

retired pay status for the period between his discharge and subsequent reenlistment. Retired pay will be based on the grade in which retired.

(4) Soldiers precluded from reenlistment for any reason (such as provisions of the Qualitative Management Program, AR 601–280, chap 10) would forfeit retirement eligibility altogether. There would be no way for them to regain an active duty status for the purpose of applying for retirement.

e. The failure to counsel a soldier under this paragraph will not alter his or her status or entitlement to any benefits.

4–4. Characterization of service

A soldier being separated upon expiration of enlistment or fulfillment of service obligation will be awarded a character of service of honorable, unless the soldier is in entry level status and service is uncharacterized.

4–5. Separation authority

Separations will be accomplished by the TP or TA processing the soldier for separation (AR 635–10), per the separation orders issued by the appropriate commander. (See AR 310–10.)

Chapter 5 Separation for Convenience of the Government

Section I General

5–1. Characterization of service or description of separation

a. Unless the reason for separation requires a specific characterization, a soldier being separated for the convenience of the Government will be awarded a character of service of honorable, under honorable conditions or an uncharacterized description of service if in entry level status.

b. No soldier will be awarded a character of service of under honorable conditions under this chapter unless the soldier is notified of the specific factors in his or her service record that warrant such a characterization, using the notification procedure. Such characterization is normally inappropriate for soldiers separated under the provisions of paragraph 5–4, 5–11, 5–12, 5–15, 5–16, or paragraph 5–17.

5–2. Exclusion from applicability

Permanent residence aliens, who have enlisted in the Regular Army for a period of 3 years or more and who desire to fulfill naturalization requirements through military service, will not be involuntarily separated per this chapter before completing 3 full years of active duty service. The soldier can be involuntarily separated if—

- a.* Soldier’s performance or conduct does not justify retention.
- b.* Soldier is to be transferred to inactive duty in a Reserve Component to complete a Reserve service obligation.
- c.* The Secretary of the Army authorizes separation.

Section II Secretarial Authority

5–3. Secretarial Plenary Authority

a. Separation under this paragraph is the prerogative of the Secretary of the Army. Secretarial plenary separation authority is exercised sparingly and seldom delegated. Ordinarily, it is used when no other provision of this regulation applies, and early separation is clearly in the best interests of the Army. Separation under this paragraph are effective only if approved in writing by the Secretary of the Army or approved designee as announced in updated memorandums.

b. Secretarial separation authority is normally exercised on a case-by-case basis, but may be used for a specific class or category of soldiers. When used in the latter circumstance, it is announced by

special HQDA directive that may, if appropriate, delegate blanket separation authority to field commanders for the class or category of soldiers concerned.

c. Individual cases that may be submitted to HQDA for consideration of separation under Secretarial plenary authority include those processed under paragraphs 1–19*b*(4), 2–6*e*, and 15–10*a*(2). Other bases for separation under this paragraph include, but are not limited to, HIV infection (AR 600–110), refusal to submit to medical care (AR 600–20), and when religious practices cannot be accommodated (DA Pam 600–75).

d. Separation under this paragraph may be voluntary or involuntary. When involuntary separation proceedings are initiated, the notification procedure (chap 2, section II) will be used; however, the provision for requesting an administrative board (para 2–2*d*) is not applicable. Unless waived by HQDA, medical examinations are required for soldiers being processed for involuntary separation (para 1–34*a*).

e. Blanket or individual requests for separation under this paragraph will be submitted to HQDA (TAPC–PDT–S), 2461 Eisenhower Avenue, Alexandria, VA 22331–0479. Chain of command forwarding endorsements must include rationale to support determination that early separation is in the best interest of the Army or, if applicable, the soldier(s), as well as a statement whether the counseling requirements of paragraph 1–22 have been met. In addition, chain of command forwarding endorsements on individual cases must include recommendations concerning characterization or description of service (para 5–1) and, when applicable, transfer to the IRR (chap 1, sec VIII), reentry eligibility (RE) code to be assigned, recoupment of enlistment/reenlistment bonus, and award of separation pay.

Section III Surviving Sons or Daughters

5–4. General

a. Commanders specified in paragraph 1–21 will approve requests for separation for the convenience of the Government of soldiers who qualify per this section as surviving sons or daughters. The criteria in chapter 1, section VIII, will govern whether the soldier will be released from AD with transfer to the IRR, or discharged. (See para 1–12 for additional instructions on ARNGUS and USAR personnel.)

b. Separation under this section is not authorized—

(1) During a period of war or national emergency declared by the Congress.

(2) When a soldier who qualified per this section has waived status as surviving son or daughter. A soldier who has waived such status may request reinstatement of that status; however, reinstatement will not necessarily provide a basis for separation under this section. Each case will be considered on its individual merits. A soldier who has been advised of this section and who enlists, reenlists, or otherwise voluntarily extends his or her active duty period after the date of notification of the family casualty on which the surviving status is based, will be considered to have automatically waived his or her rights for separation under this section.

(3) When a soldier—

(*a*) Has court-martial charges pending.

(*b*) Has been tried and convicted by court-martial and the case is being reviewed or appealed.

(*c*) Is serving a sentence (or otherwise undergoing punishment) imposed by court-martial.

(*d*) Is being processed for involuntary administrative separation for cause.

5–5. Definitions

The following definitions apply to terms used in this section—

a. The “surviving son” or “surviving daughter” is any son or daughter in a family whose parent or one or more sons or daughters served in the Armed Forces of the United States and—

(1) Was killed in action.

(2) Died as a result of wounds, accident, or disease while serving in the U.S. Armed Forces.

(3) Is in a captured or missing-in-action status.

(4) Is permanently 100 percent physically disabled (to include 100 percent mental disability), due to Service connection, as determined by the Department of Veterans' Affairs or one of the military services, and is not gainfully employed because of such disability.

b. "Armed Forces of the United States" denotes collectively all components of the Army, Navy, Air Force, Marine Corps, and Coast Guard.

5-6. Procedures

Request for separation must be submitted in writing by the soldier concerned. All requests will include the following information—

a. Name, grade, SN or SSN, branch of Service (Army, Navy, Air Force, Marine Corps, or Coast Guard), relationship, and date of death or disability of the family member upon whom request is based.

b. Department of Veterans' Affairs claim number, if appropriate.

5-7. Characterization of service or description of separation

(See para 5-1.)

Section IV

Other Convenience of the Government Separation Policies

5-8. Involuntary separation due to parenthood

a. Soldiers will be considered for involuntary separation when parental obligations interfere with fulfillment of military responsibilities. Specific reasons for separation because of parenthood include inability to perform prescribed duties satisfactorily, repeated absenteeism, late for work, inability to participate in field training exercises or perform special duties such as CQ and Staff Duty NCO, and nonavailability for worldwide assignment or deployment according to the needs of the Army. See AR 600-20, chapter 5, section V, concerning soldiers' responsibilities for care of family members as related to military responsibilities.

b. Separation processing may not be initiated under this paragraph until the soldier has been adequately counseled concerning deficiencies and has been afforded the opportunity to overcome them. (See AR 600-20, and para 1-18, AR 635-200.)

c. The notification procedure (chap 2, sec II) will be used for separation under this paragraph.

d. For characterization of service or description of separation, see paragraph 5-1.

e. Commanders specified in paragraph 1-21 are authorized to order separation under this paragraph. See paragraph 1-12 for additional instructions for ARNGUS and USAR soldiers. The criteria in chapter 1, section VIII, will govern whether the soldier will be released from AD or ADT with transfer to the IRR, or discharged.

5-9. Lack of jurisdiction

The general court-martial convening authority will direct the discharge or release from active military service, or will release the individual concerned from military control. This authority will not be delegated.

a. The discharge or release of an individual from the Army may be ordered by a US court or judge thereof. The office upon whom such an order or writ is served will report it immediately to The Judge Advocate General, per AR 27-40.

b. Upon the final judicial determination of a military judge, a president of a special court-martial, or military appellate agency that an individual is not currently a soldier of the Army, and where a commander reasonably believes that the Army may lack jurisdiction over a soldier presently under his or her jurisdiction, the general court-martial convening authority will immediately initiate thorough inquiry. All allegations and relevant facts and circumstances will be examined. AR 15-6 will not apply to such inquiries.

(1) If the claim of lack of jurisdiction is based upon recruiter

misconduct, inquiry to appropriate recruiting officials will be included.

(2) If the claim of lack of jurisdiction is based on other provisions of this regulation (such as minority or erroneous or fraudulent enlistment), the inquiry and later action on the claim will be conducted per procedures outlined in those specific provisions. Those paragraphs will be cited as the authority for the action taken.

c. The general court-martial convening authority will determine whether retention or release from military control, or release from active service is warranted.

(1) *Retention.* In making determinations on retention, paragraph 7-21 b should be considered. Only individuals with waivable disqualifications (AR 601-210 or AR 601-280) will be considered for retention.

(2) *Release from military control or from active military service.* If the general court-martial convening authority concludes that the Army lacks jurisdiction over the individual and determines that separation is warranted, he or she will take action per paragraph 1-12 b for ARNGUS or USAR personnel. Regular Army personnel will be released from military control per this paragraph.

5-10. Discharge of aliens not lawfully admitted to the United States

Commanders specified in paragraph 1-21 are authorized to dispose of cases involving aliens not lawfully admitted to or residing in the United States, who did not conceal their true citizenship status at enlistment. Such individuals will be reported to the nearest office of the Immigration and Naturalization Service. If these individuals are subject to deportation proceedings at this time, or upon discharge from the service, or if their custody is desired by immigration officials, they will be reported to the commander having discharge authority. This commander will then order the discharge for the convenience of the Government. Commanders responsible for separation processing will notify immigration officials of the discharge action so that they may take the individual into custody, if they so desire. The character of service and discharge certificate furnished will reflect service rendered by the individual after enlistment. (See paras 3-7 and 5-1.)

5-11. Separation of personnel who did not meet procurement medical fitness standards

a. Soldiers who were not medically qualified under procurement medical fitness standards when accepted for enlistment, or who became medically disqualified under these standards prior to entry on AD or ADT for initial entry training, will be separated. Medical proceedings, regardless of the date completed, must establish that a medical condition was identified by appropriate military medical authority within 6 months of the soldier's initial entrance on AD for RA, or during ADT for initial entry training for ARNGUS and USAR, which—

(1) Would have permanently or temporarily disqualified him or her for entry into the military service or entry on AD or ADT for initial entry training had it been detected at that time.

(2) Does not disqualify him or her for retention in the military service under the provisions of AR 40-501, chapter 3.

b. As an exception, a soldier who is found after entry on active duty not to have been qualified under procurement medical fitness standards at the time of enlistment may request to be retained in the Service with the exception of existed prior to service (EPTS) pregnancies) subject to the following conditions. Enlistees who are confirmed to be HIV positive will be processed in accordance with AR 600-110. Approval or disapproval of requests for retention under this paragraph is delegated to the separation authority cited in paragraph 1-21 c. No soldier has a right to be retained under this paragraph. Soldiers not retained will be processed for separation. Soldiers will not be retained under this paragraph unless:

(1) The separation authority cited in paragraph 1-21 c determines, after considering the findings of an Entrance Physical Standards Board, that the soldier's disqualifying condition will not prevent the soldier from performing satisfactorily throughout his or her period of enlistment in the PMOS for which being trained.

(2) The soldier signs a statement requesting to complete the period of service for which enlisted despite his or her being subject to separation under paragraph *a* above.

c. The criteria in chapter I, section VIII, will govern whether the soldier will be released from AD, with transfer to the IRR, or discharged. In the case of an ARNGUS or USAR soldier found to be pregnant upon entry on IADT, the soldier will be released from active duty and returned to her ARNG or USAR unit for disposition in accordance with AR 135–91, paragraph 4–23. The soldier will be separated within 72 hours following approval by the separation authority (para 1–21). (See para 1–12 for additional instructions on ARNGUS or USAR personnel.)

d. Soldiers who do not meet the medical fitness standards for retention will be processed per AR 635–40.

e. This paragraph is not to be used in personality disorders cases, which will be processed per paragraph 5–13.

f. For characterization of service or description of separation, see paragraph 5–1.

5–12. Discharge for failure after enlistment to qualify medically for flight training

Soldiers who enlist per AR 601–210 for the Warrant Officer Flight Training (WOFT) option and who, after enlistment, fail to qualify medically for flight training may be discharged from the Army. The following conditions apply:

a. Eligibility for discharge will be determined by the Commander, US Army Aeromedical Center, Fort Rucker, AL 36362 (AR 612–201, para 3–3 *d*), that—

(1) The medical condition would permanently disqualify the soldier for flight training, and

(2) The condition does not disqualify the soldier for retention in the military service per AR 40–501, chapter 3.

b. To be eligible for discharge under this paragraph, the soldier must submit a written request for discharge (fig 5–1) to his or her unit commander. It must be submitted within 30 days of the date the Commander, US Army Aeromedical Center, finds the soldier disqualified for flying.

c. Applications for discharge will be processed promptly and separation will be accomplished within 72 hours following approval by the discharge authority. (See para 1–21.)

d. Soldiers who do not meet retention medical fitness standards will be processed per AR 635–40.

e. This paragraph is not to be used for personality disorder cases, which will be processed per paragraph 5–13.

f. A soldier who meets the requirements of *a* above and elects to complete the period of service for which he or she enlisted must submit a written request to be retained on AD (fig 5–2). The request is submitted to the unit commander within 30 days of the date the Commander, US Army Aeromedical Center, finds the soldier medically disqualified for flying.

g. The determination made by the Commander, US Army Aeromedical Center, the soldier's request for discharge (fig 5–1) or retention (fig 5–2), and other pertinent papers will be filed in the soldier's DA Form 201 as permanent material.

h. For characterization of service or description of separation, see paragraph 5–1.

5–13. Separation because of personality disorder

Under the guidance in chapter 1, section II, a soldier may be separated for personality disorder (not amounting to disability (AR 635–40)), that interferes with assignment to or performance of duty, when so diagnosed as indicated in *a* below.

a. This condition is a deeply-ingrained maladaptive pattern of behavior of long duration that interferes with the soldier's ability to perform duty. (Exceptions: combat exhaustion and other acute situational maladjustments.) The diagnosis of personality disorder must have been established by a physician trained in psychiatry and psychiatric diagnosis, or a licensed clinical psychologist. It is described in the Diagnostic and Statistical Manual (DSM–III–R) of

Mental Disorders (section on mental disorders, International Classification of Diseases and Injuries –8), 3d Edition, Revised, Work Group to Revise DSM–III, Americal Psychiatric Association, Washington, DC, 1987.

b. Commanders will not take action prescribed in this chapter in lieu of disciplinary action solely to spare a soldier who may have committed serious acts of misconduct for which harsher penalties may be imposed under the UCMJ.

c. Separation because of personality disorder is authorized only if the diagnosis concludes that the disorder is so severe that the soldier's ability to function effectively in the military environment is significantly impaired. Separation for personality disorder is not appropriate when separation is warranted under chapter 4, 5, 7, 9, 10, 11, 13, 14, or 15; AR 604–10; or AR 635–40.

d. Nothing in this paragraph precludes separation of a soldier who has such a condition for other reasons authorized by this regulation.

e. Separation processing may not be initiated under this paragraph until the soldier has been counseled formally concerning deficiencies and has been afforded ample opportunity to overcome those deficiencies as reflected in appropriate counseling or personnel records. (See para 1–18.)

f. When it has been determined that separation under this paragraph is appropriate, the unit commander will take the actions specified in the Notification Procedure (chap 2, sec II).

g. For separation authority, see paragraph 1–21.

h. The service of a soldier separated per this paragraph will be characterized as honorable unless an entry level separation is required under chapter 3, section III. Characterization of service under honorable conditions may be awarded to a soldier who has been convicted of an offense by general court-martial or who has been convicted by more than one special court-martial in the current enlistment, period of obligated service, or any extension thereof.

5–14. Concealment of arrest record

a. Policy. A soldier who concealed an arrest record (not followed by a civil court conviction and not reflecting charges pending at the time of enlistment) for any (juvenile or adult) offense and such concealment does not amount to a fraudulent entry (chap 7) may be separated. Separation is based on the false statements made in enlistment documents regarding the existence of an arrest record. In determining whether discharge is appropriate, the following will be considered:

(1) Concealing a pattern of arrests strongly suggests that the soldier was intentionally attempting to mislead recruiting officials regarding enlistment eligibility. The pattern may include misdemeanors and lesser offenses in addition to a felony.

(2) The age of the individual when enlisted, when arrested, and the period of time that elapsed since the arrest.

(3) The nature and the circumstances surrounding the arrests.

(4) The nature of the soldier's service since enlistment.

b. Discharge authority. Discharge or retention of the soldier will be directed by commanders specified in paragraph 1–21. When retention is authorized, DA Form 2–1 will be annotated to reflect that concealment of the arrest has been waived. After waiver there will be no further cognizance of the concealment of arrest, nor will any further action be taken.

c. Evidence. When information is received which indicates the soldier may have concealed an arrest record, an investigation into the circumstances is required. From this investigation, a decision to discharge or retain can be made. To prove an arrest record as required in this paragraph, bona fide evidence must be obtained from the appropriate law enforcement agency. A typical example of bona fide evidence includes the following:

(1) A completed DD Form 1584 (DOD National Agency Check Request) (ENTNAC), with a "rap sheet" listing incidents of arrest. Further contact with agencies or departments which made the arrest may be necessary. An ENTNAC is completed on each individual shortly after entrance into the Army, and should be examined by unit commanders.

(2) A completed DA Form 3286 (Statement for Enlistment) or

other evidence which shows clearly that the individual concealed an arrest record.

d. Procedures. The notification procedure will be used (chap 2, sec II).

e. Characterization of service or description of separation. See paragraph 5-5.

5-15. Rescinded

5-16. Early release of Reserve Component personnel serving AGR tours under 10 U.S.C. 672(d).

a. General. USAR or ARNGUS AGR soldiers serving tours under 10 U.S.C. 672(d) may be released from active duty for the convenience of the Government, prior to completion of their AGR tour, under the following circumstances:

(1) AGR soldiers may be voluntarily released from active duty, at their request, when such release is fully justified and determined to be in the best interest of the Government.

(2) AGR soldiers serving on an initial tour as recruiters may be involuntarily released from active duty when a determination has been made that they are unqualified, ineffective, or unsuitable for continued recruiting duty, and that early release is in the best interest of the Government.

b. Procedure. The notification procedure (chap 2, sec II) will be used for soldiers involuntarily released from active duty under this paragraph. However, the procedure for requesting an administrative board (para 2-2 *d*) is not applicable.

c. Characterization of service. Soldiers released from active duty under this paragraph will be awarded a character of service of honorable.

d. Separation authority. Notwithstanding the provisions of paragraph 1-21, only the Chief, National Guard Bureau, the Chief, Army Reserve, the Commander, ARPERCEN, or higher authority within the office of the Secretary of the Army are authorized to order release from active duty under this paragraph. This authority may not be further delegated.

e. This paragraph will *not* be used as authority for release from AD of an AGR soldier who meets the criteria for separation under other provisions of this regulation. For example, a soldier who has established a pattern of misconduct will be processed for separation under the provisions of chapter 14.

5-17. Early separation to further education

Soldiers may be discharged or released from active duty for the convenience of the Government, up to 90 days before ETS, in order to attend a specific term at a college, university, vocational school, or technical school.

a. Soldiers serving initial enlistments of less than 3 years, members of the ARNGUS or USAR serving on ADT, and former senior ROTC cadets ordered to active duty because of breaches of contract are ineligible for separation under this paragraph.

b. To qualify for early separation, eligible soldiers must—

(1) Not be mission essential to their assigned organizations, as determined by commanders concerned.

(2) Clearly establish that the specific school term for which they seek early separation is academically the most opportune time for them to begin or resume their education, and that delay of school enrollment until normal ETS would cause undue personal hardship.

(3) Provide a statement from an appropriate school official (for example, a registrar or director of admissions) indicating acceptance for enrollment (without qualification or in a probationary status) in a full-time resident course of instruction. The statement must also reflect that the latest acceptable registration date for the school term falls within the 3-month period preceding the soldier's ETS.

(4) Show that they are able to pay, or have already paid, any school entry fees.

c. The college or university must offer courses of instruction leading to an associate, baccalaureate, or higher degree, and must be approved by the Department of Veterans' Affairs. The vocational or technical school must offer a course of instruction of no less than 3

months duration, and must be approved by the Department of Veterans' Affairs.

d. The effective date of early separation under this paragraph normally will not be earlier than 10 days prior to the class starting date, except when soldiers may be separated up to 30 days prior to the date classes convene if evidence is submitted that the 10-day period is clearly insufficient. This is not intended as authority to permit separation a full 30 days prior to class starting date in every case, but to provide reasonable latitude in justifiable cases to authorize separation on a date that will give the soldier adequate time to register and enter the school on time. Examples include soldiers returning from overseas and those who must move their families to the school location.

e. Accrued leave will be used to the maximum extent possible, as transition leave, in conjunction with early separation under this paragraph.

f. For characterization of service, see paragraph 5-1.

g. Commanders specified in paragraph 1-21 are authorized to order separation under this paragraph. The criteria in chapter 1, section VIII, will govern whether the soldier will be released from AD with transfer to the IRR, or discharged.

h. Combining this paragraph with other early release programs to effect separation more than 90 days before ETS is not authorized.

5-18. Other designated physical or mental conditions

a. Commander specified in paragraph 1-21 may approve separation under this paragraph on the basis of other physical or mental conditions not amounting to disability (AR 635-40), and excluding conditions appropriate for separation processing under paragraph 5-11 or 5-13, that potentially interfere with assignment to or performance of duty. Such conditions may include, but are not limited to, chronic airsickness or seasickness, enuresis, sleepwalking, dyslexia, severe nightmares, claustrophobia, and other disorders manifesting disturbances of perception, thinking, emotional control or behavior sufficiently severe that the soldier's ability to effectively perform military duties is significantly impaired.

b. When a commander determines that a soldier has a physical or mental condition that potentially interferes with assignment to or performance of duty, the commander will refer the soldier for a medical examination and/or mental status evaluation in accordance with AR 40-501. A recommendation for separation must be supported by documentation confirming the existence of the physical or mental condition.

c. Separation processing may not be initiated under this paragraph until the soldier has been counseled formally concerning deficiencies and has been afforded ample opportunity to overcome those deficiencies as reflected in appropriate counseling or personnel records. (See para 1-18.)

d. Nothing in the paragraph precludes separation of a soldier having a condition as described in a above under any other provision of this regulation.

e. Prior to involuntary separation under this paragraph, the notification procedure in chapter 2, section II; or the administrative board procedure in chapter 2, section III, as appropriate, will be used.

f. For characterization or description of service, see paragraph 5-1.

g. Commanders specified in paragraph 1-21 are authorized to order separation under this paragraph. See paragraph 1-12 for additional instructions for ARNGUS and USAR soldiers. The criteria in chapter 1, section VIII, will govern whether the soldier will be released from AD or ADT with transfer to the IRR, or discharged.

Chapter 6 Separation Because of Dependency or Hardship

6-1. General

Separation under this chapter is for the convenience of the Government.