service

10 USC 1201

Regulars and members on active duty for more than 30 days: retirement

10 USC 1202

Regulars and members on active duty for more than 30 days: temporary disability retired list

10 USC 1370

Commissioned officers: general rule; exceptions

10 USC 1371

Warrant officers: general rule

10 USC 3914

Twenty to thirty years: enlisted members

10 USC 3917

Thirty years or more: regular enlisted members

10 USC 3925

Computation of years of service: voluntary retirement; enlisted members

10 USC 3963

Highest grade held satisfactorily: Reserve enlisted members reduced in grade not as a result of the member's misconduct

10 USC 3965

Restoration to former grade: retired warrant officers and enlisted members

10 USC 12301(d)

Reserve components generally

10 USC 12305

Authority of President to suspend certain laws relating to promotion, retirement, and separation

10 USC 12313

Reserves: release from active duty

10 USC 12681

Reserves: discharge authority

10 USC 12684

Reserves: separation for absence without authority or sentence to imprisonment

10 USC 12686

Reserves on active duty within two years of retirement eligibility: limitation on release from active duty

37 USC 308

Special pay: reenlistment bonus

37 USC 552

Pay and allowances; continuance while in a missing status; limitations

37 USC 1001

Regulations relating to pay and allowances

Section III**Prescribed Forms**

Except where otherwise indicated below, the following forms are available as follows: DA Forms are available on the Army Electronic Library (AEL) CD-ROM (EM 0001) and the APD Web site (www.apd.army.mil); DD Forms are available from the OSD Web site (www.dior.whs.mil/icdhome/forms.htm); Standard Forms (SF) are available from the GSA Web site (www.gsa.gov).

DA Form 2339

Application for Voluntary Retirement. (Prescribed in paras 2–6*b*(2); 12–9*a*(1) and (2)(*b*); 12–11*c*; 12–12*a*; 12–13*b*(3) and *b*(5)(*a*); 12–15*c*(1) and *d*; 12–23*a*; 12–27*b*(2) and *d*.) (This form is available on the APD Web site at <http://www.apd.army.mil>.)

DA Form 4657

Statement of Retirement-Eligible Soldier-Remaining Service Obligation. (Prescribed in para 4–3*d*(3)(*a*).)

DA Form 4658

Statement of Retirement-Eligible Soldier-Not Eligible to Reenlist. (Prescribed in para 4–3*d*(3)(*b*).)

DA Form 4941

Statement of Option, Qualitative Management Program (QMP). (Prescribed in paras 19–10; 19–11*b*(1); 19–13*a*; and 19–15*a*.)

DA Form 5138

Separation Action Control Sheet. (Prescribed in para 1–7*f*.)

DD Form 256A

Honorable Discharge Certificate (Prescribed in paras 3–7*a*(3) and 7–23.)

Section IV**Referenced Forms****DA Form 2–1**

Personnel Qualification Record-Part II

DA Form 201

Military Personnel Jackets, US Army

DA Form 1695

Oath of Extension of Enlistment

DA Form 2028

Recommended Changes to Publications and Blank Forms

DA Form 2627

Record of Proceedings Under Article 15, UCMJ

DA Form 3891

Certificate of Appreciation for Wives of Retiring US Army Personnel

DA Form 4856

Developmental Counseling Form

DA Form 4991-R

Declination of Continued Service Statement

DD Form 214

Certificate of Release or Discharge From Active Duty

DD Form 214WS

Certificate of Release or Discharge from Active Duty (Worksheet)

DD Form 215

Correction to DD Form 214, Certificate of Release or Discharge from Active Duty

DD Form 363

Certificate of Retirement

DD Form 458

Charge Sheet

DD Form 553

Deserter/Absentee Wanted By the Armed Forces

DD Form 2542

Certificate Of Appreciation for Service In the Armed Services of the United States

Standard Form 88

Report of Medical Examination

Standard Form 93

Medical Record-Report of Medical History

Appendix B

Sample Administrative Separation Board Package

B-1. Sample administrative separation board package.

This appendix contains a sample of an administrative separation board package that includes an initial notification package with all necessary memorandums and a summarized record of board proceedings (see figure B-1).

DEPARTMENT OF THE ARMY
Company A
4th BATTALION, 96th INFANTRY
FORT JACKSON, SC 29207

28 March 2000

SUBJECT: Discharge for Misconduct Under AR-635-200, Chapter 14.

THRU: Commander
4th Battalion, 69th Infantry
Fort Jackson, SC 29207

TO: Commander
118th Infantry Division and Fort Jackson
Fort Jackson, SC 29207

1. It is recommended that Private (E2) John A. Doe, 000-00-000 be required to appear before a board of officers convened under the provisions of AR 635-200, chapter 14, paragraph 14-12(a) and (b), 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 04 December 1998 for a term of 3 years and has no prior service. He is 20 years of age.

b. He has no Reserve commission or warrant.

c. Discharge is recommended because of frequent incidents of a discreditable nature with military authorities and habitual shirking. (Include narrative statement of basis for discharge and results of counseling sessions.)

d. His duty MOS is 11B, and his MOS evaluation score is 85. His aptitude area scores are:

<u>APT.</u>	<u>SCORE</u>
CO	A-92; B-89
EL	79
GM	105
MM	89
CL	85
GT	87
FA	100
ST	85
OF	70
SC	76

Figure B-1. Sample report of proceedings of board of officers

e. During the period (date) 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 are:

- (1) (dates)
- (2) (dates)
- (3) (dates)

f. He has been counseled as indicated below.

(List dates of counseling citing reasons for counseling and the person giving the counseling.)

g. As discharge is recommended for the reasons stated in c above, separation for unsatisfactory performance 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 misconduct. There appear to be no grounds for other disposition.

h. Private Doe has 2 convictions by summary court-martial and 1 by special court-martial. He was convicted by summary court on 8 April 1999, for 7 days AWOL and on 23 September 1999, for damaging US property through neglect. He was convicted by special court-martial on 10 November 1999 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.

(Encl 5).

5 Encl

- 1. Memorandum of notification
- 2. Memorandum of acknowledgment
- 3. Med exam (SP 88, SF93, DA Form 3822-R)
- 4. Court-martial order(s)
- 5. Rec. of Art 15 proceedings (DA Form 2627)

(Name)
Captain Infantry
Commanding

*This is an example of a recommendation for discharge for misconduct. If individual is being recommended for discharge for unsuitability, sample will be changed accordingly. All documents that are not evidence will be numbered consecutively with Roman numerals and made enclosures. Items that are exhibits will be numbered consecutively (or lettered if submitted by respondent) (AR 15-6, paras 3-15 and 3-16).

Note. The first three enclosures must be included in all cases. Enclosures 4 and 5 must be included if appropriate. Other enclosures may be added as desired.

Recommend approval.

FOR THE COMMANDER:

5 Encl
nc

(Name)
Captain Infantry
Adjutant

Figure B-1. Sample report of proceedings of board of officers—Continued

HEADQUARTERS
118th INFANTRY DIVISION
FORT JACKSON, SC 29207

28 March 2000

SUBJECT: Notification to Appear Before the Board of Officers
TO: Private John A. Doe, 000-00-0000
Company A, 4th Battalion, 96th Infantry
Fort Jackson, SC 29207

1. Under the provisions of Army Regulation 15-6, paragraph 5-5, and Army Regulation 635-200 notice is hereby given that a Board of Officers appointed by memorandum of appointment, this Headquarters, dated 1 February 2000, will hold a hearing at Building T-4321 at 0900 hours on 15 June 2000, to determine whether you should be discharged because of misconduct before the expiration of your term of service. If you fail to appear before the board due to being absent without leave, you may be discharged from or retained in the service by the discharge authority without personal appearance before the board.

2. The following witnesses are expected to be called:

Captain Winfield M. Elrod
Company C, 4th Battalion, 96th Infantry
Fort Jackson, SC 29207

1LT Titus L. Moody
Company B, 4th Battalion, 96th Infantry
Fort Jackson, SC 29207

Sergeant Robert H. Brown
Company C, 4th Battalion, 96th Infantry
Fort Jackson, SC 29207

Captain William P. Peters
Company A, 4th Battalion, 96th Infantry
Fort Jackson, SC 29207

3. The recorder will endeavor to arrange for the presence of any reasonably available and necessary witnesses whom you may desire to call, upon written 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 Encl
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 (date).

ALBERT A. FAKIAN
2LT, Artillery
Recorder

Note. Include Privacy Act Statement concerning respondent as enclosure (see AR 15-6, para 3-8e)

Figure B-1. Sample report of proceedings of board of officers—Continued

SUMMARY OF PROCEEDINGS

The board was appointed by letters of appointment, Headquarters, 118th Infantry Division and Fort Jackson, SC, dated 1 February 2000, a copy of which is attached.

The respondent was referred to this board for a hearing by letter, Headquarters, 118th Infantry Division and Fort Jackson, SC, dated 28 March 2000.

The board convened at Fort Jackson, SC, on 15 June 2000. The board met pursuant to the foregoing letter of appointment at 0900 hours on (date).

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
Second Lieutenant Albert A. Fakian, 000-00-0000, Infantry (Recorder)
First Lieutenant George P. 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 P. Huffnagle) (Captain James R. Cronkhite).

The memorandum appointing the board and the applicable substance of the regulations under which it was convened was 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 28 March 2000, was received and read 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, and to testify in person or submit a written statement.

A memorandum, subject: Discharge for Misconduct Under AR 635-200, Company A, 4th Battalion, 96th Infantry, with two endorsements (enclosures withdrawn), was offered in evidence by the recorder. There being no objection, the memorandum was admitted in evidence.

A certificate of 1LT Paul O. May, dated 10 January 2000, 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 objections the document was admitted in evidence.

True copies of summarized records of proceedings under Article 15, UCMJ (DA Form 2627) pertaining to non-judicial punishment imposed upon the respondent on (date(s)), were offered into evidence by the recorder, and admitted into evidence.

Figure B-1. Sample report of proceedings of board of officers—Continued

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 10 December 1998 until 05 December 1999. 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 non-judicial punishment under Article 15 2 times, once for being late to formation, and once for insubordination to a non-commissioned 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 this soldier the first time when he was punished for being AWOL. About a month later, I counseled him again and explained to him that some changes would have to be made for his own good and for the good of the Army. I counseled him in those instances then I imposed non-judicial punishment. I told Doe that his prior record indicated that he could perform the duties required 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 25 May 2000, 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 objections, 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 04 December 1998, 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. So to improve my chance in life, I enlisted in the Army in December 1998. 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.

Figure B-1. Sample report of proceedings of board of officers—Continued

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. Then 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 2000.

VERBATIM FINDINGS AND RECOMMENDATIONS

FINDINGS: In the board proceedings concerning Private (E2) 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 the following misconduct:
 - a. Frequent incidents of a discreditable nature with military authorities.
 - b. Habitual shirking.
2. His rehabilitation is not deemed possible.

RECOMMENDATIONS:

In view of the findings, the board recommends that Private Doe be discharged from the Service because of misconduct under other than honorable conditions.

(President)

(Member)

(Recorder)

Figure B-1. Sample report of proceedings of board of officers—Continued

B-2. Other chapter actions

Although this sample cites chapter 14, the same procedures will be used for any chapter action requiring a board in compliance with this regulation.

Glossary

Section I Abbreviations

AD

active duty

ADAPCP

Alcohol and Drug Abuse Prevention and Control Program

ADT

active duty for training

AFS

active Federal service

AGR

active guard/reserve

AIT

advanced individual training

APD

Army Publishing Directorate

ARNG

Army National Guard

ARNGUS

Army National Guard of the United States

AWOL

absent without leave

BCT

basic combat training

BT

basic training

CG

commanding general

CONUS

continental United States

CSM

command sergeant major

CTT

common task test

DA

Department of the Army

DCSS

declination of continued service statement

DOD

Department of Defense

DSM

Diagnostic and Statistical Manual

DVA

Department of Veterans Affairs

EPTS

existed prior to service

ETS

expiration of term of service

FBI

Federal Bureau of Investigation

GCM

general court-martial

GCMCA

general court-martial convening authority

HQDA

Headquarters, Department of the Army

IADT

initial active duty for training

IRR

individual ready reserve

JFTR

joint Federal travel regulation

MACOM

major Army command

MCM

Manual for Courts-Martial

MEPS

military entrance processing station

MOS

military occupational specialty

MPRJ

military personnel records jacket

NCO

noncommissioned officer

NCOER

noncommissioned officer evaluation report

NCOES

noncommissioned officer education system

OMPF

official military personnel file

OSUT

one station unit training

PCF

personnel control facility

PCS

permanent change of station

PCS-MPA

permanent change of station-military personnel account

PFR

personal financial records

QMP

Qualitative Management Program

RA

Regular Army

RBN

recruiting battalion

RCM

rule of court-martial

RCP

retention control point

REFRAD

release from active duty

SFC

sergeant first class

SGM

sergeant major

SIDPERS

Standard Installation/Division Personnel Reporting System

SJA

staff judge advocate

SPCM

special court-martial

SPCMCA

special court-martial convening authority

SPD

separation program designator

SQT

skill qualification test

SSN

social security number

STP

separation transfer point

TA

transition activity

TC

transition center

TDY

temporary duty

TP

transition point

UCMJ

Uniform Code of Military Justice

USADIP

United States Army deserter information point

USAEREC

U.S. Army Enlisted Records and Evaluation Center

USA HRC

United States Army Human Resources Command

USAR

United States Army Reserve

USAREC

U.S. Army Recruiting Command

USC

United States Code

WOFT

warrant officer flight training

Section II

Terms

Active Army

The Active Army consists of: (1) Regular Army soldiers on active duty; (2) the Army National Guard of the United States (ARNGUS) and the U.S. Army Reserve (USAR) soldiers on active duty; (3) Army National Guard soldiers in the service of the United States pursuant to a call; and (4) all persons appointed, enlisted, or inducted into the Army without component. Excluded are ARNGUS and USAR soldiers serving on: (1) active duty for training; (2) Active Guard Reserve status (AGR); (3) active duty for special work; (4) temporary tours of active duty for 180 days or less; and (5) active duty pursuant to the call of the President (10 USC 12304).

Active duty

Full time duty in the active military service of the United States—includes active duty for training.

Active duty for training

Includes initial active duty for training.

Administrative board procedure

The process of an administrative separation action where the respondent will have a right to a hearing before a board of officers. It is initiated in the same manner as the notification procedure.

Administrative Separation Board

A board of officers, or officers and NCOs, appointed to make findings and to recommend retention in the Service or separation. The board states the reason and recommends the type of separation or discharge certificate to be furnished.

Administrative separation

Discharge or release from AD upon expiration of enlistment or required period of service, or before, as prescribed by the Department of the Army or by law. If one of the bases for separation includes a continuous unauthorized absence of 180 days or more, the consulting counsel will advise the soldier that a discharge under other than honorable conditions is a conditional bar to benefits administered by the Department of Veterans Affairs, notwithstanding any action by a Discharge Review Board. Separation by sentence of a general or special court-martial is not an administrative separation.

Appointed counsel for consultation

A qualified counsel who is a commissioned officer of the Judge Advocate General's Corps. The officer is appointed to consult with and advise, at the outset of any initiated separation proceedings, per this regulation, other than chapters 4 and 12 and other administrative separation proceedings where required by applicable Army regulations. This officer will advise the soldier concerning the basis for his/her contemplated separation and its effect, the rights available, and the effect of any action taken by him/her in waiving such rights. A soldier will also be advised that enlistment may be voided if he/she is being considered for separation for fraudulent entry (desertion from another military service). Consulting counsel may advise the soldier regarding the merits of the contemplated separation action when the counsel believes such advice is proper. The soldier should be informed that the counsel cannot represent the soldier before a board of officers unless also appointed as counsel for representation. Counsel will advise the soldier that if he/she is separated under other than honorable conditions, there is no automatic upgrading by any government agency. Upgrading is considered only upon application to the Army Board for Correction of Military Records or the Army Discharge Review Board. Consideration by either of these boards does not guarantee upgrading character of service that is under other than honorable conditions. Communications between the soldier and consulting counsel regarding the merits of the separation action are privileged communications between attorney and client.

Appointed counsel for representation

A counsel appointed to represent a soldier who is being processed for separation during the course of any hearing before a board of officers. Such counsel will be a lawyer per Article 27(b)(1), Uniform Code of Military Justice, unless—

- a. The respondent expressly declines appointment of counsel qualified under Article 27(b)(1) of the UCMJ and requests a specific non-lawyer counsel.
- b. The separation authority assigns a non-lawyer counsel as assistant counsel. The appointed counsel for representation and the appointed counsel for consultation need not be the same individual.

Basic training

Initial entry training that provides non-prior service personnel instructions in basic skills common to all soldiers. Basic training (BT) precedes advanced individual training.

Character of service for administrative separation

A determination reflecting a soldier's military behavior and performance of duty during a specific period of service. The three characterizations are honorable, general (under honorable conditions), and under other than honorable conditions. The service of soldiers in entry-level status is normally described as uncharacterized.

Contractually obligated soldier

A soldier who is serving under enlistment contract or extension (has completed statutory service obligation or has not acquired one). (See AR 135-91, para 2-2.)

Convening authority

The separation authority or a commanding officer who is authorized by this regulation to process the case except for final action and who otherwise has the qualifications to act as a separation authority.

Detainer

A written notice to civil authorities that the person in their custody is a soldier of the Army. The notice states that military authorities desire to take custody when the person is released.

Discharge

Complete severance from all military status gained by enlistment.

Entry-level status

a. For Regular Army soldiers, entry-level status is the first 180 days of continuous AD or the first 180 days of continuous AD following a break of more than 92 days of active military service.

b. For ARNGUS and USAR soldiers, entry-level status begins upon enlistment in the ARNG or USAR. For soldiers ordered to IADT for one continuous period, it terminates 180 days after beginning training. For soldiers ordered to IADT for the split or alternate training option, it terminates 90 days after beginning Phase II advanced individual training (AIT). (Soldiers completing Phase I BT or basic combat training (BCT) remain in entry-level status until 90 days after beginning Phase II.)

c. Service that is not creditable per DOD 7000.14-R, vol. 7A, table 1-1-2, is excluded from the period of entry-level status.

Improper recruiting practice

Any intentional action(s) or omission(s), or negligence in performance of duty by a USAREC soldier that violate(s) law, regulation, directive, or policy and occur(s) during processing of a prospect or applicant for enlistment and result(s) in enlistment or attempted enlistment of a person who does not meet all established enlistment prerequisites for either initial enlistment or specific option/military occupational specialty in which enlisted.

Juvenile offender

A person initially adjudged guilty of an offense by a domestic court of the United States or its territorial possessions or by a foreign court, whether or not a sentence has been imposed or suspended or whether there are any other subsequent proceedings in the case. The law of the jurisdiction of the court will be determinative of whether a given proceeding constitutes an adjudication of guilt. Adjudication as a juvenile offender includes adjudication as a juvenile delinquent, wayward minor, or youthful offender.

Soldier, enlisted person

An enlisted man or woman of the Army. This includes all persons enlisted in any component of the Army, in active Federal service, or active duty for training unless otherwise indicated or obviously inappropriate.

Military behavior

The conduct of the individual while a soldier of the Army.

Military record

An account of a soldier's behavior while in military service. This includes personal conduct and performance of duty.

Minority group

Any group distinguished from the general population in terms of race, color, religion, gender, or national origin.

Notification procedure

Initiation of an administrative separation process in which the respondent is notified in writing of the proposed separation, the basis of it, the results of separation, and his/her rights. This term is commonly used when the respondent does not have an automatic right to a hearing before an administrative separation board.

One station unit training

Initial entry training in which elements of BT and AIT are provided in the same unit under one cadre for the total period of training. In OSUT, elements of BT and AIT are either integrated (provided simultaneously) or are non-integrated (provided in distinct BT/AIT phases).

Preponderance of the evidence

Evidence that, after consideration of all evidence presented, points to a certain conclusion as being more credible and probable than any other conclusion. Where the evidence is equally consistent with two or more opposing propositions, it is insufficient.

Prior enlistment or period of service

Service in any component of the Armed Forces that ends with the issuance of a discharge certificate or certificate of service.

Recruiting official

As used in this regulation includes recruiter, recruiting guidance counselor, retention NCO, and any other personnel that process individuals for enlistment or re-enlistment in the Army.

Release from active duty

Termination of AD status and transfer or reversion to a status of a Reserve Component soldier not on active duty. Personnel enlisted or inducted who have a Reserve obligation under 10 USC 651 or any other provision of law are transferred to a U.S. Army Reserve Control Group. Unit members of the ARNGUS and USAR revert from an AD status to their components to complete unexpired enlistments or unfulfilled obligations.

Respondent

A soldier who has been notified that action has been initiated to separate him/her under this regulation.

Separation

An all-inclusive term applied to personnel actions resulting from release from active duty, discharge, retirement, being dropped from the rolls, release from military control of personnel without a military status, or death.

Separation authority

The official authorized by Army regulations to take final action on specified types of separations.

Transition activity

An activity designated to accomplish separation processing of military soldiers assigned to that installation only.

Transition point

A centralized activity at an installation listed in AR 635 10, appendix B, to accomplish separation processing of military soldiers assigned to activities at the same installation or satellited on the same installation, or assigned to that activity from another installation specifically for separation.

Statutorily obligated soldier

A soldier who is serving by reason of law. (See AR 135–91, chap 2.)

Section III**Special Abbreviations and Terms**

This section contains no entries.

USAPD

ELECTRONIC PUBLISHING SYSTEM
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PIN: 006465-000

DATE: 06- 7-05

TIME: 08:32:15

PAGES SET: 136

DATA FILE: C:\wincomp\r635-200.fil

DOCUMENT: AR 635-200

SECURITY: UNCLASSIFIED

DOC STATUS: REVISION

EXHIBIT S02

Compose

Back to Search

Delete

Spam

Actions

Apply

- Inbox999+
- Drafts87
- Sent
- Archive
- Spam
- Trash
- Folders
- Edit
- Hide
- + New folder
- australia shirts
- Notes

FW:

paxmas2007@yahoo.../Inbox



May 31, 2024 at 11:11 AM

[Print](#) [Raw message](#)

Forbes, Michael J SFC USARMY USSOCOM USASOC (US A) <michael.j.forbes.mil@socom.mil>


To:

Robinson, Gerald A LTC USARMY USSOCOM SOCOM (USA) <gerald.a.robinson.mil@socom.mil>

Cc: paxmas2007@yahoo.com <paxmas2007@yahoo.com>

2 Files1.4MBDownload All

P7S5kB



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Sir:

Thank you for allowing me to take the Statement of Options form home on Wednesday and address it with my long-retained, administrative Attorney. This most recent meeting with you was unlike any other meeting I have had in this corrupted process where I was forced to sign things prior to leaving an office. For that professional option, I thank you.

I have made note on the form of the public pending lawsuit and initialed my intent given the choices available.

I am on my way now to hand-deliver the attached digital documents so you have original signature ppwk, as you should. Again, my thanks, Sir.

See you soon. If you are not around I will leave it at the SD Desk or with someone in your Staff and have a great weekend.

SFC Forbes

Note: "Cancels and removes references to DA Form 4657 (Statement of Retirement-Eligible Soldier–Remaining Service Obligation), DA Form 4658 (Statement of Retirement-Eligible Soldier–Not Eligible to Reenlist), and DA Form 4941 (Statement of Options, Qualitative Management Program (QMP)) (throughout)." AR 635-200

Compose

Delete

Spam

Actions

Apply



DEPARTMENT OF THE ARMY
U.S. ARMY HUMAN RESOURCES COMMAND
1600 SPEARHEAD DIVISION AVENUE, DEPARTMENT 375
FORT KNOX, KY 40122-5307

S: 29 June 2024

AHRC-EPF-M (RN 635-200b)

29 May 2024

MEMORANDUM THRU Commander, US Army Special Operations Command, 2929 Desert Storm Drive, Fort Bragg, NC 28310-5200

FOR SFC FORBES MICHAEL JEFFREY, 1295918507

SUBJECT: HQDA FLAG (W) Acknowledgement due to Selection under Qualitative Management Program (QMP)

1. Department of the Army Notification of Denial of Continued Active Duty Service under the Qualitative Management Program (QMP).
2. The above reference notified you of your denial of continued active duty service. As a result, according to AR 600-8-2 para 2-2 d, you are flagged up until the point when you are reassigned to a transition point (if active component), or when discharge orders are published (if in the reserve component).
3. Ensure you sign and date the acknowledgment below verifying that you received a copy of the DA Form 268 and return via email to: usarmy.knox.hrc.mbx.epmd-transition-branch@army.mil.
4. Any questions concerning this correspondence should be directed to Mr Anthony Lopez, Enlisted Retirements and Separations, at 520-669-9650, DSN 983-5465 or email: manuel.a.lopez46.civ@army.mil or Ms. Louise Allmon at 502-613-5453, DSN 983-5453 or email: louise.allmon.civ@army.mil.

FOR THE COMMANDER:


MICHAEL R. MCSWEENEY
Chief, Retirements and Separations Branch

RECEIPT ACKNOWLEDGED


Sign, Date and Return

THIS FLAG & PROCESS IS UNLAWFUL.
UNIT COMMITTED VIOLATIONS OF LAW.
NOTIFIED BOARD OF LAWSUIT 5:24-25-00176.
I WAS PROFESSIONALLY PERFORMING MY DUTIES.

REPORT TO SUSPEND FAVORABLE PERSONNEL ACTIONS (Flag)

For use of this form, see AR 600-8-2; the proponent agency is DCS, G-1.

SECTION I - ADMINISTRATIVE DATA

a. NAME (Last, First, Middle Initial) FORBES MICHAEL JEFFREY	b. DoD ID No. 1295918507	c. RANK SFC	d. DATE OF RANK 4/1/2020	e. SPECIALTY/PMOSC 35F	f. COMPONENT RA
g. UNIT, ORG., STATION, ZIP CODE OR APO, MAJOR COMMAND US Army Special Operations Command		h. UIC WJTDA	i. FLAGGED SOLDIER'S EMAIL ADDRESS (.gov or .mil) MICHAEL.J.FORBES7.MIL@ARMY.MIL		
j. HR OFFICE CONTROLLING FLAGGING ACTION HRC, EPMD, FAD, RETIREMENTS AND SEPARATION BRANCH		k. TELEPHONE NUMBER 502-613-5048	l. THIS ACTION IS TO: <input checked="" type="checkbox"/> INITIATE A FLAG (Sections II and IV only) <input type="checkbox"/> REMOVE A FLAG (Sections III and IV only)		

SECTION II - INITIATE A FLAG**a. NON-TRANSFERABLE FLAG**☐ A FLAG IS INITIATED, EFFECTIVE 28 April 2024

FOR THE FOLLOWING REASON:

- | | |
|---|--|
| <input type="checkbox"/> Adverse Action (A) | <input type="checkbox"/> JAG Lack of License or Certification (O) |
| <input type="checkbox"/> Involuntary Separation - field initiated (B) | <input type="checkbox"/> Deny Auto Promotion to PV2/PFC/SPC (P) |
| <input type="checkbox"/> Referred OER, AER, or Relief for Cause NCOER (D) | <input type="checkbox"/> Lautenberg Amendment (Q) |
| <input type="checkbox"/> Security Violation or Loss of Security Clearance (E) | <input type="checkbox"/> Administratively Non-deployable for Retention (R) |
| <input type="checkbox"/> HQDA - Delay of Promotion or Removal from a Selection List (F) | <input type="checkbox"/> No Family Care Plan (S) |
| <input type="checkbox"/> AMEDD Lack of License or Certification (I) | <input type="checkbox"/> Deny Auto Promotion to 1LT/CW2 (T) |
| <input type="checkbox"/> Commander's Investigation (L) | <input type="checkbox"/> Drug Abuse (U) |
| <input type="checkbox"/> Law Enforcement Investigation (M) | <input type="checkbox"/> Alcohol Abuse (V) |
| <input type="checkbox"/> Reserve Components Non-compliance with 10 USC §10206 (N) | <input checked="" type="checkbox"/> HQDA - Involuntary Separation (W) |

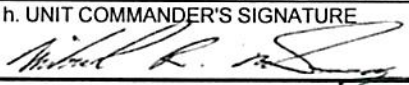
b. TRANSFERABLE FLAG☐ ACFT Failure (J)☐ Army Body Composition Program (K)☐ Punishment Phase (H)

Date Punishment Complete: _____


SECTION III - REMOVE A FLAG**a. FLAG TO REMOVE**☐ A FLAG (Two-Digit Flag Code) _____, WITH AN EFFECTIVE DATE OF _____) IS HEREBY REMOVED.

EFFECTIVE DATE OF THIS FLAG REMOVAL IS _____, FOR THE FOLLOWING REASON:

b. DISPOSITION☐ Final Action Favorable (C)☐ Final Action Unfavorable (D)☐ Final Action Specified (E)☐ Erroneous (Z)**SECTION IV - AUTHENTICATION**

a. UNIT COMMANDER'S NAME (Last, First, Middle Initial) Michael R. McSweeney	b. DoD ID No. XXXXXX9564	c. RANK GS-14	d. UIC W6ED03	e. COMPONENT
f. UNIT, ORG., STATION, ZIP CODE/APO, MAJOR COMMAND Chief, Retirements and Separations Branch		g. UNIT COMMANDER'S EMAIL ADDRESS (.gov or .mil) michael.r.mcsweeney.civ@army.mil		
		h. UNIT COMMANDER'S SIGNATURE 		i. DATE 05/29/2024

SECTION V - VALIDATION (Required for any Flag over 6 months old)

a. BN COMMANDER'S NAME (Last, First, Middle Initial) ROBINSON GERALD A	b. DoD ID No. 1057614977	c. RANK LTC	d. UIC WJTDA	e. COMPONENT RA
f. UNIT, ORG., STATION, ZIP CODE/APO, MAJOR COMMAND STB, 528TH SB (SO) (A) FT. LIBERTY, NC 28310		g. BN COMMANDER'S EMAIL ADDRESS (.gov or .mil) gerald.a.robinson.mil@socom.mil		
		h. BN COMMANDER'S SIGNATURE 		i. DATE 29 MAY 24



DEPARTMENT OF THE ARMY
U.S. ARMY HUMAN RESOURCES COMMAND
1600 SPEARHEAD DIVISION AVENUE, DEPARTMENT 375
FORT KNOX, KY 40122-5307

S: 29 June 2024

AHRC-FSF-ES (RN 635-200b)

29 May 2024

MEMORANDUM THRU Commander, US Army Special Operations Command, 2929
Desert Storm Drive, Fort Bragg, NC 28310-5200

FOR SFC FORBES MICHAEL JEFFREY, 1295918507

SUBJECT: Notification of Denial of Continued Active Duty Service under the Qualitative
Management Program (QMP)

1. The Qualitative Management Program Selection Board conducted a comprehensive review of your record for potential denial of continued service under the Qualitative Management Program and recommended you be denied continued active duty service.
2. As a result, the Director of Military Personnel Management approved the board's recommendation and you will be involuntarily discharged from the Army not later than **12/1/2024**. In lieu of involuntary discharge, you have the following options:
 - a. Except as otherwise provided, you may request voluntary retirement under any provision of law for which you are otherwise eligible in lieu of involuntary separation as a result of QMP. Voluntary retirement will be approved for the date requested by you, but will not be later than **12/1/2024**; however, voluntary retirement must occur no earlier than 90 days from the date you elect this option.
 - b. Request an earlier separation date; however, the date requested must allow for a minimum of 90 days for pre-separation counseling via the Soldier for Life Transition Assistance Program (SFL-TAP). Requests for earlier separation, once submitted, may not be withdrawn.
 - c. If you have removal of documents from your Army Military Human Resource Record (AMHRR), or there is a material error, you may request retention on active duty. If you elect a review, it is limited to the subsequent removal of documents from your Army Military Human Resource Record (AMHRR), or material error. These requests are validated in accordance with the rules established by AR 635-200, Active Duty Enlisted Administrative Separation, paragraph 16-11.
3. If you meet eligibility for a review, you must submit the request to Commander, Human Resources Command (AHRC-EPF-M), 1600 Spearhead Division Avenue, Fort Knox, KY 40122 or via email usarmy.knox.hrc.mbx.fadd-enlisted-transition-branch@army.mil or within IPPS-A, HRC-AC-ENL-QMP Actions , UDL 000000000042489

AHRC-EPF-M

SUBJECT: Notification of Denial of Continued Active Duty Service under the Qualitative Management Program (QMP)

within 30 days of receipt of this notification. Review requests that do not meet the criteria of paragraph 2c (above) will be returned without action and not be used as a reason to delay separation under the QMP.

4. All separating Soldiers are required to contact their supporting SFL-TAP to register and receive the mandatory pre-separation briefing. You may also complete this requirement through the Army's Virtual Center at: <https://www.sfl-tap.army.mil/>. Soldiers and their family members are fully eligible and encouraged to participate in all available TAP services.

5. The unit S1 will provide a copy of this correspondence to the supporting Military Personnel Division/Retirement Services Office (MPD/RSO) for Regular Army (RA) Soldiers. The MPD/RSO may use this to monitor the Soldier's request for retirement under the QMP. All requests for retirement under the QMP must be forwarded to HRC for decision regardless of rank or retention control point (RCP). The MPD/Transition Center (TC) may also use this to initiate separation orders for retirement eligible RA Soldiers who do not submit a request for retirement. Retirement eligible Active Guard Reserve (AGR) Soldiers will process requests for retirement through the Regional Support Command to HRC. HRC will initiate separation orders for eligible AGR Soldiers who do not submit a request for retirement.

6. Restriction codes will be changed to (RET9L) reflecting QMP selected on the suspense date.

7. Any questions concerning this correspondence should be directed to Mr. Manuel A. Lopez, Enlisted Retirements and Separations, at 520-669-9650, DSN 983-5465 or email: manuel.a.lopez46.civ@army.mil or Ms. Louise Allmon, Enlisted Retirements and Separations, at (502-613-5453), DSN 983-5453 or email: louise.allmon.civ@army.mil.

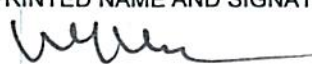

8. Your signature on this notification is acknowledgement of the reason(s) for being considered by the QMP board and procedures for submitting matters of mitigation. It constitutes the required written counseling as outlined in AR 635-200.

FOR THE COMMANDER:

Encl
Option Statement



MICHAEL R. MCSWEENEY
Chief, Retirements and Separations Branch

STATEMENT OF OPTIONS, QUALITATIVE MANAGEMENT PROGRAM (QMP) Post-Board Notification		
PRIVACY ACT STATEMENT		
AUTHORITY:	Section 301, Title 5, USC.	
PRINCIPAL PURPOSE:	To determine and select option after selection for denial of continued service under the QMP.	
ROUTINE USES:	To ensure the Soldier's option statement is properly identified with his/her record.	
DISCLOSURE:	Disclosure is voluntary; however, failure to furnish information could adversely affect Soldier.	
RESPONSIBILITIES: 1. NOTIFYING OFFICIAL (LTC or higher): a. Present the QMP notification memorandum to Soldier, counsel him/her and complete Part B of this form. b. Comply with administrative instructions accompanying the QMP notification memorandum and ensure timely submission of completed option form to ACOM, ASCC or DRU POC. 2. SOLDIER: a. Choose an option from among those shown in Part A of this form within seven days of receipt. b. Scan and email the completed acknowledgment to usarmy.knox.hrc.mbx.epmd-transition-branch@army.mil .		
PART A – SOLDIER		
I was notified on <u>5/29/2024</u> (date) that I have been denied continued service under the QMP. I have carefully read, been counseled and understand the options available to me. I have chosen the following option as indicated by my initials on the line below (<i>choose only one</i>). <u>MSF</u>		
1. My AMHRR record contained a material error (omission, change, or improper filing of information). I will request a review. I understand that I must submit it to U.S. Army Human Resources Command within 30 days of completing this form.		
2. I understand the records in my AMHRR are correct and I will be involuntarily discharged on <u>12/1/2024</u> or my contractual ETS date, whichever comes first. I will not submit for review.		
3. I will apply for an early discharge no earlier than 90 days from the date of this form and no later than <u>12/1/2024</u> . I understand that once I submit this request, it cannot be withdrawn. Refer to AR 635-200 chap 16 para 11, i(1).		
4. I have 18 but less than 20 years of active Federal service on <u>12/1/2024</u> and will apply for a regular retirement 9-12 months prior to a retirement effective date no later than <u>12/1/2024</u> .		
5. I have 18 or more, but less than 20 years of qualifying service for a non-regular retirement on <u>12/1/2024</u> as computed under 10 USC 12732. I understand that if my ETS occurs prior to the 20-year point, I am entitled to extend my enlistment a sufficient period to attain non-regular retirement eligibility. I will request discharge (RA) or request release from active duty (AGR) with concurrent transfer to a Troop Program Unit. I will request transfer to the Retired Reserve no later than 90 days prior to attaining 20 years of qualifying service for a non-regular retirement.		
SOLDIER'S PRINTED NAME AND SIGNATURE  SFC FORBES MICHAEL JEFFREY	DOD ID 1295918507	DATE <u>5/31/2024</u>
PART B – NOTIFYING OFFICIAL'S STATEMENT		
On _____ (date), I presented the QMP notification memorandum to the Soldier and counseled him/her on the ramifications and options available.		
NOTIFYING OFFICIAL'S PRINTED NAME AND SIGNATURE  LTC GERALD A. ROBINSON, STB BN COR	RANK/BRANCH LTC/90A	DATE <u>29 MAY 24</u>

REG STATES NO APPEAL $\frac{1}{2}$ RESCINDEN DA GAM 4941.
 WHAT FORM IS THIS? UNDERLYING BASIS OF FORMS IS BEING CHALLENGED,
 THE GOMOR $\frac{1}{2}$ RFC THAT TRIGGERED THIS QMP BASED
 ON MY LEADERSHIP RECOMMENDATION RETALIATION.
 I FILED A LAWSUIT TO ADDRESS ALL FEDERAL VIOLATIONS
 BY MY COMMAND (5:24-LV-00176). PLEASE RESCIND THIS
 DECISION UNTIL THE CASE IS RESOLVED.