



NATIONAL GUARD BUREAU

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NGB-ARR

24 May 2010

MEMORANDUM FOR ARNG Commanders in Theater (OIF/OND/OEF)

SUBJECT: Working guidance for determining Soldier hardships resulting from off-ramps and curtailments of ARNG OCONUS units

1. Reference. ARH Policy Memo #10-023, 12 April 2010, subject: Planning Considerations for Executing Partial Unit Curtailments in Theater.
2. NGB-ARR is providing this memorandum as draft, working guidance that is intended to assist Adjutants General, States/Territories, and ARNG staff and commanders in the field with a set of standardized criteria to help determine what constitutes a "hardship" for Soldiers in mobilized units curtailed prior to their BOG date. It supports a critical step in determining the scope of any actual "hardship" cases for curtailed ARNG Soldiers, and informs the process by which potential solutions are sought through the Department of the Army.
3. Some ARNG units deployed as part of OIF/OND are being curtailed as a result of transition to stability operations. Additional mobilized ARNG units may, in the future, become curtailed from the CENTCOM Theater of Operations. This has the potential to cause hardships for some individual Soldiers in units curtailed prior to their BOG date that were anticipating remaining on active duty, and may be adversely impacted by the curtailment.
4. A "hardship" is a potential negative impact on a Soldier based on an early release from active duty which impacts Soldiers, families, and/or their employers to the Soldiers' detriment. The impact can be contractual, financial, a quality-of-life issue, or a combination of all three. Key is the concept of "reliance," meaning that the Soldier and/or their family have taken actions supporting the Army's mobilization placing them on active duty for a set period of time, and should not be adversely impacted because they answered the call to duty.
5. To demonstrate a hardship, however, "reliance" must be reasonable as where Soldiers have given up employment or employment opportunities for the deployment period; leased or terminated leases on homes/apartments, or farm land; forfeited needed financial assistance for college courses, dis-enrolled or did not enroll in college/vocational schooling, or similar actions; or took actions to relocate themselves or family; all in reliance on service of their active duty commitment. Self-employed Soldiers who contracted for business continuity while deployed (farms, service industries, construction, etc.); families who relocated for the deployment or to secure other employment during the mobilization; inability of employers to bring the Soldier

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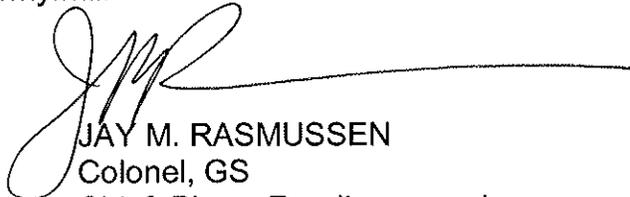
back to work prior to a BOG date due to temporary hiring during their absence; and a lack of available short-term housing for Soldiers or their families; are all examples of actual, potential "hardships."

6. A Soldier is not considered as having a hardship if they were unemployed prior to mobilization unless the unemployment was based on leaving employment on good terms with the employer before deploying (e.g., giving the employer proper notice). If a Soldier does not have a demonstrated adverse impact from early return prior to a BOG date, or from some other contractual or reliance action on their part resulting in financial harm or harm to the Soldier or their family, then there is no demonstrated hardship. While laudatory, simply wanting to remain on active duty through the period covered by the original BOG, whether OCONUS or in CONUS, is not a hardship. Such Soldiers, where opportunities might be available, would be free to seek continuation on orders or other orders as available but are not considered a hardship.

7. There can be no hard or fast rules defining a "hardship" for Soldiers since every situation may be unique. It is ultimately up to commanders and those charged with responsibility for troops and their families to exercise due-diligence, and evaluate circumstances on a case-by-case basis where necessary. Hardships, of course, apply equally to all Soldiers – units comprised mainly of soldiers from a single state should not have their state's Soldiers retained while those of other states, or IRR or other augmenting personnel, are curtailed. Potential hardships may impact any Soldier.

8. This guidance is not all-inclusive, but is provided to assist those charged with evaluation of hardships. It is intended to be helpful, and provide some continuity and insight to shape the decision process for hardship determinations, but it is not a binding legal assessment. Based on prior deployments, analysis has shown that the likely percentage of Soldiers facing a real hardship has not exceeded 5-10% of those returning at any one time (e.g., if 500 Soldiers out of a unit were being curtailed on 01 July, for example, between 25-50 or fewer Soldiers might have an actual hardship).

9. The point of contact for this memorandum is the undersigned, COL Jay M. Rasmussen, Chief, Plans, Readiness and Mobilizations Division, at DSN 327-7371, 703-607-7371 or jay.rasmussen@us.army.mil.


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