



**TRIAL DEFENSE SERVICE
FORT SILL FIELD OFFICE
FORT SILL, OKLAHOMA 73505**

**WHAT YOU SHOULD KNOW ABOUT CHAPTER 9, AR 635-200
ALCOHOL OR OTHER DRUG ABUSE REHABILITATION FAILURE**

1. WHAT IS THE BASIS FOR A CHAPTER 9? A Soldier who is enrolled in the ADAPCP for alcohol/drug abuse may be separated because of inability or refusal to participate in, cooperate in, or successfully complete such a program in one of the following circumstances: (a) there is a lack of potential for continued Army service and rehabilitation efforts are no longer practical, or (b) long-term rehabilitation is necessary and the Soldier is transferred to a civilian facility for rehabilitation. Paragraph 9-2.

When the immediate commander determines that a Soldier under military control is an alcohol/drug rehabilitation failure, he will use the notification procedure in Chapter 2, AR 635-200, to notify the Soldier of the initiation of separation action. If the Soldier confined by civil authorities has a military record which indicates that he/she should be processed for separation under this chapter, the commander may do so. Paragraph 9-3.

2. PROCEDURE. The separation authority will approve separation in cases processed without a board if he finds (1) required rehabilitation efforts have been made; (2) further rehabilitative efforts are not practical, rendering the Soldier a rehabilitation failure; (3) the Soldier's potential for fully effective service is substantially reduced by alcohol/drug abuse; and (4) an administrative board is not required or has been waived. The separation authority reads your commander's documents and any documents you submitted and then makes the final decision as to whether or not you should be separated and if so, he decides the type of discharge you should receive. Paragraph 9-5.

For actions processed under the administrative board procedure, the separation authority will either (1) approve separation when recommended by the board, but service may not be less favorable than that recommended by the board; (2) approve retention when recommended by the board; or (3) disapprove a recommendation of separation by the board and direct retention of the Soldier.

3. WHAT ARE YOUR RIGHTS?

- a. You have a right to consult with consulting counsel within a reasonable time (not less than 7 duty days), or civilian counsel at your own expense.
- b. You have a right to submit statements on your behalf.
- c. You have a right to obtain copies of the documents which your commander is using to support the separation recommendation.
- d. You have a right to request treatment in a VA Medical Center.
- e. If you have six or more years of total active and reserve service on the date of initiation of recommendation for separation, you have the right to a board.
- f. You have a right to waive the above rights in writing. Failure to respond in seven duty days (that means not signing the form) means you give up all your rights.

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4. TYPE OF DISCHARGE: Members separated under Chapter 9, AR 635-200, will be given either an honorable or general discharge (paragraph 3-7, AR 635-200).

5. EFFECT OF DIFFERENT KINDS OF DISCHARGES: There is little difference in eligibility for veteran's benefits and programs between general or honorable discharges. Educational benefits (i.e. Montgomery GI Bill), however, require an honorable discharge in addition to specific time in service requirements. With either discharge, other veteran's benefits depend on the length of service and other factors. There may be some psychological prejudice in the civilian world against people with general discharges; no definite statement can be made about this factor.

6. UPGRADING THE DISCHARGE: If you receive a general discharge, you are eligible to apply to have your discharge upgraded through the Army Discharge Review Board. The TDS office has information on the process for such an upgrade application.

7. TIMING OF SEPARATION: You will be separated as soon as possible. **NOTE: Any misconduct committed after the discharge is approved, but before separation, can still be prosecuted.**

8. HOW TO FIGHT BACK: The main way of opposing the discharge is with statements. You may also request a personal interview with the commander who is making the decision, but he/she does not have to grant you one. You can submit a statement that you write yourself, stating your side of the negative information that your commander has compiled, and respectfully stating why you want to stay in the Army or why you believe you should be given an honorable discharge. You should include a positive statement about the Army. Statements from supervisors and co-workers are also very important, if you are opposing the discharge, statements should address the negative items in your packet and address the areas covered in paragraph 1, the basis for the action. The statements should specifically and directly comment on whether these factors are true of you. Hopefully, the supervisors will also recommend that you be retained on active duty or that you receive an honorable discharge if you are separated from the service. You should keep copies of all such letter you get, because you can use them in an attempt to have your discharge upgraded, if necessary.

If you are seeking an honorable discharge, the statements should specifically and directly comment on the factors listed in paragraph 5 regarding "types of discharge". Also include copies of any good certificates, letters, or awards. If your discharge is approved and you still wish to stay in the Army, you should write a letter to the Brigade or USAARMC Commander requesting the execution of the discharge be suspended 6 months so that you can prove yourself. Remember, however, that you will be flagged during any period of suspension. If you have any questions on these matters, or need any assistance, please consult with a defense attorney.