



# Kaiserslautern Legal Assistance Office



Please note that this Information Paper only provides basic information and is not intended to serve as a substitute for personal consultation with an attorney qualified to practice in this area of law.

## BARS TO REENLISTMENT

### What is a Bar to Reenlistment?

A Bar to reenlistment is the administrative tool commanders use to deny reenlistment to soldiers assessed to perform at a substandard level. The Bar to Reenlistment is not a punitive action but rather a rehabilitative tool. Army Regulation (AR) 601-280 sets forth policies and procedures for the Army's retention and reenlistment program. The AR states that only soldiers of "high moral character, personal competence, and demonstrated adaptability" will be reenlisted into the Army. 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 focus is on service beyond ETS, not on forcing the soldier out prior to ETS. Honorable service (the absence of misconduct) does not prevent a Bar to reenlistment.

### What are the criteria for a Bar to Reenlistment?

Soldiers should be evaluated under the "whole person" concept as set forth in AR 601-280, paragraph 3-7. Factors considered in this concept include patterns of disciplinary incidents, recent conduct and performance, aptitude, and potential for future service. There are three criteria justifying initiation of a Bar to Reenlistment. Bars to Reenlistment are appropriate for soldiers who are 1) untrainable; 2) unsuitable; or 3) unable to create a family care plan.

- Untrainable simply means the 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 a soldier who is untrainable.
- Unsuitability is different in that the focus is more on attitude and motivation of the soldier in question. 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.
- Single soldiers with dependent family members or dual military couples with dependents, who are unable to craft an acceptable family care plan as described in AR 600-20, Chapter 5, are also eligible for a Bar.

### What are the procedures for initiating a Bar to Reenlistment?

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 is most aware of the soldier's successes and shortcomings. A Bar is initiated using DA Form 4126-R. Once the Bar is initiated, the soldier will be flagged IAW applicable provisions of AR 600-8-2 and 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. 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.

### **What should my rebuttals matters contain?**

Soldiers may submit rebuttal matters within 7 days of the initiation of a Bar. If the Bar was based on improper grounds or if the procedures were not followed, the Soldier can file a statement listing his reasons for objecting to it at the initial implementation of the Bar. If the Bar was properly implemented the Soldier's rebuttal matters should focus on the allegation(s) of unattainability or unsuitability. The focus should be on presenting the picture of a soldier who is motivated, hardworking, and otherwise committed to being a professional. The appeal should state 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 that prompted the Bar.

1. A Bar to Reenlistment will not be initiated solely because a soldier refuses to reenlist. Nor will it be used instead of trial by court-martial, nonjudicial punishment, or other administrative action.
2. The fact that a Soldier may be issued an honorable or general discharge for the current period of service does not prevent initiation of a Bar to Reenlistment to deny the Soldier from future service in the Active Army.
3. The fact that a Soldier may have served honorably for a number of years is considered in the evaluation of his or her service; however, it does not prohibit the initiation of Bar to Reenlistment procedures.
4. A Bar to Reenlistment will not be initiated against Soldiers with an approved retirement.
5. A Bar to Reenlistment will not be initiated on Soldiers serving on indefinite reenlistments. Denial of continued service for these Soldiers will be accomplished IAW applicable provisions of AR 635-200 and other regulations as appropriate.
6. An approved local Bar to Reenlistment will take precedence over the QMP. If the Bar is removed, the Soldier will be processed under QMP as prescribed in AR 635-200.