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32 CFR Ch. V (7-1-07 Edition)

(i) The retention medical fitness standards in chapter 3, AR 40-501, if applicant enlists within 6 months of RA separation.

(ii) The enlistment medical fitness standards in chapter 2, AR 40-501 (except the weight standards of paragraph 2-22, AR 40-501) if applicants enlist 6 months from the last RA separation date, or if applicants last separated from another service or component and meets the weight tables in appendix A, AR 600-9.

(iii) The retention medical fitness standards in chapter 3, AR 40-501 if applicant is an active member of USAR/ ARNG unit and meets the weight tables at appendix A, AR 600-9.

(iv) Any additional requirements for the specific enlistment option.

(f) *Dependent criteria.* (1) The applicant may have only three dependents (see paragraphs (f)(1) and (iii) of this section).

(i) An applicant without a spouse who has one or more dependents under 18 years of age is disqualified, except as noted in paragraphs (f)(1) (ii) and (iii) of this section. No waiver is authorized.

(ii) An applicant may be enlisted when dependent children are in the custody of the other parent by court order, and the applicant is not required to provide child support. No waiver is required.

(iii) An applicant, required to pay child support for no more than 2 dependents under 18 years of age when dependents are in the other parent's custody by court order, may enlist without waiver.

(iv) In meritorious cases, an applicant with a spouse may request waiver of paragraph (f)(1) of this section.

(v) Husband and wife teams who have one or more dependents under 18 years of age are disqualified. No waiver is authorized.

(vi) An applicant with a spouse on active duty with any Service who has 1 or more dependents under 18 years of age is disqualified.

(2) Prior service. Same as non-prior service for pay grades E-1 through E-3. If eligible for pay grade E-4 or higher, may enlist without regard to number and ages of dependents. However, the provisions of paragraphs (f) (i), (ii),

(iii), (v), and (vi) of this part for applicants without prior service apply.

§ 571.3 Waivable enlistment criteria including civil offenses.

(a) *Waivers of enlistment eligibility criteria*—(1) *General.* This section gives the procedures for initiating and processing requests for waiver to meet the basic qualifications for enlistment.

(2) *All waiver authority.* The Commander, U.S. Army Enlistment Eligibility Activity (USAEAA) may act for the Commanding General, U.S. Army Military Personnel Center (MILPERCEN) to process, approve and disapprove waivers for enlistment.

(3) *Waiver disapproval authority.* The responsibility for deciding if a waiver request warrants favorable consideration rests at all levels.

(4) *Validity period.* Unless otherwise stated in the waiver document, waivers are valid for 6 months.

(5) *Waiver approval authorities—eligibility criteria.*

If disqualification is—	Then approval authority is—
(i) Medical: Non-prior service.	CG, USAREC
Prior service	CG, MILPERCEN
(ii) Underweight or overweight (+ or - 5 lbs.): Non-prior service.	AFEES Senior Medical Officer
Prior service.	None. Prior service applicants enlisting in DEP or active Army must meet the AR 600-9 weight standards. No waivers are authorized.
(iii) Dependents	CG, MILPERCEN
(iv) AWOL: Lost time 1-15 days.	CDR, District Recruiting Command (DRC)
Lost time over 15 days.	CG, MILPERCEN
(v) Previous discharge for dependency or hardship.	CG, MILPERCEN
(vi) Last separated from any of the Armed Forces on the basis of being a sole surviving person and family member or applying for enlistment for the first time.	CG, USAREC

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If disqualification is—	Then approval authority is—
(vii) Previous conscientious objectors who are no longer conscientious objectors: Non-prior service. Prior service	CG, USAREC CG, MILPERCEN CG, MILPERCEN
(viii) Received one or more convictions by military courts-martial during last period of active service or was discharged with disqualifications (e.g., unsuitability, conviction by civil court, resignation for good of Service, misconduct, fraudulent enlistment, or bar to reenlistment).	
(ix) Desires to enlist as conscientious objector: Non-prior service. Prior service	CG, USAREC CG, MILPERCEN CG, MILPERCEN
(x) Was denied reenlistment at time of last separation from active Service under Qualitative Screening Process unless ineligible for enlistment.	
(xi) Discharged under the Trainee Discharge program or Expeditious Discharge program.	CG, MILPERCEN
(xii) Primary Military Occupational Specialty (PMOS) Evaluation Score below 70.	CG, MILPERCEN

If disqualification is—	Then approval authority is—
(xiii) Persons whose DD Form 214 (Report of Separation from Active Duty) contains no PMOS evaluation score.	CG, MILPERCEN (Year Group Management)
(xiv) Persons enrolled in the Alcohol and Drug Abuse Prevention and Control Program (ADAPCP) at time of last separation from active duty.	CG, MILPERCEN

(b) *Civil offenses—(1) Moral standards.* Moral standards for enlistment deal generally with the acceptability of persons with records of court convictions or adverse juvenile judgments. The standards screen out persons who may become serious disciplinary cases and who could bring harm to a military mission.

(2) *Waiver approval authorities—civil offenses.*

If the offense is—	Then approval authority is—
(i) Minor traffic offenses.	CDR, Recruiting Area
(ii) Minor non-traffic offenses.	CDR, Recruiting Area
(iii) Misdemeanors.	CDR, DRC
(iv) Juvenile felonies.	CG, USAREC
(v) Adult felonies.	CG, MILPERCEN
(vi) Civil restraint of unconditional suspended sentence or unconditional.	CDRs in lines (i) through (v) for the offenses involved

(c) *Rules governing processing of moral waivers.* (1) Individuals require a misdemeanor waiver if arrested, cited, charged, or held and allowed to plead guilty to a lesser offense or to plead guilty to criminal possession of stolen property (value \$100 or less). An arrest or questioning with no preferral of charges does not require a waiver. When charges are dismissed without

determination of guilt no waiver is required. A 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 enlist in a military service.

(2) To ensure equal treatment of all persons applying for RA enlistment, notwithstanding the wide variance in State statutes, the following guidance is furnished:

(i) *Expunging of the record.* Some states have procedures for (subsequent) “expunging of the record,” dismissal of charges, or pardon (upon evidence of rehabilitation of the offender). Such action has the effect of extinguishing the “initial conviction” or “adverse juvenile adjudication.” Under the State law, the applicant then has no record of conviction or adverse juvenile decision. Despite the legal effect of this action, a waiver is required to authorize the RA enlistment of such an applicant. The record is also required to be revealed.

(ii) *Juvenile and youthful offenses.* To determine eligibility for RA enlistment, a juvenile or youthful offense is defined as one committed by the applicant under the age that the individual could enlist in the RA without parental consent. Offenses committed below the age of 18 are considered juvenile or youthful offenses regardless of disposition of civil authorities. For example, a juvenile felony is one committed by an applicant under 18, whether or not the result is a civil court conviction or adverse juvenile judgments. On the other hand, an adult felony is one committed by an applicant when 18 years old or older regardless of what type of court makes the decision.

(iii) *Civil court conviction.* This term means the decision of guilty by a court (or a jury) based either on the case’s merits, or on the defendant’s guilty plea or nolo contendere, regardless of—

(A) Whether sentence was then imposed, withheld, or suspended, or

(B) Subsequent proceedings deleted an initial decision of guilt from court records, based on evidence of rehabilitation or completion of a satisfactory probationary period. Examples of subsequent proceedings in adult offender

cases include pardon; expungement; reopening of the case to change the original finding of guilty or nolo contendere, to not guilty, dismissing the charge, amnesty, and setting aside the conviction. These subsequent proceedings merely recognize rehabilitation, they do not alter the fact that the offender committed the criminal act.

(iv) *Adverse juvenile judgments.* This term—

(A) Means that a judge or a jury in a juvenile court proceedings determined that the juvenile was guilty of or committed the alleged acts, that the decision was based either on the complaint’s merits or on the juvenile’s admission of guilt or plea of guilty; and that the decision was recorded in the court records.

(B) Applies, whether or not sentence was then imposed, withheld, or suspended; and regardless of subsequent proceedings to delete an initial determination of guilt from court records, based on rehabilitation or satisfactory probation or supervision. Examples of subsequent proceedings in juvenile courts include expungement; record sealing; reopening the case to change the original findings of guilty or delinquency, or the plea of guilty or admission of the truth of the allegation, to not guilty; and dismissal of the original petition and setting aside the decision of delinquency. These subsequent proceedings merely recognize rehabilitation. They do not alter the fact that the juvenile committed the act for which he or she was judged.

(C) Includes judgement 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 the judgement of the juvenile as dependent, neglected, or abandoned.

(v) *Unconditional suspended sentence and supervised unconditional probation.* These terms mean a suspended sentence or probationary status imposed by a court that places no condition upon the individual—

(A) Concerning individual’s freedom of movement.

(B) Requiring the payment of damages. (If paid, this requirement is no bar to waiver consideration.)

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(C) Requiring periodic reporting to an officer of the court (including a probation officer).

(D) Involving supervision by an officer of the court (including a probation officer). For example, a sentence suspended on sole condition that the offender must not commit a like offense in the next 12 months does not bar waiver consideration.

(vi) *For prior service personnel.* Although the applicant must reveal all offenses committed, only those require a waiver that are committed during and/or subsequent to the last period of honorable service, and/or those not previously revealed. For Reserve Component personnel of any Service, waivers are required for all offenses shown that require a waiver, whether or not a waiver was authorized for entry into the Reserve Component. Waivers granted to enter the Reserve Components are not valid for Regular Army enlistment.

(d) *Waiting period.* The waiting period following release from civil restraint gives the individual an opportunity to demonstrate a satisfactory adjustment and the Army a basis to judge the applicant's rehabilitation before enlistment.

(e) *Required investigations.* If the applicant does or does not admit a record (to include arrests, charges, juvenile court judgments, and convictions), and the enlisting agency has reason to believe a record exists, enlistment action will be held in abeyance pending an investigation.

(f) *Civil restraint.* (1) If all civil restraint is ended and there is substantial evidence of rehabilitation as a law-abiding member of a civil community, the applicant may be processed for enlistment.

(2) Recruiting personnel will not help directly or indirectly in the release of an individual from a pending charge so that he or she may enlist in the Army as an alternative to further prosecution or further juvenile court proceedings. Equally important, recruiting personnel will in no way contribute, either tacitly or expressly, 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 eli-

gible for preenlistment processing to determine their mental and medical eligibility.

(g) *Restrictions on help.* Recruitment personnel will not help in any way to secure the release of individuals from any type of civil restraint so that these individuals may enlist or start reenlistment processing. The term "civil restraint" includes confinement, probation, parole, and suspended sentence. Persons under civil restraint that makes them ineligible for enlistment are not eligible for preenlistment processing to determine their mental and medical eligibility for enlistment.

§571.4 Periods of enlistment.

Enlistments are authorized for periods of 2, 3, 4, 5, or 6 years. The enlistee's option determines the number of years.

§571.5 Enlistment options.

Personnel who enlist in the Regular Army for 2 or more years are authorized certain initial assignment choices. They must meet the criteria given in AR 601-210. Also, a valid Army requirement must exist for the skill under which enlisted.

PART 575—ADMISSION TO THE UNITED STATES MILITARY ACADEMY

Sec.

575.1 Military Academy.

575.2 Admission; general.

575.3 Appointments; sources of nominations.

575.4 [Reserved]

575.5 Entrance requirements.

575.6 Catalogue, United States Military Academy.

AUTHORITY: Secs. 3012, 4331, 70A Stat. 157, 238; 10 U.S.C. 3012, 4331-4355.

SOURCE: 44 FR 11781, Mar. 2, 1979, unless otherwise noted.

§575.1 Military Academy.

(a) *Organization and administration.* (1) The United States Military Academy is under the general direction and supervision of the Department of the Army. The Secretary of the Army has designated the Chief of Staff of the Army as the officer in direct charge of all matters pertaining to West Point.