



Legal Briefs

From the Fort Knox Legal Assistance Office

BARS TO REENLISTMENT

What is a Bar to Reenlistment?

A bar to reenlistment is the administrative tool Commanders use to deny reenlistment to Soldiers thought to be substandard and is considered a punitive action. Army Regulation (AR) 601-280 as well as Army Directive 2016-19 set forth policies and procedures for the Army's retention/reenlistment program. The AR is clear that only Soldiers of "high moral character, personal competence, and demonstrated adaptability" to the requirements of military service will be reenlisted into the Army. With that standard, the AR authorizes bars for Soldiers whose immediate separation is not warranted, but whose reenlistment is not in the best interest of the Army.

The AR requires that all Soldiers be evaluated under the "whole person" concept. The focus is on service beyond ETS, not on forcing the Soldier out prior to ETS.

A bar will not normally be initiated against a Soldier during the last 30 days before ETS. However, if a Commander does initiate a bar within the 30 day ETS window, the bar will contain an explanation as to why the bar was not initiated at an earlier date. Honorable service (the absence of misconduct) does not prevent a bar to reenlistment.

What are the criteria?

There are three criteria justifying initiation of a Bar to Reenlistment. In accordance with AR 601-280, bars are appropriate for Soldiers who are 1) untrainable; 2) unsuitable; or 3) unable to develop a family care plan. Untrainable simply means the particular Soldier has, despite repeated attempts, failed to meet minimum professional standards. Inability to perform basic tasks associated with their MOS, repeated failure of the Army Physical Fitness Test, or repeated failure to qualify with their assigned weapon are all examples of untrainability.

Unsuitability is different in that the focus is more on attitude and motivation. The focus is on whether the Soldier presents proper military bearing and whether the Soldier refuses, or is otherwise unable, to adapt to the military lifestyle. Questionable off-duty conduct not amounting to misconduct may justify a bar on this ground.

Third, single Soldiers with dependent family members or dual military couples with dependents, who are unable to craft an acceptable family care plan, are subject to a bar. A bar should be based on specific incidents which are substantiated by official remarks made at the time that the incidents occurred.

Procedures:

Any Commander in a Soldier's chain of command may initiate a bar. Normally, the Soldier's Company-level Commander will initiate the action because that Commander is most likely to have direct contact with the Soldier, and be most aware of the Soldier's successes and shortcomings.

A bar is initiated using DA Form 4126-R. Once the bar is initiated, the Commander will present it to the Soldier. The Soldier will then have 7 days to submit a rebuttal statement. If the Commander determines the bar is still warranted, it will be forwarded up the chain of command for approval or disapproval. For Soldiers with less than 10 years of active Federal service, the first Commander in the grade of lieutenant colonel (usually the battalion-level Commander) will approve, or disapprove, the bar. For Soldiers with 10 or more years of active Federal service, the approval authority is the first general officer in the Soldier's chain of command, or the Commander with authority to

convene a general court-martial over the Soldier, whichever is most direct to the Soldier. Any of these higher level Commanders may disapprove the proposed bar. A Soldier will automatically be “flagged” IAW AR 600-8-2 upon receiving a bar to reenlistment.

An approved bar is placed in the Soldier’s local personnel file. The approved bar will be reviewed at the end of 3 months, if not before, and will be removed or continued. Usually, the company-level Commander will review the bar and make a recommendation to the Commander who approved it. Once approved, only the approving Commander or a higher Commander may remove the bar. If the bar is continued, the Soldier may request voluntary separation from the Army. If the Soldier does not request separation, the continued bar will be reviewed a second time at the end of another 3 months. If at that time the bar is not removed, involuntary separation proceedings will be initiated. Soldiers with more than 18 years of active Federal service will not be separated prior to retirement.

If a Soldier is separated with a bar to reenlistment in place, a copy of the DA 4126-R will be scanned into iPERMS and placed within the Soldier’s AMHRR.

Appeals:

Soldiers may appeal approved bars. Separation proceedings will be halted pending final action on the appeal. For Soldiers with less than 10 years active Federal service, the appeal authority is the first colonel (brigade Commander) or general officer in the Soldier’s chain of command, or the Commander exercising general court-martial convening authority over the Soldier, whichever is most direct. For Soldiers with 10 or more years of active Federal service, the appeal authority is the Commanding General, Personnel Command (PERSCOM).

Appeals should rebut the allegation(s) of untrainability, unsuitability, or absence of a family care plan. The focus should be on presenting the picture of a Soldier who is motivated, hard working, and otherwise committed to being a professional soldier. The big picture is to show that the Soldier wants to stay in the Army, and that it is in the best interests of the Army to have the Soldier stay. Professionalism and commitment to excellence are the standard. The Soldier’s appeal should focus on what the Soldier has done to excel and to overcome the deficiencies, which prompted the bar.

What Legal Assistance Can Do:

We can help with the preparation of rebuttal statements and with appeals. If you have any questions concerning these matters, please call the Legal Assistance Office for an appointment at (502) 624-2771 or visit our website at www.knox.army.mil/center/sja/. Our hours of operation are Monday, Tuesday, Wednesday and Friday, 0900 – 1600, and Thursdays 1300-1600. The Fort Knox Legal Assistance Office is located in Building 1310, Pike Hall at the corner of Knox and Third Street.
