

k. Soldiers will not be paid a bonus for Service beyond 16 years AFS.

l. Soldiers will be paid the BSSRB no earlier than 60 days after reentry or 30 days after arriving at the first permanent duty station, whichever is later. AD already served in the qualifying Service commitment will be included in the initial BSSRB payment. The award will not be reduced because of requirement to delay payment.

m. A Soldier who enlists through the delayed MSO program is entitled to the BSSRB in effect on the date of delayed status reservation date. A Soldier who enlists directly on AD is entitled to the BSSRB in effect on the date of entry on AD. Soldiers in the BSSRB Program will reenter on AD in grades as reflected in the most current BSSRB message.

3–34. Bonus computation and payment

a. Total amount of the bonus will be computed as follows: Monthly basic pay at time of separation, multiplied by number of years or fractions of a year (months) of additional obligated Service, multiplied by BSSRB multiplier, equals total BSSRB ((base pay) x (TOS) x (BSSRB multiplier) = BSSRB).

b. A guidance counselor must indicate the following information on DD Form 1966 in the remarks section:

- (1) BSSRB level authorized.
- (2) Authority: AR 601–210/DA message number.
- (3) Confirmation from USAREC Plans and Policies (indicate name/date and level authorized).
- (4) Pay grade authorized.

c. Guidance counselors will ensure that they have a current BSSRB message on file. HQ, USAREC will ensure that all BSSRB messages are provided to the field force as they become available.

d. All BSSRB enlistments must be confirmed with Recruiting Brigade Operations and will have the information under paragraph 3–34b entered on the enlistment orders under special instructions. In addition, the guidance counselor will complete DA Form 4789 (Statement of Entitlement to Selective Reenlistment Bonus). The guidance counselor will modify the form by adding the words “broken Service” immediately before all entries that read “selective reenlistment bonus.”

Chapter 4 Waivable and Nonwaivable Enlistment Criteria

Section I Waivable and Nonwaivable Disqualifications

4–1. General

This section contains waiver and nonwaivable enlistment criteria and prescribes procedures to initiate and process a request for waiver to meet basic enlistment qualifications.

4–2. Conduct and administrative disqualifications

a. Commanders at all levels determine if waiver requests warrant favorable consideration through—

- (1) Questioning.
- (2) Investigating.
- (3) Counseling.
- (4) Gathering proper documents and waiver request information.

b. Recruiters must forward all waiver requests to the approval authority.

c. Applicants who do not meet established enlistment standards are not eligible for enlistment unless a waiver is authorized. Commanders cited in this regulation have the authority to approve waivers, as appropriate. The burden is on the applicant to prove to waiver authorities that they have overcome their disqualifications for enlistment and that their acceptance would be in the best interests of the Army. Waiver authorities will apply the “whole person” concept when considering waiver applications.

d. Applicants having tattoos will be screened in accordance with AR 670–1. When it is reported (either by visual sighting or annotated on the DD 2807–1/2808) through a tattoo, behavior, verbal or written communication, appearance, or gestures that an individual is or may be involved with an extremist organization, group, or gang, the following procedures will be used to determine eligibility:

- (1) The commander must ensure from a series of direct and indirect questions that the applicant is in fact given fair assessment and determination without personal bias or predetermined outcome.
- (2) A person who admits to or is determined to have been associated with or in a gang linked to criminal activity or an extremist group or organization will be questioned concerning their involvement. The whole person concept must be applied. Criminal background, commander interview, and potential for meeting Army standards must be reviewed. A member of any extremist organization will be denied enlistment. A member of a gang associated with criminal activity

will also be denied enlistment. Applicants denied entry will be reported to HQ USAREC (Policy). USAREC will publish a list of those denied so that other components/battalions do not enlist the individuals.

e. Suitability will be determined by the following:

(1) Applicants with a criminal history (regardless of disposition) or questionable conduct character, but because of dismissed charges, plea bargains, or release without prosecution, must have a suitability review for determination of enlistment along with a commander's list of recommendation. Reviewer will determine if a personal interview with the applicant is required, and, if so, may be accomplished telephonically. Approval will be annotated on the DD Form 1966 remarks section with a review date, name and title of reviewer.

(a) Suitability review will be conducted on the following offenses prior to any processing on all applicants (the appropriate review level is also noted):

1. Two or more misconduct offenses per figure 4-3 (see para 4-10) (Recruiting Battalion Leadership Team or equivalent member of the ARNG).

2. Combination of four or more non-traffic and misconduct offenses per figures 4-2 and 4-3 (see paras 4-9 and 4-10) (Recruiting Battalion CDR or equivalent member of the ARNG).

3. One or more major misconduct offenses per figure 4-4 (see para 4-11) or changes considered felonies under the local law, regardless of disposition (CG, USAREC or equivalent member of the ARNG approval).

4. Domestic battery/violence offense includes but is not limited to, charge(s) of domestic violence, assault, simple assault, assault and battery, battery, assault with the intent to commit bodily harm, assault on a person, or abuse by an applicant against their parent, step-parent, sister, or brother, regardless of disposition. (Recruiting Battalion Leadership Team or equivalent member of the ARNG, unless otherwise noted.)

5. Crime of domestic violence. An offense that involves the use or attempted use of physical force, or threatened use of a deadly weapon committed by a current or former spouse, parent, or guardian of the victim; by a person with whom the victim shares a child in common; by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian; or by a person who was similarly situated to a spouse, parent, or guardian of the victim. Persons who are similarly situated to a spouse include two persons who are residing at the same location in an intimate, relationship with the intent to make that place their home (CG, USAREC or equivalent member of the ARNG approval).

(b) Court documents are required for misconduct and major misconducts offenses.

(2) Any applicant who is denied enlistment because of questionable conduct character will have the denial information forwarded via e-mail to: USAREC-G3, RO Waivers or Enlisted Policy Section for member of the ARNG.

f. Applicants enlisting in the DEP/DTP/DS or ARNG who conceal any offenses that require a waiver will be discharged. All DEP/DTP/DS or ARNG applicants discharged under this paragraph will incur a 6-month waiting period from date of separation orders and require a fraudulent enlistment waiver from the recruiting battalion commander along with any additional waivers as noted in this chapter. The waiting period is for administrative and evaluation purposes. Any applicant enlisting in the DEP/DTP/DS or ARNG who conceals offenses not requiring a waiver will be reviewed in accordance with the following:

(1) Applicants enlisting in the DEP (RA or AR)/DS who conceals an offense that does not require a waiver or USAREC review can be retained and authorized to ship by the Recruiting Brigade Commander.

(2) Discharge authority for DTP or ARNG Soldiers who fraudulently enlist is the same as approval authority authorized to retain AR or ARNG Soldiers.

(3) The brigade commander (may be delegated to brigade deputy commanding officer (DCO)) may grant an exception to retain a Soldier in the RA DEP who requires a waiver as a result of unintentionally concealed information. In the case of RC Soldiers, the first O-6 in the Soldier's unit of assignment's chain of command may grant the exception to retain the Soldier. The term "unintentional" is used to allow those cases in which an error or the FS admitted to an offense(s) but may have not used the technically correct term, or there were "stacked" charges (related to and part of the same offense) that was omitted unintentionally. This authority does not include any excuse such as "it was expunged, dismissed, dropped, my lawyer told me not to reveal or a judge told me I had no record," these excuses are not valid in that USAREC will require each applicant to acknowledge that they were not told to conceal offenses for these reasons, and the applicant will both in writing and verbally acknowledge they have not withheld any information based on these reasons. The brigade commander or DCO will determine if the applicant intentionally concealed information and if that determination is affirmative, then discharge must occur.

4-3. Submission of requests

Applicants applying for waiver of conviction or other adverse disposition will provide evidence of satisfactory rehabilitation and documents to support the waiver request.

a. Unless indicated otherwise in this regulation, requests for waiver and other actions that require an approval by the CG, USAREC (for RA and AR) or Chief, National Guard Bureau (CNGB) will be submitted via Guidance Counselor Resource Center (GCRC). Request for waivers and other actions that require approval by CG, USAREC or DARNG will be forwarded electronically. Every effort will be made to ensure capture of electronic record of waiver starting at the recruiting station level.

b. Waivers approved by CG, USAREC for enlistment may be used for enlistment in either the RA or AR, provided the individual is otherwise qualified.

4-4. Listings of disqualifications

a. When processing conduct waivers, all offenses must be listed. If multiple charges arise out of a single act that results in a civil court conviction or other adverse disposition, all charges will be considered for enlistment eligibility purposes (for example, a person caught by police during an attempted shoplifting who then resists arrest and is fined \$300 and 1-year unsupervised probation.) Charges will not be combined (stacked) in order to be viewed as one charge. Both charges must be considered for waiver purposes. Doubtful cases will be referred to USAREC Policy Branch or equivalent level of the ARNG.

b. Typical offenses are as follows:

(1) If the maximum confinement under local law is 6 months or fewer, the offense should be treated as a other non traffic offense. If the maximum confinement under local law exceeds 6 months, but does not exceed 1 year, treat the offense as a misconduct offense. If the maximum confinement exceeds 1 year, treat the offense as a major misconduct. If the local law considers the offense a felony, then treat as a major misconduct.

(2) The lists of typical offenses shown in these paragraphs are guides. It is not practical to list all offenses. Treat offenses in each paragraph and those of a similar nature according to the type of offenses listed in the paragraph despite their classification under state law and whether the determination is deemed a conviction or adjudication under State law. The offenses named in paragraphs 4-8 through 4-11 will be considered to have the elements of those offenses under the common law or the UCMJ when no such common law exists.

c. Paragraph 4-22 lists nonwaivable conduct and administrative disqualifications. The following rules apply to conduct disqualifications.

(1) Persons released from custody or restraint of a court under procedures that do not result in final disposition of the charge are morally disqualified. Examples of such releases are—

(a) Release following plea of any type to the court (including plea of guilty or nolo contendere).

(b) Release on probation without verdict.

(c) Release on person's own recognizance.

(d) Release following charges that are placed on file.

(e) Any similar disposition, without regard to its technical name, that indicates the person may remain subject to further judicial proceedings in connection with the charges.

(2) In addition, persons who are granted release from charges at any stage of court proceedings if they will apply or be accepted for enlistment in any U.S. Armed Forces are not qualified for enlistment (see para 4-12b). Questionable cases will be referred to USAREC Plans and Policy or Personnel Policy and Readiness Division, through the chain of command. Granting of release from charges is an alternative to further prosecution, indictment, trial, or incarceration in connection with the charge, or proceedings relating to adjudication as a youthful offender or juvenile delinquent.

(3) The above bases for disqualification will be considered removed if the official chiefly responsible for prosecution of the charges submits a signed statement that, under the laws or current practices of the jurisdiction, applicant is not subject to further restraint, custody, control, or prosecution by authorities thereof. Such officials include the district attorney, judge of the court involved, or higher official of the jurisdiction concerned who has responsibility in connection with the case.

d. Paragraph 4-23 lists nonwaivable disqualifying separations. Persons separated from any component of the U.S. Armed Forces, whose separation documents contain disqualifying RE codes or entries in paragraph 4-23, will not be considered for waiver.

4-5. Waiver requirements for medical disqualifications

a. Any applicant with or without prior military Service who the MEPS physician finds not to meet the medical standards for enlistment will require a waiver.

b. Any applicant who was last separated or discharged from any component of the U.S. Armed Forces for medical reasons with or without disability for enlistment into the RA, AR, or ARNG will require a waiver.

c. Documents required for waiver consideration are—

(1) Applicant's current MEPS medical examination.

(2) DD Form 214 and DD Form 215, if applicable.

(3) USMEPCOM PCN 680-3ADP Form with test results reflected. (REDD Scores if PS).

(4) All reports of separation, discharge, or release from any Component of the U.S. Armed Forces.

(5) Medical records if a current member of a TPU in the ARNG or AR.

(6) If separated for medical reasons, must submit DA Form 4707 (Entrance Physical Standards Board (EPSBD) Proceedings), DA Form 3947 (Medical Evaluation Board Proceedings), and/or DA Form 199 (Physical Evaluation Board (PEB) Proceedings).

(7) Evidence that the disqualifying condition no longer exists or justification for the waiver.

d. Approval authority for medical waivers is the CG, USAREC or Office of the Chief Surgeon for the ARNG. The USAREC Command Surgeon will act on behalf of the CG, USAREC, for all medical waivers.

e. Height waivers must include the applicant's waist, shoe, and hat size.

f. Weight Standard: waivers will not be considered.

4-6. Civil court convictions/dispositions conduct waivers (other than major misconduct)

a. For disqualification, the approval authority is the recruiting battalion commander, acting commander, XO, or military personnel office (MILPO) for the ARNG. An adverse disposition will no longer include those that the only disposition was court costs or attorney fees imposed. A waiver is required for any applicant who has—

(1) Received five or more civil convictions or other adverse dispositions for minor non traffic offenses (see fig 4-2).

(2) Received two and no more than five civil convictions or other adverse dispositions for a misconduct offense (see fig 4-3).

(3) Received a total of five civil convictions or other adverse dispositions for a combination of minor nontraffic and misconduct offenses (one misconduct and four minor nontraffic offenses) (see figs 4-2 and 4-3).

(4) Received one conviction or other adverse disposition for one of the following offenses or major misconduct identified in paragraph 4-11:

(a) Received one conviction or other adverse disposition for driving while intoxicated (DWI), driving under the influence (DUI) or driving while impaired because of substance abuse, alcohol, drugs, or any other condition that impaired judgment or driving ability. (Waiver may be considered if charged with multiple DUI offenses provided they occurred simultaneously.)

(b) Possession of marijuana or drug paraphernalia. (Waiver may be considered. Waiver may be considered if charged with both offenses provided they occurred simultaneously.) Negative development acceptance test (DAT) results must be obtained prior to approval of waiver.

(c) Solicitation for prostitution or prostitution.

(d) Domestic violence/battery against a non-Lautenberg victim (see para 4-2e(1)(a4)).

b. For applicants applying for enlistment in OCS, approval is required from CG, USAREC, for enlistment in WOFT, approval authority is HRC on any cases involving the following:

(1) Any person adjudicated as a youthful offender.

(2) Any offense with a fine of \$300 or more, excluding court cost.

(3) Any offense where confinement was ordered, regardless of suspended sentence or deferred disposition.

(4) Any offense resulting in a conviction or other adverse disposition (OAD) that involves contributing to the delinquency of a minor, spousal or child abuse, any sex-related crime, or any offense under chapter 4 that is listed as a misconduct offense.

4-7. Major misconduct

a. A waiver is required for any applicant who has received a conviction or other adverse disposition for a major misconduct offense or any offense considered a felony under local law (see fig 4-4).

b. The approval authority is the CG, USAREC or CNGB. Applicants will incur a 24-month wait from the date of conviction prior to waiver processing.

c. The approval authority for applicants with any two of the following offenses is CG, USAREC or DARNG: DUI/DWI, possession of marijuana or paraphernalia, or positive DAT. (Waiver will not be considered until 2 years from the date of the last offense or date of positive DAT, unless other waiting periods apply throughout this regulation.

d. The Domestic Violence Amendment to the Gun Control Act of 1968 (18 USC 922) ("Te Lautenberg Amendment,") makes it unlawful for any person to transfer, issue, sell or otherwise dispose of firearms or ammunition to any person whom they know or have reasonable cause to believe has been convicted of a misdemeanor crime of domestic violence. It is also unlawful for any person who has been convicted of a misdemeanor crime of domestic violence to receive any firearm or ammunition that has been shipped or transported in interstate or foreign commerce. Enlistment of applicants with a qualifying conviction is prohibited and no waivers will be approved. Soldiers with a qualifying conviction will be barred from reenlistment and are not eligible for the indefinite reenlistment program. Soldiers in the indefinite reenlistment program will be given an ETS not to exceed 12 months from the date HQDA is notified of the qualifying conviction. Applicants who have enlisted in the DEP who are found to have a qualifying conviction will be separated from the DEP. For the purpose of this paragraph only, the following definitions apply:

(1) *Crime of domestic violence.* An offense that involves the use or attempted use of physical force, or threatened use of a deadly weapon committed by a current or former spouse, parent, or guardian of the victim; by a person with whom the victim shares a child in common; by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian; or by a person who was similarly situated to a spouse, parent, or guardian of the victim. Persons who are similarly situated to a spouse include two persons who are residing at the same location in an intimate relationship with the intent to make that place their home.

(2) *Qualifying conviction.* A state or federal conviction for a misdemeanor crime of domestic violence and any general or special court-martial for an offense that otherwise meets the elements of a crime of domestic violence, even

though not classified as a misdemeanor or felony. A qualifying conviction does not include a summary court-martial conviction or the imposition of nonjudicial punishment under Article 15, UCMJ. By DOD policy, a State or federal conviction for a felony crime of domestic violence adjudged on or after 27 November 2002, will be considered a qualifying conviction for purposes of this regulation and will be subject to all the restrictions and prohibitions of this regulation. A person will not be considered to have a qualifying conviction unless the convicted offender was represented by counsel or knowingly and intelligently waived the right to counsel, and, if entitled to have the case tried by a jury, the case was actually tried by a jury, or the person knowingly and intelligently waived the right to have the case tried by a jury; and, the conviction has not been expunged or set aside, or the convicted offender has not been pardoned for the offense, or had civil rights restored; unless the pardon, expungement, or restoration of civil rights provides that the person may not ship, transport, possess, or receive firearms.

4–8. Traffic offenses

See figure 4–1 for the typical traffic offenses.

TRAFFIC OFFENSES	
OFFENSE CODE	OFFENSE TITLE
100	Bicycle ordinance violation.
101	Blocking or retarding traffic.
102	Contempt of court for minor traffic offenses.
103	Crossing yellow line; driving left of center.
104	Disobeying traffic lights, signs, or signals.
105	Driving on shoulder.
106	Driving uninsured vehicle.
107	Driving with blocked vision and/or tinted window.
108	Driving with expired plates or without plates.
109	Driving with suspended or revoked license.
110	Driving without license.
111	Driving without registration or with improper registration.
112	Driving wrong way on one-way street.
113	Failure to appear for traffic violations.
114	Failure to comply with officer's directive.
115	Failure to have vehicle under control.
116	Failure to signal.
117	Failure to stop or yield to pedestrian.
118	Failure to submit report after accident.
119	Failure to yield right-of-way.
120	Faulty equipment such as defective exhaust, horn, lights, mirror, muffler, signal device, steering device, tail pipe, or windshield wipers.
121	Following too closely.
122	Hitchhiking.
123	Improper backing such as backing into intersection or highway, backing on expressway, or backing over crosswalk.
124	Improper blowing of horn.
125	Improper passing such as passing on right, passing in no-passing zone, passing stopped school bus, or passing pedestrian in crosswalk.
126	Improper turn.
127	Invalid or unofficial inspection sticker or failure to display inspection sticker.
128	Jaywalking.
129	Leaving key in ignition.
130	Leaving scene of accident (when not considered hit and run).
131	License plates improperly displayed or not displayed.
132	Operating overloaded vehicle.
133	Racing, dragging, or contest for speed.
134	Reckless, careless, or imprudent driving (considered a traffic offense when the fine is less than \$300 and there is no confinement). Court costs are not part of a fine.
135	Reckless, careless, or imprudent driving (when the fine is more than \$300 or there is confinement). Court costs are not part of a fine.
136	Seat belt and/or child restraint violation.
137	Skateboard and/or roller skate violation.
138	Speeding.
139	Spilling load on highway.
140	Spinning wheels, improper start, zigzagging, or weaving in traffic.
141	Violation of noise control ordinance.
142	Other traffic offenses not specifically listed.
143	Reserved for future use.
144	Reserved for future use.

Figure 4-1. Typical traffic offenses

4-9. Non-traffic offenses

See figure 4-2 for the typical non-traffic offenses.

NON-TRAFFIC OFFENSES	
OFFENSE CODE	OFFENSE TITLE
200	Altered driver's license or identification.
201	Assault (simple assault with fine or restitution of \$500 or less and no confinement).
202	Carrying concealed weapon (other than firearm); possession of brass knuckles.
203	Check, worthless, making or uttering, with intent to defraud or deceive (less than \$500).
204	Committing a nuisance.
205	Conspiring to commit misdemeanor.
206	Curfew violation.
207	Damaging road signs.
208	Discharging firearm through carelessness or within municipal limits.
209	Disobeying summons; failure to appear other than traffic.
210	Disorderly conduct; creating disturbance; boisterous conduct.
211	Disturbing the peace.
212	Drinking alcoholic beverages on public transportation.
213	Drunk in public.
214	Dumping refuse near highway.
215	Failure to appear, contempt of court (all offenses except felony proceedings).
216	Failure to appear, contempt of court (felony proceedings).
217	Failure to stop and render aid after accident.
218	Fare and/or toll evasion.
219	Harassment, menacing, or stalking.
220	Illegal betting or gambling; operating illegal handbook, raffle, lottery, or punchboard; cockfighting.
221	Indecent exposure.
222	Indecent, insulting, or obscene language communicated directly or by telephone to another person.
223	Jumping turnstile (to include those States that adjudicate jumping a turnstile as petty larceny).
224	Juvenile adjudications such as beyond parental control, incorrigible, runaway, truant, or wayward.
225	Killing a domestic animal.
226	Littering.
227	Loitering.
228	Malicious mischief (fine or restitution of \$500 or less and no confinement).
229	Pandering.
230	Poaching.
231	Purchase, possession, or consumption of alcoholic beverages or tobacco products by minor.
232	Removing property from public grounds.
233	Removing property under lien.
234	Robbing an orchard.
235	Shooting from highway.
236	Throwing glass or other material in roadway.
237	Trespass (non-criminal or simple).
238	Unlawful assembly.
239	Unlawful manufacture, sale, possession, or consumption of liquor in public place.
240	Unlawful use of long-distance telephone calling card.
241	Using or wearing unlawful emblem and/or identification.
242	Vagrancy.
243	Vandalism (fine or restitution of \$500 or less and no confinement).
244	Violation of fireworks laws.
245	Violation of fish and game laws.
246	Violation of leash laws.
247	Violation of probation.
248	Other non-traffic offenses not specifically listed.
249	Reserved for future use.
250	Reserved for future use.

Figure 4-2. Typical nontraffic offenses

4-10. Misconduct offenses

See figure 4-3 for the typical misconduct offenses.

MISCONDUCT OFFENSES	
OFFENSE CODE	OFFENSE TITLE
300	Assault, fighting, or battery (more than \$500 fine or restitution or confinement).
301	Carrying of weapon on school grounds (non-firearm).
302	Concealment of or failure to report a felony.
303	Contributing to delinquency of minor.
304	Crimes against the family (non-payment of court-ordered child support and/or alimony).
305	Criminal mischief (more than \$500 fine or restitution or confinement).
306	Criminal trespass.
307	Desecration of grave.
308	Domestic battery and/or violence not considered covered by section 922 of title 18, United States Code (Reference (d)), hereafter referred to as the "Lautenberg Amendment").
309	Driving while drugged or intoxicated; driving while ability impaired; permitting driving under the influence (DUI).
310	Illegal or fraudulent use of a credit card or bank card (value less than \$500).
311	Larceny or conversion (value less than \$500).
312	Leaving scene of an accident or hit and run.
313	Looting.
314	Mailbox destruction.
315	Mailing to include e-mail of obscene or indecent matter.
316	Possession of marijuana or drug paraphernalia.
317	Prostitution or solicitation for prostitution.
318	Reckless, careless, or imprudent driving (considered a misdemeanor when the fine is \$300 or more or when confinement is imposed; otherwise, considered a minor traffic offense).
319	Reckless endangerment.
320	Resisting arrest or eluding police.
321	Selling or leasing weapons.
322	Stolen property, knowingly receiving (value less than \$500).
323	Throwing rocks on a highway; throwing missiles at sporting events; throwing objects at vehicles.
324	Unauthorized use or taking of a vehicle or conveyance from family member; joy riding.
325	Unlawful carrying of firearms or carrying concealed firearm.
326	Unlawful entry.
327	Use of telephone, Internet, or other electronic means to abuse, annoy, harass, threaten, or torment another.
328	Vandalism (more than \$500 fine or restitution or confinement).
329	Willfully discharging firearm so as to endanger life; shooting in public.
330	Other misconduct offenses not specifically listed.
331	Reserved for future use.
332	Reserved for future use.

Figure 4-3. Typical misconduct offenses

4-11. Major misconduct offenses

See figure 4-4 for the typical major misconduct offenses.

MAJOR MISCONDUCT OFFENSES	
OFFENSE CODE	OFFENSE TITLE
400	Aggravated assault; assault with dangerous weapon; maiming.
401	Arson.
402	Attempt to commit a felony.
403	Breaking and entering with intent to commit a felony.
404	Bribery.
405	Burglary.
406	Carjacking.
407	Carnal knowledge of a child.
408	Carrying of weapon on school grounds (firearm).
409	Check, worthless, making or uttering, with intent to defraud or deceive (over \$500).
410	Child abuse.
411	Child pornography.
412	Conspiring to commit a felony.
413	Criminal libel.
414	Domestic battery and/or violence as defined in the Lautenburg Amendment. (Waiver not authorized if applicant was convicted of this offense.)
415	Embezzlement.
416	Extortion.
417	Forgery, knowingly uttering or passing forged instrument (except for altered identification cards).
418	Grand larceny or larceny (value of \$500 or more).
419	Grand theft auto.
420	Hate crimes.
421	Illegal and/or fraudulent use of a credit card, bank card, or automated card (value of \$500 or more).
422	Indecent acts or liberties with a child; molestation.
423	Indecent assault.
424	Kidnapping or abduction.
425	Mail matter; abstracting, destroying, obstructing, opening, secreting, stealing, or taking (not including the destruction of mailboxes).
426	Manslaughter.
427	Murder.
428	Narcotics or habit-forming drugs, wrongful possession or use (marijuana not included).
429	Negligent or vehicular homicide.
430	Perjury or subornation of perjury.
431	Possession or intent to use materials in a manner to make a bomb or explosive devise to cause bodily harm or destruction of property.
432	Public record; altering, concealing, destroying, mutilating, obligation, or removing.
433	Rape, sexual abuse, sexual assault, criminal sexual abuse, incest, or other sex crimes.
434	Riot.
435	Robbery, to include armed.
436	Sale, distribution, or trafficking of cannabis (marijuana) or any other controlled substance (including intent).
437	Sodomy.
438	Stolen property, knowingly received (value of \$500 or more).
439	Terrorist threats including bomb threats.
440	Violation of civil rights.
441	Other major misconduct offenses not specifically listed.
442	Reserved for future use.
443	Reserved for future use.

Figure 4-4. Typical major misconduct offenses

4–12. Court disposition definitions

a. Applicants who have entered a plea of *nolo contendere* that was accepted by the court despite later processing in the same case to permit dismissal, expungement, amnesty, pardon, or clemency based on any of the following are considered to have a conviction:

- (1) Absence of later violations.
- (2) Evidence of rehabilitation.
- (3) Satisfactory completion of a period of probation or parole.
- (4) Any other legal appeal that does not change the original finding on its own merit.

b. Applicant who, as a condition for any civil conviction or adverse disposition or any other reason through a civil or criminal court, is ordered or subjected to a sentence that implies or imposes enlistment into the Armed Forces of the United States is not eligible for enlistment unless—

- (1) The condition is removed by the same or higher authority imposing the sentence.
- (2) The condition is removed by virtue of expired period of sentence.
- (3) The condition is over 12 months from imposition and the court, city, county, or State no longer obligates the applicant to this condition.

c. Non judicial punishment under UCMJ, Art. 15 and military court-martial proceedings must be listed but will not count toward waiver thresholds; however, these will be considered toward the whole person concept.

4–13. Prior military Service

Any PS applicant enlisting from any Service with a separation or reentry code requiring a waiver (waiting period not otherwise covered in chap 4) may not process until 90 days has elapsed from separation date.

a. A waiver may not be submitted until a 24-month waiting period has elapsed since applicant was separated or discharged from any component of the Armed Forces for any of the following reasons with CG, USAREC for RA and AR or CNGB for ARNG having approval authority unless otherwise noted below:

- (1) In lieu of trial by court martial.
- (2) Good of the Service.
- (3) Lack of jurisdiction.
- (4) Misconduct or major misconduct.
- (5) Nonretention on AD.
- (6) Personality disorder (CG, USAREC delegated to Command Surgeon or CNGB).
- (7) Unsatisfactory performance.
- (8) Unfitness.
- (9) Unsuitability.

b. A waiver may not be submitted until a 6-month waiting period has elapsed since applicant was separated or discharged from any component of the Armed Forces for any of the following reasons with the CG, USAREC or CNGB, having approval authority:

- (1) Concealment of an arrest conviction.
- (2) Fraudulent enlistment.
- (3) Entry-level performance and conduct.
- (4) Failure to meet weight standards.

c. A waiver may be submitted at any time after separation if applicant was separated or discharged from any component of the U.S. Armed Forces for any of the following reasons to the recruiting battalion commander or MILPO for members of the ARNG:

- (1) Alien not lawfully admitted to the United States (must currently meet citizenship criteria).
- (2) Defective enlistment/reenlistment.
- (3) Dependency (see para 4–13g(7)).
- (4) Erroneous enlistment.
- (5) Hardship (see para 4–13g(7)).
- (6) Minority.
- (7) Reduction in force.
- (8) Under age.
- (9) Unfulfilled enlistment agreement.
- (10) Void service.
- (11) Pregnancy.

(12) Uncharacterized separation.

d. A waiver is required for any applicant who is separated or discharged from the RA, ARNG, or AR with a field bar to reenlistment issued per AR 140–111 or NGR 600–200, or who was denied extension or reenlistment by any other component of the Armed Forces at time of last separation or discharge. The approval authority for such waivers is the CG, USAREC for RA and AR or CNGB for ARNG.

e. Applicants who were voluntarily separated for parenthood may be enlisted with a waiver approved by the recruiting battalion commander or equivalent member of the ARNG after a 6-month waiting period has elapsed. Involuntary parenthood separations may be enlisted after a 6-month waiting period with a waiver approved by CG, USAREC for RA and AR or CNGB for ARNG.

f. The following documents are required for submission of a waiver:

(1) Request from recruiting battalion commander including the interview.
(2) Letter from applicant explaining circumstances surrounding reason for waiver. The PS applicant must address reason for separation or discharge.

(3) DD Form 214, DD Form 215, NGB Form 22, and DD Form 220.

(4) DD Form 368, if required.

(5) DD Form 1966, SF 86, and recruiting battalion Conduct Waiver Worksheet.

(6) A copy of applicant's USMEPCOM PCN 680–3ADP or other additional documents that clearly displays ASVAB results and PULHES (or REDD Scores).

(7) If separated for hardship, parenthood or dependency, the following additional documents are required.

(a) DA Form 3072–2 (Applicant's Monthly Financial Statement).

(b) Proof that prior condition upon which separation was approved no longer exists.

(c) Proof must be in the form of affidavits made by the person or organization on behalf of the applicant. Community members who are familiar with the applicant's home condition of the applicant's Family may also provide such substantiation. Any legal documents support the conclusion that the condition no longer exists may also be used.

g. A waiver may not be considered until a 24-month waiting period has elapsed for applicants who have received a general discharge (under honorable conditions) for reasons that are not listed in paragraph *b* or *c*, above, or paragraph 4–16.

4–14. Absent without leave or lost time

a. Any applicant who, during their last period of Service, was absent without leave (AWOL) or had lost time of 5 days or fewer regardless of the type of separation or RE code is required to have a waiver for enlistment. Recruiting battalion commander is approval authority.

b. Any applicant who, during their last period of Service, was AWOL or had lost time of 6 days or more except those who were otherwise fully eligible to re-enlist at separation, as indicated by their RE and SPD codes, is required to have a waiver for enlistment. CG, USAREC or CNGB is approval authority.

c. Any applicant who, during their last period of Service, was AWOL or had lost time for more than 30 consecutive days, regardless of the type of separation or RE code, is considered to be dropped from rolls, waiver not authorized.

4–15. Conscientious objection

a. The approval authority for enlistment in the RA or AR is the DCS, G–1, Enlisted Accessions Division (DAPE–MPA) or CNGB for ARNG.

b. Conscientious objectors are persons who profess conscientious objections or religious convictions at time of application for enlistment that would restrict assignments and who desire to enlist as noncombatants.

c. The PS applicants who were previously conscientious objectors, but who are no longer conscientious objectors, must not have been discharged by reason of conscientious objection under provisions of AR 600–43.

d. The following documents are required for submission of a waiver under this paragraph:

(1) A memorandum prepared per instructions in paragraph 4–28.

(2) DD Form 1966 and SF 86.

(3) For PS, DD Form 214, DD Form 215, DD Form 220, or NGB Form 22.

(4) Letters that substantiate a claim to this status; information as required by AR 600–43, appendix B; and a personal letter expressing desire to enlist in the Army.

(5) Applicant's current MEPS physical examination.

(6) A copy of applicant's USMEPCOM PCN 680–3ADP or other authorized document that clearly displays applicant's ASVAB date and results.

e. The recruiting battalion will send the applicant's documents to CDR, HRC, Fort Knox, KY 40122. After review and determination, an advisory opinion will be given to CG, HRC for final approval or disapproval.

4–16. Reserve Component separations or transfers

a. A waiver is required for any applicant who is a current member of an RC who is pending adverse or

administrative actions considered disqualifying under chapter 4 and may not be processed until such action is completed. Waivers will be submitted based on final action in these cases.

b. A waiver is required for any applicant who has been transferred to the IRR or other Services' control group for being an unsatisfactory participant and is not currently serving satisfactorily in a troop unit. Waiver may be submitted, although a waiver is not required for enlistment in RA or RC after 6 months has elapsed from date of transfer to the IRR. For applicants that were not transferred to the IRR, a waiver may be submitted 12 months after date of discharge.

c. The approval authority is the CG, USAREC for RA and AR, or CNGB for ARNG.

4-17. Age

Waivers are not available for applicants who exceed the age criteria for enlistment into the RA (see para 3-3).

4-18. Positive drug or alcohol test

a. Any applicant or enlistee who was or is confirmed positive for the presence of drugs or alcohol at time of original physical examination is not eligible for enlistment into DEP/DTP or CNGB for ARNG unless a waiver is granted. The TPU commander will be notified of RC Soldier who tests positive for drugs so the Soldier can be processed for separation in accordance with appropriate regulatory guidance.

b. Waiting periods are required under the following circumstances:

(1) *Positive for marijuana and alcohol.*

(a) If applicant's first test is positive, they must wait 6 months from previous test date for retest. (Recruiting battalion commander or MILPO, ARNG is the approval authority.)

(b) If applicant's second test is positive, they must wait 24 months from previous test date for a retest. (CG, USAREC or CNGB is the approval authority.)

(c) If applicant's third test is positive, they are permanently disqualified.

(2) *Positive for cocaine or any other drug tested for (excluding marijuana).*

(a) If applicant's first test is positive, they must wait 1 year from previous test date for a retest. (Recruiting battalion commander is the approval authority.)

(b) If applicant's second test is positive, they are permanently disqualified.

c. The following documents are required for the submission of a waiver under this paragraph:

(1) A memorandum prepared according to instructions in paragraph 4-28.

(2) DD Form 1966 and electronic security screening questionnaire.

(3) A copy of current MEPS physical examination or USMEPCOM PCN 680-3ADP showing drug test results.

(4) Other documents the recruiting battalion commander or executive officer may require.

d. All applicants who test positive will be required to have police records check accomplished as part of the waiver process regardless of any admission or record of civil offenses.

e. Applicants with an approved drug alcohol test waiver are prohibited from enlisting in any MOS or option that requires a security clearance.

4-19. Dependents

a. Any applicant who does not meet the dependent criteria of this regulation, and a waiver is authorized by the specific paragraph requires a waiver.

b. The approval authority for dependent waivers is the CG, USAREC for RA and AR unless annotated otherwise or MILPO for ARNG.

c. The following documents are required for submission of a waiver under this paragraph:

(1) A memorandum prepared according to instructions in paragraph 4-28.

(2) DD Form 214, DD Form 215, NGB Form 22, and DD Form 220.

(3) DD Form 1966 and SF 86.

(4) DA Form 3072-2.

(5) If applicable, divorce decree and changes to it.

(6) If applicable, documentation showing that dependents will not suffer hardship as a result of applicant's enlistment (obtain statement from spouse).

(7) Documentation to support advanced pay grade as prescribed in paragraphs 2-18, 3-17, or 3-18.

d. Single parent (RC only).

(1) Prior to the dependency waiver being approved, the applicant must have approved Family care plan and DA Form 5305 (Family Care Plan) as required by AR 600-20.

(2) The Family Care Plan must be validated and approved by the unit commander of the RC for which the applicant will be assigned prior to enlistment.

(3) Waiver code will be "dependent waiver."

4-20. Surviving son or daughter

a. Any applicant who was previously separated from any Component of the U.S. Armed Forces as a surviving son or daughter requires a waiver for enlistment. A surviving son or daughter refers to the only remaining son or daughter in a Family where the father, or mother (or one or more of the sons or daughters) served in the Armed Forces of the United States and because of the hazards with such military Service—

- (1) Was killed or died as a result of wounds, accident, or disease.
- (2) Is in a captured or missing-in-action status.
- (3) Is permanently 100-percent physically disabled (including 100-percent mental disability), as determined by the Veterans Administration or one of the military Services.

b. The approval authority is the CG, USAREC or CNGB.

c. The following documents are required for submission of a waiver under this paragraph:

- (1) A memorandum prepared according to the instructions in paragraph 4-28.
- (2) DD Form 214, DD Form 215, NGB Form 22, and DD Form 220.
- (3) DD Form 1966 and electronic security screening questionnaire.
- (4) Statement, signed by applicant, requesting that the surviving person designation be withdrawn. This statement also will acknowledge that—
 - (a)* Applicant is available for worldwide assignment, including combat-zone assignment.
 - (b)* Future requests for separation based on survivor status may or may not be honored.
 - (c)* Future requests for reassignment based on survivor status will not be honored.
- (5) A copy of applicant's USMEPCOM PCN 680-3ADP or other authorized document that clearly displays applicant's ASVAB date and results.

4-21. Personnel Reliability Program

a. Any applicant enlisting for any MOS or assignment that requires that they be qualified under the Personnel Reliability Program (PRP) and other identified critical or sensitive positions will be disqualified if the applicant has used cannabis during the 120-day period before application for enlistment.

b. The approval authority for PRP qualification is the CG, HRC-Central Clearance Facility (CCF).

c. No formal documentation is required to be submitted, however, the USAREC security interviewer will request waivers from HRC-CCF by telephone. This applies to PRP qualifications and initial screen for security clearances only and has no effect on the overall qualifications for the MOS, which may require additional exceptions or waivers.

4-22. Nonwaivable medical, conduct, and administrative disqualifications

The following disqualifications cannot be waived:

- a.* Intoxicated or under influence of alcohol or drugs at time of application, or at any stage of processing for enlistment.
- b.* Having history of psychotic disorders or state of insanity at time of application for enlistment.
- c.* Questionable conduct character.
- d.* Alcoholism.
- e.* Drug dependence.
- f.* Sexual perversion.
- g.* Deleted.
- h.* Person unable to present written evidence (official documents) of PS claimed, until such Service has been verified.
- i.* Person whose enlistment is not clearly consistent with interests of national security under AR 601-280.
- j.* Person retained on AD under AR 601-280 with annotation "not eligible for security clearance or assignment to sensitive duties, AR 601-280."
- k.* Criminal or juvenile court charges filed or pending against them by civil authorities.

Note. Pending charges include unpaid traffic violations. Authorized reception battalion commanders and IET commanders may consider that, in certain meritorious cases, unpaid minor traffic tickets that are subsequently paid after entry did not constitute fraudulent entry. In those limited circumstances, separation processing under AR 635-200, chapter 7, is not required. All other cases meeting the provisions of fraudulent entry criteria must be processed in accordance with AR 635-200.

- l.* Person under civil restraint, such as, confinement, parole, or probation.
- m.* Subject of initial civil court conviction or adverse disposition for more than one major misconduct offense.
- n.* Person with a civil conviction of a major misconduct offense with any one of the following:
 - (1) Three or more offenses (convictions or other adverse dispositions) other than traffic.
 - (2) Applicants with juvenile major misconduct offenses who have had no offenses within 5 years of application for enlistment may be considered for a waiver in meritorious cases without regard to paragraph 4-22*m*.
- o.* Subject of initial court conviction or other adverse disposition for sale, distribution, or trafficking (including "intent to") of cannabis (marijuana), or any other controlled substance.

p. Person with 2 or more convictions/OAD within the 3 years preceding application for enlistment for driving while intoxicated, drugged, or impaired.

q. Confirmed positive result for alcohol or drugs (test administered at MEPS) (see para 4–18 for waiver procedures when retest is authorized and found to be negative).

r. Person with convictions or other adverse dispositions for 6 or more misconduct offenses that occurred prior to an application for enlistment.

s. Person with conviction/OAD of 2 or more separate charges of possession of any illegal drugs/drug paraphernalia within 3 years preceding application for enlistment.

t. Person with PS who incurs a major misconduct conviction during or after military Service.

u. Person with PS who has tested positive at MEPS for any drug use.

v. All applicants (officer and enlisted) who received a felony conviction for a sexual offense as listed below and in AR 27–10, chapter 24, are not eligible for enlistment or appointment. Further, personnel separated as a result of the convicted sex offender policy are not eligible to enter or reenter the three components of the Army. There is no grandfather clause to this policy. A review of the applicability regarding this regulatory provision to any applicant will be made by the USAREC Staff Judge Advocate (SJA) or the Senior Judge Advocate for ARNG. Applicants who are or have been listed on any Federal or State Sex Offender Registry may not enlist, no waivers are authorized.

(1) Rape.

(2) Carnal knowledge.

(3) Forcible sodomy.

(4) Sodomy of a minor.

(5) Conduct unbecoming an officer (involving any sexually violent offense, a criminal offense of a sexual nature against a minor, or kidnapping a minor).

(6) Prostitution involving a minor.

(7) Indecent assault.

(8) Assault with the intent to commit rape or sodomy.

(9) Indecent act with a minor.

(10) Indecent language to a minor.

(11) Kidnapping of a minor (not by a parent).

(12) Pornography involving a minor.

(13) Conduct prejudicial to good order and discipline or assimilative crime conviction (involving any sexually violent offense or a criminal offense of a sexual nature against a minor or kidnapping of a minor).

(14) Attempt to commit, conspiracy to commit, or solicitation to commit any of the offenses in paragraphs 1 through 13, above.

w. Persons with a conviction of murder.

4–23. Nonwaivable disqualifying separations or discharges

The following are nonwaivable separations and or discharges:

a. Physically disqualified on order to AD.

b. Military Personnel Security Program.

c. Release from entry on AD by reason of physical disability and reverted to inactive status for the purpose of retirement under 10 USC 12731 through 12738, instead of discharge with entitlement to receive disability retirement pay.

d. Physical disability resulting from intentional misconduct or willful neglect, or incurred during period of unauthorized absence. No entitlement to severance pay.

e. **Rescinded.**

f. Desertion or dropped from rolls.

g. Alien without lawful admittance or legal residence in the United States.

h. Permanently retired by reason of physical disability.

i. Retirement after 20 years of active Federal Service.

j. Officers removed from active or inactive Service by reason of having attained maximum age or Service (AR 140–10).

k. Discharged by reason of conscientious objection (AR 600–43).

l. Previous separation for unfitness, unsuitability, unsatisfactory performance, misconduct, or bar to reenlistment, with 18 or more years of active Federal Service completed.

m. Applicant for retirement and persons receiving retired, retirement, or retainer pay, except for combat-wounded personnel (see chap 5, sec XIII). This prohibition is not applicable to reservists who are members of the Retired Reserve and who are not receiving retired, retirement, or retainer pay.

n. Person with a bad conduct, dishonorable discharge or discharged under other than honorable discharge.

- o.* Person with PS last discharged from any component of the Armed Forces for drug or alcohol abuse or as rehabilitation failure during last period of Service.
- p.* Person barred from reenlistment by HQDA or ARNG and coded RE-4.

4-24. Prior Service applicants

- a.* The PS applicants must reveal all medical, conduct, and administrative disqualifications.
- b.* The RA applicants currently serving in a RC of the Army and had a medical and/or administrative waiver approved for enlistment into that RC may enlist into the RA without processing another waiver (appropriate waiting periods outlined in para 4-13 applies in all cases). The RC waiver approval documentation must be provided for enlistment. However, if an applicant received an RE-4 from the U.S. Army or an RE-4 or equivalent from another Service, then applicant is ineligible to enter the RA (waivers are not authorized for the RA or RC of the Army for such codes). If an applicant received an RE-4 or its equivalent from another Service that would have been ruled an RE-3 by the U.S. Army, treat the code as an RE-3. Questionable cases may be forwarded to HQDA (DAPE-MPA) for consideration. Further, RA applicants currently in a RC of all other Services that had a waiver approved for that RC must process a waiver for RA or RC enlistment.
- c.* The PS must reveal all law violations and list all UCMJ, Art. 15, courts martial convictions, and lost time.
 - (1) Those that occurred during and after the last period of Service in any component of the Armed Forces are considered current.
 - (2) Those that were not previously revealed are also considered current.
 - (3) When current charges meet waiver thresholds or when added to previously revealed charges raise waiver thresholds, all charges are considered current.
- d.* The RC personnel with waiver offenses that occurred before Reserve enlistment that were neither revealed nor waived by the AR are considered to have enlisted fraudulently. RC applicants must have such enlistments ratified. RC enlistees must be processed for retention and/or separation under the provisions of AR 135-178. In cases where major misconduct-level offenses or RE codes were involved, a waiver is required for RA enlistment to the proper authority.

Section II

Administrative Instructions for Conduct and Administrative Waivers

4-25. General

This section prescribes procedures for processing requests for waivers to meet basic enlistment qualifications.

4-26. Waiver disapproval authority

- a.* All levels will determine if a waiver request warrants favorable consideration. Commanders at levels below the approving authority, including the Recruiting Company Leadership Team or equivalent members of the ARNG, may disapprove waivers for applicants who do not meet prescribed standards and who do not substantiate a meritorious case, except for medical waivers (excludes dual waivers where non-medical waiver was disapproved). Request for waiver may not be resubmitted for 6 months from date of disapproval.
- b.* Medical waivers may not be resubmitted unless original condition has changed.
- c.* Recruiting battalion commanders or recruiting retention managers for ARNG may reevaluate a battalion-level waiver within 6 months if, in their opinion, new information or information previously submitted warrants reconsideration. Indicate this description in the memorandum of waiver.

4-27. Validity period

Unless otherwise stated on waiver cover sheet or document, waivers granted under this chapter are valid for 6 months from approval date unless a change in status occurs. (Exceptions are DEP/DS personnel whose waivers are valid until RA enlistment if no change occurs in qualifications.) Applicants who acquire additional offenses or disqualifications after waiver approval must resubmit waiver for reconsideration before enlistment. Waivers may be updated according to instructions from CG, USAREC or CNGB for ARNG. Medical waivers are valid for the duration of the physical examination. Applicants who received a conduct waiver for enlistment into any component and were subsequently taken as a future Soldier loss must process a new waiver prior to enlisting.

4-28. Waiver approval procedures

- a.* Each enlistment standard that may be waived lists waiver approval authority for basic eligibility criteria, documents, and required waiting periods.
- b.* Paragraph 4-32 shows required waiting periods following civil restraint.
- c.* Waivers of multiple disqualifications involving approval by separate levels of authority will be approved by the highest approval authority. Intermediate commanders will make proper recommendations for each disqualification. Recommendations for disapproval of waiver requests will be made using the procedures in paragraph 4-26. For dual

waivers requiring a conduct and medical waiver, the conduct waiver must be approved by the battalion commander before submission of medical waiver.

d. Only the commander, acting commander (on orders), or executive officer may approve waiver requests. In their absence, the adjutant or assistant adjutant may forward an approval recommendation for further consideration of waiver requests (except in cases involving conviction of a major misconduct offense.) Only the recruiting battalion commander or acting commander (on orders) may forward conduct waivers for convictions for major misconduct offenses. The CG or Deputy Commander of USAREC or CNGB may approve or disapprove USAREC, or ARNG equivalent level waiver requests. The CG, USAREC or DARNG may delegate to the Director or Deputy Director of Recruiting Operations the authority to act on administrative, dependency and other than major misconduct-level conduct waivers.

e. The following documents are required for submission of a conduct waiver under this paragraph:

(1) Police checks and court documents, as required. Police record checks are not required for traffic offenses.
(2) Documents from probation or parole officer that show applicant has satisfactorily completed probation or parole.
(3) Documents from correctional facility at which detained. Police record checks are not required for traffic offenses.

(4) Reference letter from employers for 1 year preceding application, schools attended in last 3 years preceding application (to include transcripts if currently attending college). If the applicant states that seeking a reference letter from an employer will jeopardize employment, a reference letter is not required. Each waiver request must explain all periods of unemployment of 3 months or more during the preceding year (not required for battalion-level waivers, unless the battalion commander requires it).

(5) Applicant's current MEPS medical examination for major misconduct level waivers

(6) DD Form 214, DD Form 215, NGB Form 22, and DD Form 220, as applicable.

(7) DD Form 1966 and SF 86, section III, civil offenses.

4-29. Conduct standards

Acceptability for enlistment of persons who have records of court convictions or other adverse dispositions is based on conduct standards given in this section.

a. These standards screen out—

- (1) Applicant who is legally precluded from serving in the U.S. Armed Forces.
- (2) Applicant whose background poses serious questions about fitness for Service.
- (3) Applicant who is unsuitable for participation in special programs.
- (4) Applicant who is likely to pose serious disciplinary problems.

b. Such cases divert manpower resources from performing military missions. Applicants will be advised that all arrests, convictions, or other adverse dispositions must be revealed. Recruiting personnel will obtain the criminal history of all applicants.

4-30. Rules governing processing of conduct waivers

a. All offenses, regardless of their outcome or place of offense (includes crimes committed outside the United States) will be listed on SF 86. A person arrested, cited, charged, or held for an offense or offenses and allowed to plead guilty to a lesser offense will list the original charges and also the lesser offense to which a plea of guilty was entered. For example, a person arrested for grand larceny and 2 counts of criminal possession of stolen property pled guilty to 2 counts of criminal possession of stolen property, value of less than \$500. In this example, the applicant requires a conduct waiver. However, waiver is not needed if an arrest or questioning does not result in referral of charges, or if charges are dismissed without a conviction or other adverse disposition. Incident must be listed on SF 86. Waiver is not authorized if a criminal or juvenile court charge is pending or if such a charge was dismissed or dropped at any stage of the court proceedings on condition that the offender enlists in a military Service.

b. To ensure equal treatment to all persons applying for enlistment, despite the variance in State statutes, the rules below are guides to those responsible for processing waivers.

(1) *Civil court conviction*. This term means a judgment of guilty or an accepted plea of nolo contendere is entered in a court's records for persons tried as adults regardless of—

(a) Whether or not sentence then was imposed, withheld, or suspended.

(b) Later proceedings that deleted an initial determination of guilt from court records, based on evidence or rehabilitation or completion of a satisfactory probationary period. (Examples of later proceedings in adult offender cases include pardon, expungement, amnesty, setting aside the conviction, and reopening of the case to change the original finding of guilty and to dismiss all of the charges unless new findings in the case would have resulted in an original verdict of not guilty. Such later proceedings recognize rehabilitation. They do not change the fact that the offender committed the criminal act.)

(2) *Other adverse dispositions*. This term includes all law violations that are not civil court convictions (see para 4-32b(1)(b)), but which resulted in an arrest or citation for criminal misconduct, followed by the formal imposition of penalties or any other requirements upon the offender by any governmental agency or court.

- (3) *Examples of other adverse dispositions.* Some examples of other adverse dispositions include—
- (a) Admission into diversionary or similar programs.
 - (b) Admission into an adult first-offender program.
 - (c) Deferred acceptance of guilty plea programs or probated sentence.
 - (d) Tried as a youthful offender.
 - (e) Enrollment in supervision programs.
 - (f) Orders to pay restitution, pay a fine, serve community Service, attend classes, or serve probationary periods that do not constitute civil court convictions.
 - (g) Adjudication withheld and suspended imposition of sentence.
 - (h) Unconditional suspended sentence and unsupervised unconditional probation. These terms are defined as a court-imposed suspended sentence or probationary status.
- (4) *Later proceedings.* Later proceedings delete an initial determination of guilty or commission of alleged misconduct from court or agency records. Examples of later proceedings used in Federal and State courts include—
- (a) Expungement.
 - (b) Record sealing.
 - (c) Setting aside the adjudication or reopening cases to change the original findings/pleas of admission of guilt to not guilty.
 - (d) Dismissal of the original petition.
- (5) *Juvenile delinquent.* This term includes disposition as a juvenile delinquent, wayward minor, youthful offender, delinquent child, or juvenile offender, and declaration of the juvenile as a ward of the court. The term does not include disposition of the juvenile as dependent, neglected, or abandoned.
- (a) A conviction exists if a juvenile (applicant under age 18) is tried and convicted as an adult. DD Form 369 may be modified to include a statement in the remarks section that asks the following: “Was subject tried and convicted as an adult?” Unless court records indicate otherwise, applicants who were juveniles at the time of the offense have an adverse disposition.
 - (b) Because all States have varied laws with regard to juveniles being tried as an adult, recruiters through their chain of command should consult with their supporting Judge Advocate when questionable cases arise.
 - c. Some States have procedures for a later “expunging of the record,” dismissal of charges, or pardon (on evidence of rehabilitation of the offender). Such action removes the “initial conviction” or “other adverse disposition” so that, under State law, the applicant has no record of conviction or adverse juvenile adjudication. Despite the legal effect of this action, a waiver authorizing RA, AR, or ARNG enlistment of such an applicant may be required, and the underlying facts must be revealed.

4–31. Waiver reporting

A report on each category of accession waivers provided by each Army Component will be forwarded to HQDA (DAPE–MPA) not later than the 7th work day of each new calendar month.

- a. Waiver categories include: medical, administrative (non-prior Service dependency and all RE code waivers), DAT (Drug and Alcohol) and conduct (non-traffic, misconduct, and major misconduct).
- b. The waivers report will be structured according to guidance provided by HQDA (DAPE–MPA).

4–32. Waiting period

a. The waiting period provides the reviewing authority the ability to evaluate the extent of the applicant’s rehabilitation. For PS personnel, waiting periods listed in paragraph 4–32b, apply only to offenses and periods of confinement since date of last separation from active military Service. Waiting periods do not apply to minor traffic or non-traffic offenses, unless a waiver is required. The CG, USAREC or CNGB may lengthen minimum waiting periods.

b. Waiting periods following civil restraint or waiver submission are as follows:

- (1) If an applicant was on parole, probation, or suspended sentence after period of civil restraint has been concluded may process or submit a waiver once all court ordered requirements are completed.
- (2) If an applicant had confinement as a juvenile or an adult of less than 15 days, a 3-month waiting period is required before an applicant can process or submit a waiver. As an exception, the recruiting battalion commander may waive up to 45 days of the waiting period if the applicant was sentenced only to a fine and, as an alternative, elected to serve a confinement period. Written verification from the court imposing the sentence is required. Any waiting time reduced by the recruiting battalion commander when applicable will be annotated on a separate memorandum or the waiver document.
- (3) If an applicant had confinement as a juvenile or adult for 15 days or more, a 6-month waiting period is required before they can process or submit a waiver. As an exception, the recruiting battalion commander may waive up to 3 months of the 6-month waiting period if the applicant is sentenced to a fine and, as an alternative, elected to serve a confinement period. Written verification is required from the court imposing the confinement. Any exception granted

by the recruiting battalion commander must be annotated in the remarks section of DD Form 1966, and be noted on the waiver memorandum if a waiver was required.

(4) A waiting period is not required for applicants who are in the DEP/DTP and all civil restraint has been completed. Approval must be granted by the recruiting battalion commander.

(5) The above waiting periods do not apply to minor traffic violations when State law or court practices imposed periods of restrictions, supervision, or informal probation periods until fine is paid. They also do not apply to unsupervised traffic probation for minor traffic offenses.

4-33. Required investigations

a. Enlistment will be suspended, pending an investigation of the case (for example, completion of police records check, copies of court documents, discussion with probation officer, or review of correctional facility records, as applicable). Processing may continue if the applicant—

- (1) Admits to a record (including arrests, charges, other adverse dispositions, and convictions); or
- (2) Does not admit to a record, but the enlisting agency has reason to believe such a record exists.

b. For persons admitting to an arrest record—

(1) Who states that later conviction or other adverse dispositions occurred, a waiver is required as a self-admitted or alleged record (if such offenses require a waiver) when one of the following applies:

- (a) Civil authorities refuse to furnish the information.
- (b) No record of the information exists.
- (c) Applicant is unable to obtain the records.

(d) Offense occurred outside the United States, its territories, or possessions and obtaining a police record check is prohibited.

(2) Who State that no conviction or other adverse dispositions occurred, a waiver to permit enlistment is not required when one of the following applies:

- (a) Civil authorities refuse to furnish the information.
- (b) Applicant is unable to obtain the records.

(c) Offense occurred outside the United States, its territories, or possessions and obtaining a police record check is prohibited.

c. The investigation will include—

- (1) All documents required for enlistment and all documents required under paragraph 4-28.
- (2) Police record checks as required by this regulation.

4-34. Pending charges-civil restraint

Recruiting personnel will not—

a. Take part directly or indirectly in release of a person from pending charges so that they may enlist in the Army as an alternative to future prosecution, or further adverse juvenile, or adult proceedings. Equally important, recruiting personnel will in no way contribute, either directly or indirectly, to the false notion that the Army condones such a practice. Persons subject to a pending charge are not eligible for enlistment; therefore, they are not eligible for pre-enlistment processing to determine mental or medical eligibility.

b. Take part in any way in obtaining release of a person from any type of civil restraint so that they may enlist or complete enlistment processing to determine enlistment eligibility. The term civil restraint includes confinement, probation, parole, and suspended sentence. Accordingly, persons under the type of civil restraint that makes them ineligible for enlistment are not eligible for processing to determine mental and medical eligibility for enlistment, except for those individuals authorized to take the ASVAB test in accordance with paragraph 2-11a(2).

c. Process any person who has a doubtful criminal status. For example, while not classified as a specific “pending charge,” an applicant may have a possible indictment or arrest pending; further, the recruiter may have obtained information that indicates the applicant’s character may be questionable. These situations cannot be defined as an absolute in the qualification or disqualification process. When doubt exists as to the possible pending arrest, indictment, or pending nature of an offense, clarification must be obtained through the chain of command. For example, clarify, via the chain of command, an applicant’s eligibility and “questionable conduct character” if the applicant claims no arrest record and no pending charge, but local law enforcement officials indicate that the applicant is a suspect and it is possible that charges are about to be filed. Document any decision on such matters on DD Form 1966, remarks section or attach a memo for record to the residual file indicating the result and the decision on the matter.

4-35. HQDA exceptions

Recruiting battalion commanders or CNGB for members of the ARNG may request, through their chain of command to DCS, G-1 (DAPE-MPA), exceptions for applicants who fail to meet conduct qualifications outlined in chapter 4 of this regulation. If an exception is approved for applicants with exceptionally meritorious cases, DAPE-MPA will authorize (in writing) USAREC or ARNG to process these waivers.

4–36. Unsupervised probation

a. Applicant may enlist if currently on unsupervised probation for offenses listed in paragraph 4–36*b*, below, and provided the individual has no restriction of movement, has paid all fines, and has completed all others conditions (such as community Service or restitution), and no further court action is pending or contemplated.

b. The offenses that apply to this rule are the following:

- (1) All minor traffic offenses as listed in paragraph 4–8.
- (2) Certain typical minor nontraffic offenses, as listed in paragraph 4–9. These offenses are limited to the following:
 - (*a*) Curfew violation.
 - (*b*) Damaging road signs.
 - (*c*) Disorderly conduct (original charge); creating a disturbance; boisterous conduct.
 - (*d*) Dumping refuse near a highway.
 - (*e*) Jumping a turnstile (to include those States that adjudicate jumping a turnstile as petty larceny).
 - (*f*) Juvenile adjudications (beyond parental control), incorrigible, runaway, truant, or wayward.
 - (*g*) Littering.
 - (*h*) Loitering.
 - (*i*) Purchase, possession, or consumption of alcoholic beverages or tobacco products by a minor.
 - (*j*) Robbing an orchard.
 - (*k*) Vagrancy.
 - (*l*) Violation of fireworks law.
 - (*m*) Violation of fish and game laws.
 - (*n*) Violation of leash laws.

4–37. Waiver reporting

A report on each category of accession waivers provided by each Army Component will be forwarded to HQDA (DAPE–MPA) not later than the 7th work day of each new calendar month.

a. Waiver categories include: medical, administrative (non-prior Service dependency and all RE code waivers), DAT (Drug and Alcohol), and conduct (minor non-traffic, conduct, and major misconduct).

b. The waivers report will be structured according to guidance provided by HQDA (DAPE–MPA).

Chapter 5 Processing Applicants

Section I General Information

An applicant is a person who applies voluntarily for enlistment in the RA, AR, or ARNG and is found eligible for further processing after completing and signing DD Form 1966 and SF 86.

5–1. Importance of applicant processing

a. Processing is usually an applicant's first personal introduction to the Army. If courtesy, tact, efficiency, and integrity prevail in this first contact, the applicant will have reason to believe that their decision to enlist in the Army is a wise one. Applicant processing will—

- (1) Ensure that records are prepared accurately. These records are a matter of major importance during the person's military Service, in later civilian life, and even after death.
- (2) Be a smooth transition from civilian to military life for those accepted for enlistment.
- (3) Provide appropriate advice and assistance to all applicants.
- (4) Ensure that personal documents are returned to all applicants for enlistment.
- (5) Identify all applicants who have difficulty speaking or understanding English (including permanent resident aliens residing in the United States less than 1 year, whose native tongue is not English, and all NPS applicants from Puerto Rico).

(*a*) Inform identified applicants that they will be taking an English Comprehension Language Test (ECLT) at MEPS.

(*b*) Advise all identified applicants that those who score 69 or below on the ECLT will be required to take English language training prior to IET.

(6) Use the Army Recruiting Information Support System (ARISS) segment applicable to the Army Pay and Entitlements to inform applicants of the requirement to establish and maintain a financial account.

b. Persons who prepare, control, and transmit applicant enlistment records and forms will—