

CHANGE
No. 5

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, 1 May 1982

PERSONNEL SEPARATIONS
ENLISTED PERSONNEL

Effective 1 June 1982

This change contains changes to chapters 1, 5, 6, 8, and 13 concerning transfer to the IRR in lieu of discharge policies and expands the policy to apply to those ARNGUS and USAR members who are separated while serving under a contractual obligation only as distinct from a statutory obligation; restates the separation policy for the purpose of acceptance into the senior ROTC program; changes the criteria on EDP and unsuitability-apaty to make transfer to the IRR mandatory in the case of members who have completed BT or 8 weeks of one station training/one station unit training and whose service is characterized as honorable; clarifies guidance concerning separation by reason of pregnancy; and deletes the requirement for a mental status evaluation for a chapter 10 discharge unless the member requests a physical examination. These changes were announced by the immediate action interim changes superseded below.

Interim changes are not official unless they are authenticated by The Adjutant General. Users will destroy interim changes on their expiration dates unless sooner superseded or rescinded.

AR 635-200, 21 November 1977 is changed as follows:

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

<i>Remove pages</i>	<i>Insert pages</i>
i through iv	i through v
1-1 through 1-4	1-1 through 1-4.1
1-13 and 1-14	1-13 and 1-4.1
1-17 through 1-20	1-17 through 1-20.1
5-1 and 5-2	5-1 and 5-2.1
5-5 through 5-8	5-5 through 5-8.1
5-11 through 5-16	5-11 through 5-16
5-19 through 5-22	5-19 through 5-22
6-1 and 6-2	6-1 through 6-3
6-5 and 6-6	6 - 5
8-1 through 8-4	8-1 through 8-5
10-1 and 10-2	10-1 and 10-2
13-1 and 13-2	13-1 through 13-3
14-7 and 14-8	14-7 through 14-9
15-1 and 15-2	15-1 through 15-2.1

*This change supersedes Immediate Action Interim Change 101 dated 30 September 1981 and Immediate Action Interim Change 102 dated 24 November 1981 to AR 635-200.

CHAPTER 15
SEPARATION FOR HOMOSEXUALITY

Section I. GENERAL

15-1. Purpose. This chapter establishes policy and provides procedures and guidance for separation of enlisted personnel by reason of homosexuality.

15-2. Policy. *a.* Homosexuality is incompatible with military service. The presence in the military environment of persons who engage in homosexual conduct or who, by their statements, demonstrate a propensity to engage in homosexual conduct, seriously impairs the accomplishment of the military mission. The presence of such members adversely affects the ability of the armed forces to maintain discipline, good order, and morale; to foster mutual trust and confidence among members; to insure the integrity of the system of rank and command; to facilitate assignment and worldwide deployment of members who frequently must live and work under close conditions affording minimal privacy; to recruit and retain members of the armed forces; to maintain the public acceptability of military service; and to prevent breaches of security.

b. Nothing in this chapter precludes separation in appropriate circumstances for another reason.

c. The provisions of this chapter do not preclude trial by court-martial in appropriate cases.

15-3. Definitions. For the purpose of this chapter the following apply:

a. Homosexual means a person, regardless of sex, who engages in, desires to engage in, or intends to engage in homosexual acts.

b. Bisexual means a person who engages in, desires to engage in, or intends to engage in homosexual and heterosexual acts.

c. A homosexual act means bodily contact, actively undertaken or passively permitted, between members of the same sex for the purpose of satisfying sexual desires.

15-4. Criteria. The basis for separation may include preservice, prior service, or current service conduct or statements. A member shall be separated under the provisions of this chapter if one or more of the following approved findings is made:

a. The member has engaged in, attempted to engage in, or solicited another to engage in a homosexual act or acts unless there are approved further findings that:

(1) Such conduct is a departure from the members usual and customary behavior;

(2) Such conduct under all circumstances is unlikely to recur because it is shown, for example, that the act occurred solely as a result of immaturity, intoxication, coercion, or a desire to avoid military service;

(3) Such conduct was not accomplished by use of force, coercion, or intimidation by the member during a period of military service;

(4) Under the particular circumstances of the case, the member's continued presence in the Service is consistent with the interest of the Service in proper discipline, good order, and morale; and

(5) The member does not desire to engage in or intend to engage in homosexual acts.

b. The member has stated that he is a homosexual or bisexual unless there is a further finding that the member is not a homosexual or bisexual.

c. The member has married or attempted to marry a person known to be of the same biological sex (as evidenced by the external anatomy of the persons involved) unless there are further findings that the member is not a homosexual or bisexual (e.g., where the purpose of the marriage or attempt to marry was the avoidance or termination of military service).

15-5. Type of discharge. *a.* A discharge under other than honorable conditions may be issued in

accordance with guidance on misconduct found in paragraph 14-39, if there is a finding that during the current term of service the member attempted, solicited, or committed a homosexual act:

- (1) By using force, coercion, or intimidation;
- (2) With a person under 16 years of age;
- (3) With a subordinate in circumstances that violate customary military superior-subordinate relationships;
- (4) Openly in public view;
- (5) For compensation;
- (6) Aboard a military vessel or aircraft; or
- (7) In another location subject to military control pursuant to a finding that the conduct had, or was likely to have had, an adverse impact on discipline, good order, or morale due to the close proximity of other members of the Armed Forces

under circumstances in which privacy cannot reasonably be expected.

b. In all other cases, the type of discharge will reflect the character of the member's service, in accordance with section III, chapter 1.

15-6. Discharge authority. *a.* Commanders exercising general court-martial convening authority or higher are authorized to order separation for homosexuality Under Other Than Honorable Conditions. In all other cases, commanders exercising special court-martial convening authority or higher are authorized to order separation for homosexuality.

b. HQDA approval is required before members who have completed 18 or more years of active Federal service may be discharged.

Section III. PROCEDURES

15-7. Action by unit commander. If there is any credible evidence to believe that a basis for separation exists, as outlined in paragraph 15-4 the unit commander of the member will:

a. 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. A case may be referred to the local provost marshal for investigation and recording on DA Form 2800 (CID Report of Investigation), if the commander so desires. The facts and circumstances of each case will govern the commander's decision as to the appropriate agency of investigation. Suspension of favorable personnel action will be initiated in accordance with AR 600-31, unless the appropriate commander determines the allegation is baseless.

b. If the immediate commander determines, based on his inquiry, that probable cause for separation exists, he will report the fact, in letter form, to the officer-exercising special or general courts-martial jurisdiction, as appropriate, through the intermediate commanders, furnishing the following:

- (1) Name, grade, SSN, age, date of enlistment, length of term for which enlisted (if applicable) and prior service.

- (2) Reason for action recommended. General, nondescriptive terms will not be used.

- (3) Statement indicating whether the member has a Reserve commission or a warrant. (If so, show grade and date of appointment.)

- (4) Aptitude area scores, and duty military occupational specialty (MOS).

- (5) Record of trials by court-martial.

- (6) Record of other disciplinary action. (Include record of nonjudicial punishment.)

- (7) A report of medical examination as prescribed by chapter 10, AR 40-501.

- (8) A statement by the member indicating that he has been advised of his rights (para 1-18).

- (9) Any other information pertinent to the case.

c. Take action as specified in paragraph 1-18. Also figure 1-2.

d. Insure that mental status evaluation is obtained as prescribed in paragraph 1-39, when a member is to be processed for separation.

e. If the information available is sufficiently credible to warrant investigation, take necessary action to protect the security of his command, including suspension of security clearance (if any)

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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 report the circumstances of the case to the Commander, US Army, Central Personnel Security Clearance Facility (CCF), ATTN: PCCF-P, Ft Meade, MD 20755, for a determination as to whether the member's clearance should be revoked in accordance with AR 604-5. Suspension and recommendation for revocation of security clearance will conform to instructions contained in CCF Letter of Instruction (LOI) 80-1.

15-8. Action by intermediate commanders. The intermediate commanders may take one of the following actions:

a. Disapprove the recommendation because there is no sufficient evidence that one or more of the circumstances authorizing separation under paragraph 15-4 has occurred.

b. Approve the commanding officer's recommendations and forward the report to the com-

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

The proponent agency of this regulation is the US Army Military Personnel Center. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) direct to HQDA (DAPC-POS-RR) Alexandria, VA 22332.

By Order of the Secretary of the Army:

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