

Change

No. 4

HEADQUARTERS
DEPARTMENT OF THE ARMY
Washington, D.C., 21 January 1970

PERSONNEL SEPARATIONS
OFFICER PERSONNEL

Effective 1 March 1970

This change adds chapter 5 which provides procedures to eliminate officers from the Army for substandard performance of duty and for moral or professional dereliction or in interests of national security. This information was previously contained in AR 635-105. It also provides procedures for separation of officers for homosexuality previously contained in AR 635-89.

AR 635-100, 19 February 1969, is changed as follows:

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

Remove page

1-1 and 1-2
3-9 and 3-10
3-17 and 3-18

Insert pages

v and vi
1-1 through 1-3
3-9 and 3-10
3-17 and 3-18
5-1 through 5-23
A-1 through A-9
B-1 through B-6

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

*This change supersedes AR 635-105, 17 June 1968, including all changes and together with C 8, AR 635-212, 21 January 1970, supersedes AR 635-89, 15 July 1966, including all changes.

gic Communications Command, United States Army Security Agency, United States Army Intelligence Command, Military Traffic Management and Terminal Service, United States Army Air Defense Command, and United States Army Forces Strike Command.

j. Mandatory retirement. A retirement which is required by law, subject to certain contingencies as outlined in the law, and which must be effected regardless of the desire of the individual or Headquarters, Department of the Army, unless otherwise specifically provided by law. (Applies to Regular Army officers and warrant officers only.)

k. Officer. Unless otherwise indicated, means male or female commissioned and warrant officers.

l. Qualifying service. Service creditable for retired pay under AR 135-180.

m. Recommended for promotion.

(1) Officers in the Army National Guard of the United States who, have been selected for promotion to the next higher reserve grade by action of a promotion selection board, are considered to be recommended for promotion within the meaning of title 10, United States Code, subsections 3848b and 3851b, on the date the promotion selection board adjourns.

(2) Officers in the Army National Guard of the United States who have been appointed and federally recognized in a general officer grade in the Army National Guard are considered to be recommended for promotion within the meaning of the statutes cited in (1) above on the date the General Officer Federal Recognition Board adjourns or on the effective date of temporary Federal recognition.

n. Reserve components. The Army National Guard of the United States and the United States Army Reserve.

o. Voluntary retirement. Any type of retirement in a commissioned or warrant officer status which is optional with the individual service member.

***p. Substandard performance of duty.** Performance of duty which has fallen below standards prescribed by the Secretary of the Army. (Para 5-11 lists some deficiencies which indicate an officer does not meet required standards.)

***q. Moral or professional dereliction.** Conduct within the control of the individual concerned, which tends to bring the individual or the Army into disrepute. (Para 5-12 lists some standards of conduct indicative of moral or professional dereliction.)

***r. National security.** See definition contained in AR 604-10.

***s. Elimination.** Removal from commissioned or warrant status in the Army and removal from the active list of the Regular Army.

***t. Selection boards.** Boards of officers convened at Headquarters, Department of the Army, to review the records of officers. These boards select those who will be required to show cause for retention in the Army or recommend officers with less than 3 years' service for discharge.

***u. Boards of inquiry.** Boards of officers convened to give fair and impartial hearing to evidence concerning the fitness of an officer who has been required to show cause for retention and make findings and recommendation whether he shall be retained or eliminated.

***v. Boards of review.** Boards of officers convened to review cases of officers recommended for elimination by boards of inquiry to determine whether elimination or retention is warranted.

***w. Routing.** For the purpose of this regulation, all information to be forwarded to The Adjutant General will be sent, ATTN: AGPOSE, unless otherwise indicated.

***x. Homosexual act.** Bodily contact between persons of the same sex, actively undertaken or passively permitted by either or both with the intent of obtaining or giving sexual gratification, or any proposal, solicitation, or attempt to perform such an act.

5-5. Assignment of officer while elimination action is pending. When elimination action is initiated, the officer concerned will remain within his current major command until the case is closed, unless specific instructions to the contrary are issued by Headquarters, Department of the Army. See AR 600-31.

5-6. Second failure of selection for permanent promotion. Elimination of Regular Army and Army Reserve officers for second failure of selection for permanent promotion is governed by AR 635-100 and AR 635-120.

5-7. Elimination Chronology Sheet. When Headquarters, Department of the Army letter of notification that an officer is required to

show cause for retention or an officer is selected for elimination is forwarded to the field by The Adjutant General, the Elimination Chronology Sheet will be attached as a cover sheet and remain until the case is closed. This form will be used as a chronological record of time consumed in processing an elimination case and for reporting, in a concise manner, reasons for any unusual delays. It is essential that commanders and staff officers give immediate and specific attention to each case. Fairness to the individual and to his commander and the interest of the Army demand that an elimination case not be delayed or action postponed. Detailed instructions concerning the Elimination Chronology Sheet are contained on the reverse of the form.

Section III. MEDICAL PROCESSING

5-8. Medical condition. Members will not be processed under this regulation if, at the time of the conduct which is the basis of the proceedings, they were not so far free from mental defect, disease, or derangement with respect to the conduct in question as to be able to distinguish right from wrong, or entertain the specific intent which may be required by the conduct at issue, and additionally, to adhere to the right. If appropriate, they will be processed through medical channels. Further, members recommended for elimination for substandard performance of duty will be processed through medical channels rather than under this regulation if the conduct upon which their elimination would be based is the product of a physical condition, or mental condition less than insanity, which is deemed to medically incapacitate them for further military duty. A member will not be required to appear before a board of inquiry if, at the time, he does not possess sufficient mental capacity to understand the nature of the proceedings against him, and intelligently conduct or cooperate in his defense. In such circumstances proceedings will be delayed until the member recovers, or he will be processed through medical channels. Should a physical or mental condition develop subsequent to the forwarding of a recommendation that a member be eliminated, or the

completion of the proceedings of a board of inquiry, the appropriate commander will immediately notify The Adjutant General, Department of the Army. When it is considered that the officer's mental condition has contributed to his military inefficiency or unsuitability as specified, the medical evaluation will include a psychiatric study of the individual, when appropriate. When a psychiatric report is included, it will indicate whether the officer was able to distinguish right from wrong and adhere to the right at the time of the conduct under investigation, and whether he currently has the mental capacity to understand board and judicial proceedings and participate in his own defense. If it is determined that the officer is suffering from an incapacitating mental illness, the examiner should indicate whether that illness was probably the cause of the conduct under investigation.

5-9. Medical evaluation when homosexuality is involved. *a.* If the officer is being considered for separation under paragraph 5-12a(7) or (8), the medical evaluation including a psychiatric study of the individual will include the following:

(1) Personal history including, if any, a detailed account of development of homosexuality.

(2) Opinion regarding the existence of homosexuality.

(3) The psychiatrist will further render an opinion whether the individual should be-

(a) Eliminated from the service under the provisions of this regulation.

(b) Retained in service. If retention in the service is recommended, then, if considered appropriate, statement of the procedures likely to be of value in the individual's rehabilitation may be included.

(4) Psychiatric diagnosis, including an opinion whether the officer was able to distinguish right from wrong and adhere to

the right at the time of the conduct under investigation, and whether he currently has the mental capacity to understand board and judicial proceedings and participate in his own defense. If it is determined that the member is suffering from an incapacitating mental illness, the examiner should indicate whether the illness was probably the cause of the homosexual conduct under investigation.

b. A copy of the medical evaluation to include the psychiatric study will be filed with the individual's health record. The medical treatment facility commander will forward the original of this evaluation report to the unit commander.

Section IV. REASONS WHICH REQUIRE ELIMINATION

5-10. General. Retention of officers who are substandard in performance of duty or conduct, deficient in character, or otherwise unsuited for military service cannot be justified in peace or war. The same standards of efficiency and conduct are applicable to officers regardless of component.

5-11. Substandard performance of duty. While not all inclusive, existence of one of the following or similar conditions, unless successfully rebutted, authorizes elimination of an officer due to substandard performance of duty:

a. Downward trend in overall performance resulting in an unacceptable record of efficiency or a consistent record of mediocre service indicating officer has reached his zenith of potential.

b. Failure to keep pace or to progress with contemporaries, such a successive promotion failure or a low record of efficiency when compared with other officers of the same grade, branch, and length of service.

c. Failure to exercise necessary leadership or command expected of an officer of his grade.

d. Failure to assimilate technical proficiency required of his grade.

e. Failure to discharge properly assignments commensurate with his grade and experience.

f. Apathy, defective attitudes, or other character disorders to include inability or unwillingness to expend effort.

5-12. Moral or professional dereliction or in interests of national security. a. While not all inclusive, existence of one of the following or similar conditions, unless successfully rebutted, authorizes elimination of an officer due to moral or professional dereliction or in the interests of national security:

(1) Discreditable intentional failure to meet personal financial obligations.

(2) Mismanagement of personal affairs detrimentally affecting the performance of duty of the officer concerned.

(3) Mismanagement of personal affairs to the discredit of the service.

(4) Intentional omission or misstatement of fact in official statements or records, for the purpose of misrepresentation.

(5) Acts of intemperance.

(6) Acts of personal misconduct.

(7) Commission or attempted commission of a homosexual act. (Includes cases in which personnel have engaged in one or more homosexual acts during military service. No distinction is made in the handling of such cases based upon the active or passive participation of the individuals.)

(8) Existence of homosexual tendencies.

This category includes cases of personnel who have not engaged in a homosexual act during military service, but have a verified record of preservice homosexual acts.

(9) Intentional neglect of or failure to perform duties.

(10) Conduct unbecoming an officer.

(11) Acts or behavior not clearly consistent with the interests of national security (see AR 604-10).

b. When one or more of the reasons enumerated in a(1) through (7) or (9) above is alleged, if the circumstances which form the basis thereof indicate that the reason in item (10) also is involved, it will constitute additional reason for requiring elimination.

5-13. Derogatory information. *a.* Any one of the following or similar reasons gives rise to serious doubt as to the advisability of permitting the officer concerned to retain a commission or warrant and requires a review of his overall record. This is to determine if such derogatory information, when viewed in con-

junction with other aspects of his record, warrants recommendation for elimination.

(1) Punishment under Uniform Code of Military Justice, Article 15.

(2) Conviction by court-martial.

(3) Denial of security clearance (see para 5-31b).

(4) Special derogatory efficiency report. See paragraph 2-2f, AR 623-105.

(5) Failure to be considered by a promotion selection board as fully qualified for promotion to any grade in the Army of the United States, Army Reserve, or Regular Army.

(6) Failure by a Regular Army officer of a course at a service school. For failure by a Reserve component officer, see section II, chapter 3.

b. Standing alone, one of these conditions may not support elimination. On the other hand, it may combine with other known deficiencies to form a pattern which, when viewed in relation to an individual's overall record, requires elimination.

Section V. INITIATION OF ELIMINATION ACTION

5-14. Recommendation for elimination. *a.* Elimination action may be originated by an appropriate agency at Headquarters, Department of the Army, regardless of an officer's assignment or station, or by a commander with respect to a member of his command.

b. Headquarters, Department of the Army agencies will forward their recommendations direct to The Adjutant General. Commanders will forward their recommendations for elimination through channels to the first commander exercising general court-martial jurisdiction over the officer. The following actions will be taken prior to forwarding:

(1) Notify the officer that a recommendation for elimination has been initiated, advising him of the factual allegations supporting the recommendation.

(2) Provide the officer a period not to exceed 7 days (the officer may request additional time for good cause) in which to prepare a written statement, with the assistance of either an officer of the Judge Advocate

General's Corps or civilian counsel of his own selection obtained by him at no expense to the Government, indicating any pertinent facts or submitting any rebuttal bearing on the question of his elimination. This statement may be sworn or unsworn and will be forwarded with the recommendation for elimination to The Adjutant General or the officer exercising general court-martial jurisdiction as appropriate.

c. Upon receiving the recommendation for elimination and officer's statement, the commander exercising general court-martial jurisdiction will-

(1) Return the case with recommendations as to appropriate action;

(2) Disapprove the recommendation and close the case ; or

(3) Approve the recommendation and offer the officer the options in paragraph 5-19b (1) or (3).

(*a*) If the officer elects one of the options, the option and all elimination papers

commendation for elimination which has already been considered by a selection board will, if the case has not been closed, be referred to a selection board for consideration. If the case has already been closed, appropriate action to initiate new proceedings may be undertaken, subject to paragraph 5-4.

i. Regardless of who initiates a recommendation for elimination the general court-martial authority will ascertain the identity and whereabouts of Government witnesses and make reasonable efforts to insure their availability to appear before a board of inquiry.

5-15. Investigation of homosexuality. *a.* A commanding officer receiving information that an individual under his command is a homosexual or has engaged in an act of homosexuality, will inquire thoroughly and comprehensively into the matter and ascertain all the facts in the case, bearing in mind the peculiar susceptibility of such cases to possible malicious charges. Any investigation required, normally, should be referred to the local provost marshal for investigation and recording on DA Form 2800 (CID Report of Investigation (Military Police)). The facts and circumstances of each case will govern the commander's decision as to the appropriate agency of investigation. If the information available is of sufficient stature to warrant investigation the commander will take necessary action to protect the security of his command to include suspension of security clearance, if any, and denial of access to classified defense information pending completion of actions on the case. When the report of investigation substantiates such allegations, the commanding officer will refer the individual for medical evaluation,

revoke his security clearance, if any, and prepare a memorandum for the record outlining action taken and forward it with the subject's revoked Certificate of Clearance and/or Security Determination Under EO 10450 (DA Form 873) to the Commanding Officer, U.S. Army Investigative Records Repository, Fort Holabird, MD 21219. Revocation of security clearance will be in accordance with paragraph 24b, AR 604-5.

b. It is essential that all facts indicating homosexual tendencies, or acts, be recorded properly. The file will consist of the following documents in addition to that required by AR 635-120:

(1) Report of investigation will include but not be limited to-

(*a.*) Statement of date and place of birth.

(*b.*) Amount of active service.

(*c.*) Date and current period of service.

(2) Statements of witnesses (see UCMJ, art. 31).

(3) Medical evaluation reports as specified in paragraph 5-9.

(4) An individual's statement in his own behalf, if it is desired.

5-16. Prompt action. Subsequent to original initiation of elimination action, succeeding actions required to dispose of the case will be attended to vigorously. Delays will be explained on Elimination Chronology Sheet. Except for delays required to protect the rights of respondents, prompt attention and expeditious handling will be given to elimination cases.

Section VI. ACTIONS SUBSEQUENT TO SELECTION BOARD DETERMINATION

5-17. Action by The Adjutant General. *a.* If an officer recommended for elimination is not designated by the selection board to show cause, The Adjutant General will close the case and notify the commander who so recommended.

b. If an officer is required to show cause for retention, The Adjutant General will notify the appropriate major commander and furnish copies of the selection board's findings and recommendations, and of documents pertinent to the case.