



OFFICE OF THE JUDGE ADVOCATE GENERAL **LEGAL ASSISTANCE POLICY DIVISION**



BARS TO CONTINUED SERVICE

If a Soldier engages in an act of misconduct or is simply not performing to the standard expected of Soldiers, his or her commander may consider them “untrainable or unsuitable” and therefore, has the authority to issue a “Bar to Continued Service” under Army Regulation 601-280, Army Retention Program, chapter 8... If a Soldier commits any specific acts, listed in AR 601-280, para. 8-4d such as two consecutive APFT failures, substandard appearance, substandard hygiene, lateness returning from pass, and so forth the Soldier can be barred from continued service. Bars will also be initiated for Soldiers being chaptered out of the Army under 635-200, Active Duty Enlisted Administrative Separations.

Q: What is the purpose of a Bar to Reenlistment?

A: A Bar is a way for a Commander to say to a Soldier, “You’re not doing what is right. Whether I take any action to remove you from the Army, or not, you’re probably not a person who should remain in the U.S. Army, any further than your current contract.” However, a Bar is intended to be a “rehabilitative” tool; it is not a procedure that should be used to punish someone. A Soldier should be counseled on what he has done wrong, what he needs to do to get right, and then and given an opportunity to over- come the bar.

Q: What are the procedures for a Bar to Reenlistment?

A: A commander will initiate a Bar on a Soldier by filing a DA Form 4126-R. The Soldier will also be flagged, at the same time under AR 600-8-2, Suspension of Favorable Personnel Actions (FLAG). The DA Form 4126-R, Bar to Continued Service, should be provided to the Soldier, because the Soldier and the Soldier should be counseled by the commander, verbally and in writing, using a DA Form 4856 counseling statement, because the Soldier has seven (7) days to submit any response or rebuttal. You should do so if you believe the Bar has been wrongfully given to you.

After that, the Bar will be reviewed, after three (3) months, by the commander, to determine whether the Soldier has overcome the Bar. The commander may lift it, or he may retain it and review it, three months, later.

Q: What are the consequences of a Bar to Reenlistment?

A: First and most importantly, you will not be permitted to re-enlist. That will make you ineligible for any selective reenlistment bonuses (SRBs) being offered by the Army. If you have less than three years remaining in your contract, you would also be ineligible to PCS to overseas assignments that would last for three years. To PCS to Alaska, Hawai'i, Germany or Japan, a Soldier normally incurs a three-year obligation to the Army, and that would not be possible, since you cannot give the Army a three-year commitment.

But the failure to overcome a bar to reenlistment may be grounds for involuntary separation from the Army. If the Bar remains in place, at the first review, the Soldier should be counseled and advised that, if he fails the second review, he may be processed for involuntary separation from the Army.

Q: Are there grounds to appeal or fight a Bar to Reenlistment?

A: Yes. If there were no grounds for the Bar, in the first place, or if the procedures were not followed, the Soldier can file a statement, at the initial implementation of the Bar, objecting to it. If the Soldier has less than 10 years active Federal service, the Bar and this statement will then be forwarded up the chain of command to the next highest commander, for review. If the Soldier has more than 10 years active Federal service, the Bar will be reviewed by the first General Officer in the Soldier's chain of command, or by the Officer exercising General Court-Martial Convening Authority. A Soldier may also file written objection, if the Bar is not subsequently lifted, if he has otherwise met all requirements given to him or her in order to lift the Bar.

For more information on bars to continued service, please make an appointment with your local legal assistance office to speak with an attorney.

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