

2101.7

CHANGE }

NO. 24 }

HEADQUARTERS  
DEPARTMENT OF THE ARMY  
WASHINGTON, DC, 1 June 1978

PERSONNEL SEPARATIONS

OFFICER PERSONNEL

*Effective in accordance with messages superseded below*

*Chapters 3, 4 and 5 have been changed throughout. Major changes include the policy to extend the mandatory release date for Reserve officers who are selected, prior to completing 20 years active Federal service, for attendance at a staff college level school, senior service college or selected by a DA Command Selection Board for a command position. Provisions have been added to extend Reserve officers beyond the mandatory release dates established because of two-time non-selection for temporary promotion when undergoing reconsideration for promotion by a DA Standby Advisory Board. This change adds the requirement for counseling pregnant members. The policy regarding unaccompanied oversea tours prior to retirement has been changed in chapter 4.*

AR 635100, 19 February 1969, is changed as follows:

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

<i>Remove pages</i>	<i>Insert pages</i>
3-9 through 114 .....	3-9 through 3-14
3-17 through 3-22 .....	3-17 through 3-22.1
3-29 and 3-30 .....	3-29 through 330.2
4-5 and 4-6 .....	4-5 and 4-6
4-8.1 .....	4-8.1
4-9 and 4-10 .....	4-9 through 4-10.1
5-1 and 5-2 .....	5-1 and 5-2
5-5 through 5-12 .....	5-5 through 612

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

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• This change supersedes DA message (DAPC-MSS-R) 2014002 Jul 77, Subject: Changes to AR 635-100 and AR 635200: D.4 message (DAPC-MSF-RS) 3112152 Aug 77, Subject: Interim Change to AR 635-100, Personnel Separations, Officer Personnel; DA message (DAPC-MSF-RS) 071420Z Oct 77, Subject: Interim Change to AR 635-100, Personnel Separations, Officer Personnel; DA message (DAPC-MSS-RS) 2019052 Oct 77, Subject: Interim Change to AR 635-100, Personnel Separations, Officer Personnel; DA message (DAPC-MSF-RS) 12 1300Z Jan 78, Subject: Interim Change 24-1 to AR 635-100, Personnel Separations, Officer Personnel; DA message (DAPC-MSS-RS) 2014302 600 78, Subject: Interim Change to AR 635-100, Personnel Separations, Officer Personnel; and DA message (DAPC-MSF-RS) 192 100Z Apr 78, Subject: Interim Change 24-2 to AR 635-100, Personnel Separations, Officer Personnel; and Interim Change 14-1 to AR 635120, Personnel Separations, Officer Resignations and Discharges, as pertains to chapter 3, AR 635-100.

of dress, personal appearance, and military deportment.

**S-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 obligation.

(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) **Rescinded.**

(6) Acts of personal misconduct (including, but not limited to, acts committed while in a drunken or drug intoxicated state).

(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 verified record of preservice homosexual acts.

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

(10) Conduct unbecoming an officer.

(11) Conduct or actions resulting in the loss of a professional status, such as withdrawal, suspension or abandonment of professional license, endorsement, or certification which is directly or indirectly connected with the per-

formance of one's military duties and necessary for the performance thereof.

★(12) Acts or behavior not clearly consistent with the interests of national security (see AR 604-10 for substantive criteria).

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 conjunction 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 evaluation report. See paragraph 2-2f, AR 623-105.

(5) Failure to be recommended by a promotion selection board 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

Military Justice or elimination proceedings pursuant to this regulation. The fact that elimination proceedings were initiated when disciplinary action could have been taken will not affect the validity of the elimination proceedings; however, elimination action will not be used in lieu of disciplinary action solely to spare a member, who may have committed serious misconduct, the harsher penalties which may be imposed under the Uniform Code of Military Justice. Conduct which was the subject of judicial or nonjudicial punishment may be the basis of elimination proceedings under this regulation; however, elimination proceedings will not be initiated with respect to conduct which is the subject of charges unless the charges are dismissed *or* appellate review has been completed.

*g.* The recommendations for elimination received from commanders and Headquarters, Department of the Army, agencies will be reviewed in Headquarters, Department of the Army. The following action may be taken:

(1) The case may be returned for further evidence or with a recommendation as to further action;

(2) The recommendations may be disapproved in which case CG, MILPERCEN will notify those concerned that the case is closed; or

(3) The recommendation may be referred to an appropriate selection board. The selection board will consider the recommendation for elimination and all supporting evidence, the overall record of the officer, and the officer's statement to determine whether he should be required to show cause for retention in the Army.

*h.* New allegations received in Headquarters, Department of the Army, supporting a recommendation 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 where-

abouts of Government witnesses and make reasonable efforts to ensure 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 letter report outlining action taken and forward it with the officer's revoked Certificate of Clearance and/or Security Determination Under EO 10450 (DA Form 873) to the **Cdr**, US Army Intelligence Agency, ATTN: IACI-CAR, Fort George G. Meade, MD 20755. Revocation of security will be in accordance with chapter 4, 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-

(u) 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 ac-

tions 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 CC MILPERCEN.** *a.* If an officer recommended for elimination is not designated by the selection board to show cause, The CG MILPERCEN will close the case and notify the commander who so recommended.

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

**5-18. Actions by major commander.** *a.* Refer the letter of notification and all inclosures to the first commander exercising general court-martial jurisdiction over the officer concerned.

*b.* Process election for a board of inquiry.

*c.* Appoint boards of inquiry. Authority is delegated to the major commander to appoint boards of inquiry within his command. The major commander may utilize any Army officer on duty within the geographic limits of his command to compose the board (see tables 5-1 and 5-2). Concurrence will be obtained from appropriate major commander when officers assigned to a different major command are utilized on a board of inquiry. (Functions and composition of boards of inquiry are contained in sections X, XI, XII, XIII, this chapter.)

*d.* Advise members of the board of inquiry that duty on the board takes priority over all other duties unless exigencies of the service or other circumstances preclude such duty.

*te.* Furnish written report personally signed by the major commander to Cdr, MILPERCEN whenever a case is delayed beyond the time established by this chapter, giving reasons

therefor. All exceptions must be approved by Headquarters, Department of the Army.

**5-19. Actions by first commander exercising general court-martial jurisdiction.** *a. Notify the officer.* The first commander exercising general court-martial jurisdiction will notify the officer concerned that he is required to show cause for retention and will furnish him a copy of the selection board's findings and recommendations, and of releasable documents pertinent to the case.

*b. Secure acknowledgment from the officer.* Within 5 days of receipt of notification, the officer will be required to acknowledge receipt of such notice and elect an option from (1) through (4) below:

(1) Tender resignation (chap. 4 AR 635-120); *or*

(2) Request discharge (applicable only to Regular Army commissioned officers) (chap. 10, AR 635-120); *or*

(3) Apply for retirement in lieu of elimination, if otherwise eligible for voluntary retirement (format for voluntary retirement is fig. 4-1 and will be amended to specifically state that application is submitted in lieu of elimination); *or*

★(4) Appear before a board of inquiry to show cause for retention, in which event officers will state they understand that the board will be convened not earlier than 30 days from date of respondent's receipt of notification to show cause by the commander exercising general court-martial jurisdiction. Officers will further indicate that they understand that their appearance before a board of inquiry represents their only opportunity to appear person-