



TRIAL DEFENSE SERVICE FACT SHEET Involuntary AGR Separations



1. Notification of Recommendation

Soldiers being recommended for involuntary separation from the Active Guard Reserve (AGR) Program will be notified, in writing, of the recommendation before it is forwarded through the chain of command to The Adjutant General. The Soldier will be given fifteen days from receipt to rebut or comment and return the recommendation to the commander who initiated the process. Being separated from the AGR Program is a separate process than being separated from the military in whole (i.e. a Soldier may be separated from the AGR Program and return to a traditional M-Day status). Soldiers who wish to have a Trial Defense Service (TDS) attorney review their rebuttal should contact the TDS office **as soon as possible** at (512) 782-6069.

2. Separation for Cause

Regulations direct commanders/supervisors to consider the following factors when deciding whether to initiate separation actions:

- The seriousness of the events/conditions forming the basis for the recommended separation
- The likelihood that the events/conditions will continue or recur
- The member's whole military record (both positive and negative, assignments, etc.)
- The member's ability to perform full-time support duties in a reasonable manner
- The member's potential for further service
- The possibility of reassigning the member
- Whether the actions of the member will/could have an adverse impact on accomplishment of the unit's mission

Soldiers will be afforded the opportunity (but not required) to request voluntary release in lieu of involuntary separation. If a Soldier's request for voluntary release is granted, he/she would be allowed to utilize all accrued leave and receive an Honorable discharge on their DD 214. If the Soldier does not request voluntary release and the commander's recommendation is approved, the characterization of service would not be required to be Honorable and the Soldier may lose unused leave. Below are cited reasons to separate a Soldier for cause from the AGR Program:

- Acts of expressed sentiments of racism, sexism, or prejudice against ethnic/religious groups
- Loss of professional qualifications required for the performance of assigned duties
- Failure to attain and maintain medical, physical fitness and weight standards
- Inappropriate professional and personal conduct
- Moral of professional dereliction
- Substandard duty performance

3. Mandatory Separations

When separation is required, retention is unauthorized and The Adjutant General is the final approval authority. Soldiers will be given at least thirty days notice prior to separation. Separation is required when:

- Officers reach MRD IAW NGR 635-100 or complete twenty years of Active Federal Service

- An enlisted member reaches age 60 (extensions are not authorized)
- An enlisted member complete total years of Active Federal Service as defined in NGR 600-5 (extensions must be approved by NGB-ARM, Washington, DC 20310-2500)
- Officers twice non-selected according to provisions of AR 135-155
- Failure to obtain, or the loss of required security clearance
- Conviction by civilian or military authorities for a disqualifying offense UP of NGRs 635-100, 635-101 or NGR 600-200
- Failure to successfully complete PDP requirements
- Member non-selected by AGR continuation board
- Failure to meet MOS or AOC qualification standards
- Loss of Federal recognition

4. Medical Separations

Soldiers undergoing extensive medical treatment or medical board proceedings for line of duty (LOD) related injuries or diseases will be retained in the AGR status until final disposition by medical authorities. Soldiers who request, or are undergoing, a release from active duty physical may do so however, failure to complete REFRAD examination will not be grounds for retention in an AGR status.

Contact the TDS office for any other questions or concerns at (512) 782-6069.

***** It is important to contact the TDS office immediately after receiving notification of the commander's recommendation to separate from the AGR Program. TDS attorneys are traditional M-day Soldiers who work with clients in addition to their civilian occupation. If an extension is needed, the TDS office can assist in drafting the request. You should start drafting your response, gathering character statements and any other documents to help your case immediately. The TDS office will provide guidance, review and give advice however we will not be writing your rebuttal for you.**