



# MOUNTAIN POST LEGAL BRIEF

A Preventive Law Service of The Office of the Staff Judge Advocate

Headquarters, Fort Carson

**Keeping You Informed On Personal Legal Affairs**



## DA BARS TO REENLISTMENT UNDER THE QMP

Consider these questions and answers to help you determine your rights under DA's Qualitative Management Program.

### Q: WHAT IS A BAR TO REENLISTMENT?

A: A bar to reenlistment is the administrative tool used to deny reenlistment to substandard soldiers. Army Regulation (AR) 601-280 sets forth policies and procedures for the Army's retention/reenlistment program. The regulation provides that only soldiers of "high moral character, personal competence, and demonstrated adaptability" to the requirements of military service may reenlist. The regulation authorizes bars for soldiers whose immediate separation is not warranted but whose reenlistment is not in the best interest of the Army.

### Q: WHAT IS THE DIFFERENCE BETWEEN LOCAL BARS AND DA BARS?

A: A soldier's chain of command imposes local bars to reenlistment. The focus is on whether the soldier should be allowed to serve beyond ETS, not on forcing the soldier out prior to ETS. DA-imposed bars under the Qualitative Management Program (QMP) are different. The focus of these bars is separation, under the rationale that the soldier's personnel file contains negative information which will prevent promotion. Without the possibility of promotion, DA provides that the soldier should be moved out of the Army. In a sense, a DA imposed bar is a part of the Army's "up or out" philosophy.

### Q: WHAT IS THE QMP?

A: The Army periodically reviews the official files of noncommissioned officers in the rank of Staff Sergeant and above for possible promotion. The Sergeant First Class and Master Sergeant Selection Boards examine the performance portion of a soldier's Official Military Personnel File (OMPF) for negative information (weaknesses) which will prevent promotion. Examples of negative information include non-judicial punishment (Article 15s), General Officer Reprimands (GOMORs), and poor career evaluations (NCOERs). Once the board identifies the negative information, DA lists identifies the soldier for potential separation under the QMP.

### Q: WHAT PROCEDURES DOES DA FOLLOW IN THE QMP?

A: The QMP bar and a statement of option are forwarded from the US Army Enlisted Records and Evaluation Center (USAEREC) down through the chain of command to the soldier's battalion-level commander. That commander presents the bar to the soldier. The soldier has 5 days to select an option. Those options include: 1) to appeal the QMP with the goal of having the bar removed; 2) to be separated from the Army; 3) to request immediate retirement (soldiers over 20 years active Federal service); or 4) to be scheduled for retirement (soldiers with at least 17 years and 9 months of active Federal service). Appeals must be returned to the battalion-level

commander within 45 days. The chain of command then has 15 days to forward it, with recommendations for approval or disapproval, back to USAEREC. The promotion board, which initiated the QMP, will consider the appeal and render a decision.

**Q: WHAT IS THE APPEALS PROCESS FOR DA-IMPOSED BARS?**

A: Appeals must argue material error or improved performance. Material error usually exists where something has been misfiled in a soldier's OMPF. For example, an Article 15 belonging to John Smith is mistakenly filed in James Smith's file. The appeal simply points out the material error, and asks that the mistake be corrected. Improved performance is the more common ground on which to appeal. Improved performance simply means the soldier has overcome the weakness cited by the selection board, and that separation is not in the best interests of the Army. An example may be a Staff Sergeant who received an Article 15 ten years earlier as a Private. The Staff Sergeant has been promoted several times since, has received several awards, and has received a number of excellent evaluations. Improved performance exists in the form of the motivation, hard work, and commitment to excellence which prompted those promotions, the awards, and the excellent NCOERs. In addition, however, the soldier needs as many supporting statements as possible. The statements should support removal of the bar and should be from past commanders, supervisors, or others knowledgeable of the quality of the soldier's duty performance. The goal is to paint the picture of a dedicated soldier who wants to stay in the Army, and that it is in the best interest of the Army to have the soldier stay. Favorable chain of command endorsements are crucial for a successful QMP appeal. If the battalion-level commander, brigade-level commander, and a General Officer provide favorable recommendations, the selection board may well remove the bar. Without favorable chain of command action, removal of the bar is unlikely. In every situation, the selection board will evaluate the soldier's potential for future service and promotion, along with the soldier's service record up to that date. In that sense, it truly is a total picture decision.

**Q: WHAT SHOULD I DO IF I RECEIVE NOTICE OF A QMP BAR?**

A: Contact the Fort Carson Legal Assistance Division to arrange for a consultation with a legal assistance attorney. A legal assistance attorney can help evaluate your QMP options and assist with preparation of an appeal statement.