

Information Paper

OSJA
28 January 2011

SUBJECT: Administrative Separations –New and Critical Procedures and Mandates

1. Purpose. To provide a summary of special procedures for administrative separations of officer and enlisted personnel published in recent rapid revisions of AR 635-200 and AR 600-8-24, as well as special requirements found in other regulations or DoD Instructions.

2. References.

- a. AR 600-20 Army Command Policy (Rapid Revision 27 Apr 10)
- b. AR 635-200 Active Duty Enlisted Administrative Separations (Rapid Revision 27 Apr 10)
- c. AR 600-8-24 Officer Transfers and Discharges (Rapid Revision 27 Apr 10)
- d. AR 600-85 The Army Substance Abuse Program (Rapid Revision 2 Dec 09)
- e. DoD Instruction 1332.14 (dated 28 Aug 08)

2. Background. In recent years, there have been a number of new requirements imposed on commanders when initiating administrative separations of enlisted and officer personnel. Some, but not all, of these requirements have been incorporated into the respective administrative separation regulations by rapid revisions dated as recently as April 2010.

3. Discussion.

a. **Sexual Assault Victim:** The rapid revisions of AR 600-8-24 paragraphs 1-34a and 1-34b and AR 635-200 paragraphs 1-15d and 1-15e require commanders who initiate an administrative separation of any Soldier must include a statement indicating whether or not the Soldier made an unrestricted report of sexual assault within the 24 months preceding initiation of separation. See also AR 600-20 paragraph 8-5o(26). AR 635-200 at figures 2-4 and 2-5, incorporated this language into the template of election of rights form and the initiating commander's recommendation memorandum. AR 600-8-24 at figure 1-2, provides a sample memorandum to be included in the separation packet in addition to the other required documents.

If the Soldier indicates that he or she was a victim of sexual assault, the separation authority must address the following in a separate memorandum: 1) whether the Soldier believes the initiation of separation is in retaliation of the report of sexual assault; 2) whether the separation is for a medical or mental condition related to the sexual assault; 3) whether the separation is in the best interest of the Army, the Soldier or both; and 4) the status of the case against the alleged offender. See AR 600-8-24 paragraph 1-34b, AR 635-200 paragraph 1-15e, and AR 600-20 paragraph 8-5o(27). Each commander in the chain of command must include a statement certifying that he/she has reviewed the administrative separation packet of every Soldier who has made an unrestricted report of sexual assault. Finally, AR 635-200, paragraph 1-19n elevates the separation authority to the general court martial convening authority if an unrestricted report of sexual assault was made with 24 months of initiation of separation.

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b. **Drugs and Alcohol:** AR 600-85 paragraph 1-7c(7) mandates initiation of separation of any Soldier who has abused illegal drugs, been involved in two serious incidents involving alcohol within 12 months, or a Soldier who has been involved in illegal trafficking, distribution, possession, use, or sale of illegal drugs. Under these circumstances, commanders have discretion to retain the Soldier. However, if a Soldier has tested positive for illegal drugs for a second time or is convicted of a DUI/DWI for a second time during the Soldier's career, the commander SHALL administratively separate the Soldier from the Army. Under these circumstances, a Soldier may be retained ONLY by an administrative separation board or by the first general officer in the Soldier's chain of command. This authority may not be delegated. At least one of the DUI/DWI convictions or positive drug tests must have occurred after 17 February 2009 (effective date of this change to AR 600-85). These requirements are not addressed in either AR 635-200 or 600-8-24 and therefore reference to AR 600-85 is required for compliance. If the commander learns of a Soldier's illegal drug use through the Soldier's self-referral and admissions, the requirement to initiate separation proceedings will not apply. The unit commander may initiate separation, but the information is protected by the Limited Use Policy. AR 600-85 para 10-12(e).

c. **Mental Disorders:** The rapid revision of AR 635-200, paragraphs 5-13a, 5-13g, 5-17a and 5-17g incorporated restrictions published in DoDI 1332.14 regarding separating a Soldier with a personality disorders and other designated mental conditions. The limitations discussed below apply only to separations of enlisted personnel.

(1) A Soldier who has served or who is currently serving in an imminent danger pay area and who has less than 24 months of active duty service, may not be separated under chapter 5-13 unless the diagnosis of personality disorder is diagnosed by a psychiatrist or doctoral-level clinical psychologist and is corroborated by the Medical Treatment Facility (MTF) Chief of Behavioral Health (or an equivalent official). The diagnosis must then be forwarded to the Director, Proponency of Behavioral Health, Office of the Surgeon General for final confirmation. If this review reveals that PTSD, traumatic brain injury (TBI), and/or other comorbid mental illness is a significant contributing factor to the diagnosis or personality disorder, the Soldier will not be processed for administrative separation under this paragraph. Instead, the Soldier will be evaluated under the physical disability system in accordance with AR 635-40. The separation authority for Soldiers separated under 5-13 who are, or have been, deployed to an imminent danger pay area is the GCMCA. In all other cases, the Separation Authority is the SPCMCA

(2) Commanders must comply with the same procedures and restrictions outlined in paragraph c(1) above when considering separation of an enlisted Soldier under chapter 5-17 who has 24 or more months of active duty service.