



## HARDSHIP/DEPENDENCY VOLUNTARY REQUEST FOR DISCHARGE



Requests for discharge under Chapter 6, paragraph 6-3, Army Regulation (AR) 635-200, are informally called Hardship Discharges. You must show dependency or hardship to receive this discharge.

*a. Dependency. Dependency exists when death or disability of a member of a Soldier's (or spouse's) immediate family causes that member to rely upon the Soldier for principal care or support.*

*b. Hardship. Hardship exists when in circumstances not involving death or disability of a member of the Soldier's (or spouse's) immediate family, separation from the Service will materially affect the care or support of the family by alleviating undue and genuine hardship AND:*

*(1) Conditions have arisen or have been aggravated to an excessive degree since entry on Active Duty or Active Duty Training.*

*(2) Conditions are not of a temporary nature.*

*(3) Every reasonable effort has been made by the Soldier to alleviate the dependency or hardship conditions without success.*

*(4) Separation from active military service of the Soldier is the only readily available means of eliminating or materially alleviating the dependency or hardship conditions.*

As with most voluntary discharges, the criteria are somewhat vague. The Army has tried to provide specific guidelines and several services provide examples of appropriate or inappropriate hardships in the regulations. Generally, this discharge requires severe medical, psychological or financial problems in the member's immediate family. Medical and psychological problems are termed dependency, while financial problems are described as hardship, though many military personnel use the terms interchangeably. The problem must be more extreme than those commonly encountered by other Soldiers.

For example, it is insufficient if a Soldier and her husband face the usual sort of bankruptcy, even if this may result in the loss of their home. Discharge is not usually granted when family members simply have disabilities. A mother's breast cancer, in itself, is insufficient. Roughly stated, with any hardship or dependency, the problem must be so severe that the family will not be able to get by if the member remains in the military. Extraordinary and unpreventable financial losses which may cause the member's parents to lose their farm may be sufficient. A mother's cancer should suffice if it leaves her too ill to care for herself or the member's minor siblings. A depressed

spouse who may decompensate, requiring hospitalization or threatening suicide, often fits this criterion. In each case, reviewing authorities tend to ignore hardships if they are not well beyond the “normal” problems caused by insolvency or psychiatric or physical illness at home.

Although the regulations do not all specify, the hardship should involve a family member. The Army limits cases to immediate family of servicemembers or their spouses, and includes children, parents, siblings, blood relatives, or others who have stood in loco parentis for a continuous period of five years before the member was 21 (there is no reference to step-children).

In general, commands and separation authorities assume that immediate family is involved, and tend to assume that step-children and adopted children are included within that term. When the hardship is to grandparents or other less immediate family members, meeting the in loco parentis provisions, or showing a very similar relationship, may be sufficient. In some cases, a close reading of the service regulation may allow inclusion of people whose relationship to members is less traditional or more extended than immediate family.

In addition, the hardship must have arisen or become more severe after enlistment. When the problem existed prior to enlistment, the member must prove that it has changed significantly since then. This may mean the worsening of a medical condition, or the recent unavailability of a regular care-giver. It is important to show that the change was unanticipated, particularly in the early part of a first enlistment.

The problem must be long-term. This is not well-defined in the service regulations. General wisdom among counselors is that hardship discharge is appropriate when the problem is expected to last for a year or more, and hardship transfer is seen as the proper solution for a problem of six months or so. Commands generally assume that problems lasting only a month or two should be handled through emergency leave, regular leave, and the like, despite the fact that sufficient leave time may not be available.

Every reasonable effort must have been made to solve the problem. Essentially, members must show that they, their family or others have tried to find other means to solve or control the problem, and that nothing other than discharge will suffice. Fortunately, the military does not assume that every family can afford full-time nursing care, but discharge authorities do require a showing (at least in the form of statements from family members or others who have knowledge) that private, social service and similar resources are not available or will not suffice.

Only the Soldier’s presence at home can resolve the problem or prevent it from worsening. In addition to showing that there is no other solution, the application and

supporting documentation must show how the servicemember will solve the problem or keep it from becoming worse.

It is uncommon for commands to actively investigate a hardship claim, although an occasional officer will call a doctor, social worker or other professional providing supporting documentation. For the most part, however, commands simply approach applications with great skepticism, often assuming that family members will lie or exaggerate to help servicemembers obtain discharges. As a result, applicants must not only meet the criteria, but must document them heavily enough to overcome reviewing authorities who would rather ignore the problem.

### **Extended Leave and Emergency Transfers**

Most servicemembers know they can request emergency leave in family emergencies. Even when renewed, however, emergency leave usually lasts only a week or two. Regular annual leave is sometimes helpful, but commands may refuse to grant leave already earned (“on the books”) if they are skeptical about the emergency or simply short-handed. But few members know that the hardship regulations contain provisions for extended leave or emergency attachment to commands near home in hardship discharge cases. (This is not the same as hardship transfer or compassionate reassignment for hardships expected to last less than a year, which may be requested in procedures almost identical to hardship discharges).

Requests made directly to local commands for extended leave or emergency attachment are frequently worth consideration since they allow members to provide help at home while the application is pending, give them time and opportunity to gather supporting documentation, and often change the separation authority from parent commands with a strong interest in maintaining personnel strength to commanders with no direct interest in the outcome. In all cases, local and parent commands have discretion in deciding on transfer or leave. Naturally, procedures are different in each service, as is the form of transfer or leave, so review of the service regulations is essential.

The Army provisions, set out in AR 635-00, section 6-6.a, seem to be written for Soldiers who are on leave when they discover the need for discharge, but should be applicable to members at their parent commands or on deployment. Soldiers may ask the local command that they be attached there while applications are prepared and processed. Virtually any Army installations except MEPS, main recruiting stations, and medical centers may be used. If the local and parent commands agree, members are placed on emergency attachment at the local base pending determination of their claims. The provisions of AR 614-30, section 5-5, should be reviewed when Soldiers are on orders for overseas transfer or deployment, and perhaps for others overseas.



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