

Table 5–3
Procedures for requesting exemption from assignment to duty in a designated hostile fire area

Step 1:

Action required by: Soldier

Description of action(s):

- a. Inform immediate supervisor and unit CDR of intention to apply for exemption from assignment to duty in a designated HFA (or reinstatement of HFA exemption).
- b. Initiate request using DA Form 4187 (or memorandum).
- c. Attach supporting documentation to DA Form 4187 (or memorandum).
- d. Submit request and supporting documentation to unit CDR/MPD/BN/BDE/BCT S1 for processing.

Step 2:

Action required by: unit CDR, MPD, BN, BDE, and/or BCT S1

Description of action(s):

- a. Counsel Soldier on exemption from assignment to duty in a designated hostile fire area criteria, policy, and assignment restrictions outlined in AR 614–200.
- b. Review DA Form 4187 (or memorandum) and supporting documentation to ensure Soldier is eligible for exemption from assignment to duty in a designated HFA (or reinstatement of HFA exemption).
 - (1) If Soldier does not meet eligibility requirements, provide him or her with reasons for disapproval.
 - (2) If additional verification/supporting documentation are required, inform Soldier and suspense action pending receipt of additional information.
- c. If Soldier meets eligibility criteria, prepare CDRs' recommendation(s) (unit, BN, and/or BDE/BCT CDR).
- d. Forward recommendation(s), DA Form 4187 (or memorandum), and supporting documentation to next higher headquarters for review/recommendation.

Step 3:

Action required by: general court-martial authority, division CDR, and/or CDR in grade of COL or above

Description of action(s):

- a. Review DA Form 4187 (or memorandum), recommendations, and supporting documentation for completeness.
- b. Prepare and attach memorandum recommending approval (if complete and Soldier meets eligibility; otherwise, disapprove and return for correction if necessary).
- c. Forward entire package to Chief, (AHRC–EPO–A) for final decision.

Step 4:

Action required by: Chief, Special Actions Branch (AHRC–EPO–A)

Description of action(s):

- a. Review DA Form 4187 (or memorandum), supporting documentation, and recommendation(s) for completeness.
- b. Coordinate legal review of package as necessary.
- c. Once package has been verified as complete and legally sufficient, approve Soldier's request for exemption from duty in a hostile fire area (or reinstatement), authorize appropriate assignment limitation, and coordinate applicable reassignment actions with Soldier's chain of command.
- d. If case is not favorably considered (package does not meet regulatory guidance), inform Soldier and Soldier's chain of command of reasons for disapproval.

Notes:

1. Only the Soldier can request exemption from assignment to duty in a HFA, request to withdraw exemption from assignment to duty in a HFA, or request reinstatement of exemption from assignment to duty in a HFA previously withdrawn.

Section III

Compassionate Actions

5–10. Overview

a. Compassionate actions are requests from individual Soldiers when personal problems exist. The two types of compassionate requests are when personal problems are as follows:

- (1) Temporary (resolvable within a year).
- (2) Not expected to be resolved within a year.

b. Soldiers may be reassigned, deleted, or deferred from AIs, or attached as a result of an approved compassionate request. Soldiers requesting reassignment may be assigned to an area other than their requested geographical preference based on availability of medical services and the needs of the Army.

- c. Soldiers may request reassignment from—
 - (1) CONUS to CONUS.
 - (2) OCONUS to CONUS.
 - (3) CONUS to OCONUS.
 - (4) OCONUS to OCONUS
 - (5) Within same OCONUS command.
- d. Normally, the following conditions alone are not a basis for a compassionate request:
 - (1) Soldier's desire is to be in a new area.
 - (2) Divorce or separation that is the result of Family separation due to military requirements.
 - (3) Legal actions and court appearances for matters relating to divorce and/or child custody issues.
 - (4) Awarding of custody of dependent child or children to the Soldier under the terms of a divorce or legal separation by temporary or permanent court order.
 - (5) Sole parenthood.
 - (6) Pregnancies involving threatened miscarriage, breech birth, cesarean section, or Rhesus factor incompatibility of spouse.
 - (7) The problem expected to be resolved by Family members joining the Soldier at their duty station.
 - (8) Minor allergies suffered by the members of the Family due to climatic conditions.
 - (9) Problems relating to home ownership or housing shortages.
 - (10) Financial problems alone or as the result of mismanagement of financial affairs by the Soldier or the Soldier's Family or problems related to an off-duty job, spouse's job, or private business activities.
 - (11) Chronic problems relating to parents or parents-in-law.
- e. Soldiers are authorized to submit only one request for reconsideration for the same or similar extreme family problem, providing that there are new supporting documents.
- f. Commanders who are GCMCAs will review each application to determine that the established criteria have been met. Requests that do not meet standards for a change in assignment will not be approved by the general court-martial authority. Applications that are not approved will be returned to Soldiers. Reasons for disapproval will be specified.
- g. Guidance for requesting compassionate actions for USAR AGR Soldiers is contained in AR 140–30.
- h. Request for compassionate actions will be forwarded through the servicing MPD or BCT/S1 to the HRC via e-mail (usarmy.knox.mbx.epmd-compassionate-section@mail.mil).

5–11. Criteria

- a. Compassionate requests must be initiated by the individual Soldier concerned. Spouses of Soldiers enrolled in the MACP will receive compassionate consideration unless otherwise indicated in the remarks section of DA Form 3739 (Application for Compassionate Actions). However, this does not guarantee favorable consideration.
- b. Compassionate consideration will be given for problems that cannot be resolved through the use of leave, correspondence, power of attorney, or the help of Family members or other parties.
- c. Compassionate consideration will be given only for Family members. A Family member includes spouse, child, parent, minor brother or sister, person in loco parentis, or the only living blood relative of the Soldier. Other persons, including parents-in-law, may also be considered provided they are documented as authorized Family members (see AR 600–8–14). If the problem is based on conditions of the parents-in-law, there must be no other Family members of the spouse's Family to help solve the problem.
- d. Chief, Special Actions Branch, EPMD HRC is the approving authority for compassionate actions. There must be a valid MOS and grade authorization at the requested installation or activity. A 12-Month stabilization may be granted on a case by case basis
- e. The Director, EPMD, HRC may waive the MOS and grade authorization when a valid MOS and grade authorization does not exist at the requested installation or activity and the Office of the Surgeon General has recommended approval. Waiver of MOS and grade authorization will only apply to extreme cases involving the Soldier's spouse or child. Upon completion of 12-month stabilization, Soldier will be awarded AEA Code "L" and may be placed on assignment to a location where MOS is authorized.
- f. Soldiers' AIs may be deferred pending the results of their compassionate request (see AR 600–8–11). However, Soldiers in BT will not be deferred from AIT pending the results.
- g. Soldiers having an unfulfilled enlistment commitment must sign a waiver statement if their compassionate request is approved.
- h. Soldiers requesting compassionate reassignments from OCONUS locations where medical care for Family members is not available, as determined by appropriate medical authorities (Regional Health Command Europe or ACOM, ASCC, and/or DRU Surgeon General), must submit appropriate medical documentation verifying care is not available.

5-12. Supporting documentation

The following documentation will be included (as appropriate) with DA Form 3739.

a. Medical problems. A signed statement from the attending physician giving the specific medical diagnosis, prognosis of illness, and treatment plan. The statement will include date of onset, past and anticipated periods of hospitalization, period of convalescence, and anticipated life expectancy for terminal cases. The statement will list any other factors that establish the Soldier's presence as having a bearing on the medical condition. For cases involving reassignment from OCONUS location where medical care for Family members is not available, include documentation from appropriate medical authorities stating that fact (see para 5-15g).

b. Legal problems. A signed statement from a licensed attorney stating the problem and the reasons why solutions other than reassignment of the Soldier are unacceptable. If applicable, a copy of court order, divorce decree, or other pertinent legal documents will be submitted.

c. Rape or child abuse. Statements from police, social service agencies, and/or examining physicians.

d. Marital and dependent status. When cases involve reassignment of Soldiers to dependent-restricted tours, a statement by the Soldier, witnessed by an officer, will be included. It will specify that the Soldier has been advised that travel for dependents at Government expense is not authorized.

e. Other problems. Supporting statements from responsible persons (for example, clergymen, social workers, court clerks, American Red Cross personnel) who have personal knowledge of.

5-13. Compassionate requests when problems are temporary

The following criteria is in addition to the criteria listed in paragraphs 5-10 and 5-11:

a. The problem must be temporary and resolvable within 1 year.

b. The problem neither existed nor was foreseen at the time of the latest entry on AD. Reenlistment without a break in service is not considered to be the latest entry on AD.

c. Commanders with GCMCA, on a one-time basis, may—

(1) Temporarily defer, up to 60 days, Soldiers' AIs when the request for Family travel was submitted late due to extensive evaluation and testing of Family members identified during mandatory medical screening in support of the EFMP (not applicable to IET students).

(2) Delete Soldiers' AIs when, within 9 months of Soldiers' report date—

(a) The spouse or minor child is deceased.

(b) There has been a documented rape of spouse or minor child, and the Soldier's presence is essential to resolve related problems.

d. Situations not stated in paragraph 5-13c, will be decided by the HRC (AHRC-EPO-A). The following are examples of conditions that normally warrant approval:

(1) Terminal illness with less than 12 months' life expectancy of an immediate Family member documented by attending physician.

(2) Scheduled major surgery of Soldier's spouse or minor child with 12 months or less recovery/rehabilitation documented by attending physician.

(3) A recent severe psychotic episode involving a spouse or child.

(4) Soldiers' minor children are being made wards of the court or placed in an orphanage or foster home as a result of Family separation. Separation must be the result of military Service and not of neglect or misconduct on the part of the Soldier.

(5) Adoption cases in which the home study (deciding if a child is to be placed) has been completed and a child is scheduled to be placed in Soldiers' home within 90 days. Additionally, if Soldiers are pending reassignment action, the Soldiers must have initiated the adoption proceedings before notification of reassignment.

(6) Soldiers en route from an accompanied OCONUS tour to an unaccompanied OCONUS tour may be deferred for up to 30 days. The deferment is for settlement of Family when the Soldier's presence is required for unforeseen problems.

5-14. Compassionate requests when problems are not expected to be resolved within one year

The following criteria are in addition to the criteria listed in paragraphs 5-10 and 5-11:

a. A second PCS in the same fiscal year is not involved.

b. A valid requirement (requisition) for the Soldier's grade and PMOS must exist at the desired location.

c. The following are examples of conditions that normally warrant approval:

(1) Extreme Family problems stated in paragraph 5-11b, that cannot be resolved in 1 year.

(2) A recent death in the Soldier's Family, other than spouse or minor child, when extenuating circumstances exist.

(3) Serious chronic health problems.

(4) Disabling allergies that will be aggravated by climatic conditions.

5-15. Compassionate reassignments under emergency conditions

a. Soldiers in a leave status may apply for a change in assignment or attachment through the CDR of the nearest Army installation or activity that has a personnel or administration office provided—

(1) They have a verified compassionate problem that can be resolved only by remaining in the area of attachment.

(2) The local CDR, based on Soldier's supporting documents, determines that one of the following emergency situation exists:

(*a*) Documented and/or recent death of an authorized Family member.

(*b*) Documented terminal illness of an authorized Family member.

(*c*) Documented and/or recent rape of an authorized Family member.

(*d*) Documented child abuse, child custody, and/or child protective service case where the child is at risk of being placed in foster care or placed for adoption (this would include incarceration of an authorized Family member with a minor child/children).

(*e*) While on leave, a Soldier may request attachment when: (1) prior to the Soldier's departure on leave, the Soldier's request for compassionate reassignment was processed and forwarded by the Soldier's assigned activity or installation and the request was received at the HRC; or (2) while the Soldier is on leave, a documented emergency (as noted in paras 5-15a(2)(*a*) through 5-15a(2)(*d*)) occurs and the Soldier has not yet submitted a request. The HRC (AHRC-EPO-A) is the approval authority for requests for compassionate attachment. The period of attachment will be for 10 days (or as otherwise directed by HRC (AHRC-EPO-A)).

(*f*) Emergency medical evacuation of an authorized Family member.

(*g*) Emergency as severe as those listed in paragraphs 5-15a(2)(*a*) through 5-15a(2)(*f*) (these should be considered only on a limited case-by-case basis). Contact the HRC (AHRC-EPO-A) prior to submitting attachment request in EDAS.

b. Soldiers with situations that do not qualify as an emergency situation will be instructed to return to their parent unit and submit their compassionate attachment application through their parent unit.

c. An Army installation is defined as any unit that normally initiates personnel actions. This includes, but is not limited to, military entrance processing stations, U.S. Army Recruiting Battalion, and depots.

d. Normally, Soldiers who are returned from OCONUS on emergency leave qualify as emergency cases. These Soldiers may contact the nearest military personnel and transportation assistance officer. Soldiers who cannot report to an installation should contact the HRC (AHRC-EPO-A). Attachment requests will be forwarded to the HRC via EDAS (Compassionate Attachment Function).

e. Soldiers may be attached for 10 days (or as otherwise directed by HRC (AHRC-EPO-A)), to the installation or activity processing the request when authorized by HRC (AHRC-EPO-A) and Soldiers have submitted a compassionate request at the assigned activity or installation prior to departure on leave, or documented emergencies, as noted in *a*, above, exist for submitting a compassionate reassignment request.

f. Attachment for Soldiers on leave from or en route between CONUS installations must have approval of the gaining CDR and the HRC (AHRC-EPO-A).

g. During attachment—

(1) Soldier's grade and MOS do not have to be authorized at the installation or activity processing the request.

(2) Payment of per diem and travel allowance is not authorized.

(3) The compassionate reassignment request (if not submitted prior to the attachment) must be processed, forwarded, and received at the HRC prior to the conclusion of the 10-day attachment period. If the HRC has not received the application prior to the conclusion of the 10-day attachment period, then the Soldier will be released from attached status and directed to comply with current AI or return to the parent unit.

(4) Soldiers will remain at the installation and perform duties as directed by the CDR. Soldiers will be granted enough free time to permit them to document their request. However, any absence in excess of 72 hours will be charged as ordinary leave.

h. If the compassionate reassignment application has been submitted to the HRC (AHRC-EPO-A), then the Soldier will remain attached until a reply is received. If no response has been received within 10 days, then local CDRs must contact the HRC (AHRC-EPO-A) for the status and appropriate action.

i. Release from attachment.

(1) Soldier will be released from attachment as directed by HRC (AHRC-EPO-A).

(2) Under no conditions may installations grant attachment extensions for compassionate reasons without approval from HRC (AHRC-EPO-A).

j. The maximum period of attachment will not exceed 60 days. If a Soldier seeks attachment for more than 60 days, the action should be submitted as a reassignment, not an attachment. The 60-day period includes the initial period of attachment for a Soldier submitting a compassionate reassignment request from a location other than their parent unit.

5–16. Compassionate stabilizations due to death of a spouse

This policy was established to help a Soldier during a period of extreme hardship to ensure that they are afforded the stability and allowed time to address personal affairs.

a. Soldiers who experience the death of a spouse are automatically stabilized for a period of not less than twelve months upon HRC Casualty and Mortuary Affairs Operations (CMAOC) notification to HRC (AHRC-EPO-A) of the death of a Soldier's spouse. Stabilization actions should be completed no later than 30 days after the receipt from CMAOC.

b. HRC (AHRC-EPO-A) will enter an ASCO of S3-Survivor Stabilization in EDAS along with an AEA Code "S" with an expiration date.

c. Soldiers desiring to extend their stabilization must initiate a DA Form 4187 requesting an extension up to 24 months through their chain of command, endorsed by a Colonel (O-6) or higher. The brigade or equivalent will forward all documentation to the Commander, U.S. Army Human Resources Command, at usarmy.knox.hrc.mbx.epmd-compassionate-section@mail.mil for action. Soldiers serving OCONUS and requiring an exception to policy must receive approval from DCS, G-1 (DMPM).

d. OCONUS Soldiers who request to extend their stabilization and have a DEROS prior to the requested stabilization termination date must include the following statement: "Upon approval, I will extend my overseas tour to meet the stabilization requirements. I understand that I must meet the service remaining requirement to qualify and be eligible for follow on OCONUS to CONUS assignment based on my new DEROS."

e. Soldiers on assignment instructions requesting to remain at their current location will be deleted. Soldiers may request a compassionate reassignment rather than stabilize at their current location. HRC (AHRC-EPO-A) will make every attempt to issue assignment instructions to the requested location. OCONUS Soldiers who are approved for stabilization and request stabilization at a different location will be curtailed.

f. Soldiers may terminate their stabilization request at any time during the stabilization period by submitting a DA form 4187 through their chain of command to HRC (AHRC-EPO-A). The Soldier will then become immediately available for worldwide assignment.

5–17. Stabilization of Soldiers and Military Families with Special Needs (Exceptional Family Member Program Stabilization)

a. Soldiers with Family members with special needs (medical and/or educational) may request stabilization for a period of 48 months to ensure continuity of care and prevent disruption of special services. The Family member that is the basis for the stabilization request must be enrolled in the EFMP. Soldiers requesting stabilization under this provision must complete a DA Form 3739 along with supporting documentation.

(1) Minimum documentation includes the following:

(*a*) DA Form 4187 requesting stabilization through the chain of command. The request must be endorsed by a Colonel (O-6) commander or higher.

(*b*) DD Form 2792 (Family Member Medical Summary).

(*c*) DD Form 2792-1 (Special Education/Early Intervention Summary) (if applicable).

(*d*) Correspondence from a treating physician and/or education specialist.

(2) Additional documentation may include:

(*a*) Individual Family Service Plan (IFSP).

(*b*) Individual Education Plan (IEP).

b. The S-1 will forward all documentation to the Commander, U.S. Army Human Resources Command, Compassionate Actions Team functional mailbox, usarmy.knox.hrc.mbx.epmd-compassionate-section@mail.mil for action.

c. If approved, HRC (AHRC-EPO-A) will annotate the Soldier's record in the personnel database of record with the assignment consideration (ASCO) code "S2" (EFMP Stabilization, and the AEA Code "S" (Stabilized -Extreme Family Problems), The AEA code will be accompanied by an expiration date (YMAEAT) that designates the end of the stabilization period. The Soldier may terminate the request at any time during the approved period and become immediately available for worldwide assignment. Appropriate special needs (EFMP) coordination must be accomplished prior to any/all post-stabilization assignment selection.

d. OCONUS Soldiers who request stabilization and have DEROS prior to the requested stabilization period end date must include the following statement on their request, "If approved, I will extend my overseas tour to coincide with the remaining requirement as a result of my new DEROS." Upon approval, these Soldiers must extend their Foreign Service tour to meet the stabilization period.

e. Soldiers on HRC-issued assignment instructions who wish to remain at their current duty station will be deleted from assignment, if approved for stabilization. If the request pertains to stabilization at a different and/or specific location, HRC will consider Army requirements, as well as the availability of the required special needs resources at the requested location.

5–18. Transfer procedures for victims of sexual assault

a. The Army is committed to the health, safety, and well-being of its Soldiers. Victims of sexual assault may not wish to remain in their current unit or organization after the sexual assault incident, as remaining may negatively affect their emotional well-being, as well as the cohesion of the unit and/or organization. It is Army policy that a presumption in favor of transferring or reassigning a sexual assault victim will be supported at his/her request, following that victim's credible unrestricted report of sexual assault. Commanders will consider requests for transfer or reassignment in an expedited manner.

b. Per DODI 6495.02, the intent behind the Expedited Transfer policy is to address situations where a victim of sexual assault feels safe, but uncomfortable, and to assist in the victim's recovery by moving the victim to a new location, where no one knows of the sexual assault. An example of where a victim feels uncomfortable is where a victim may be experiencing ostracism and retaliation.

c. Victims of sex offenses listed under UCMJ, Articles 120, 120c, and 130 are eligible for an Expedited Transfer.

d. Any threat to life or safety of a Soldier must be immediately reported to the command and CID, and a request to transfer the victim under these circumstances must be handled as a threat to life transfer rather than an Expedited Transfer for victims of sexual assault (see para 1–12c(16)).

e. Soldiers who file an unrestricted report of sexual assault must be informed by the SARC, SHARP VA, commander, or civilian supervisor equivalent, at the time of making the report, or as soon as practicable, of the option to request an Expedited Transfer from their assigned command or installation, or to a different location within their assigned command or installation. A Soldier on assignment instructions may also request an assignment deletion when the subject of the criminal investigation is assigned or inbound to the Soldier's gaining location.

f. Commanders will take reasonable steps to prevent a transfer from negatively impacting the Soldier's career to the extent practicable. The commander will ensure the Soldier is fully informed regarding foreseeable impacts on their career, the potential impact of the transfer or reassignment on the investigation and case disposition or the initiation of other adverse action against the subject, the effect on bonus recoupment, if any and any other possible consequences of granting the request. Soldiers requesting the transfer must be informed that they may have to return for the prosecution of the case, if the determination is made that prosecution is the appropriate action.

g. Expedited Transfer procedures require that a commander make a determination and provide his or her reasons and justification on the transfer of a Soldier based on a credible report of sexual assault. Commanders must consider the following factors in determining whether a transfer or reassignment is appropriate, and, if so, the lowest level of transfer or reassignment that would meet both the needs of the victim and the Army:

- (1) The Soldier's reasons for the request.
- (2) Potential transfer of the subject instead of the Soldier requesting the transfer.
- (3) Nature and circumstances of the offense.
- (4) Whether a temporary transfer would meet the Soldier's needs and the operational needs of the unit, including situationally unique requirements in deployed areas.
- (5) Training status of the Soldier requesting the transfer.
- (6) Availability of positions within other units on the installation.
- (7) Status of the investigation and potential impact on the investigation and future disposition of the offense, after consultation with CID and the servicing legal office.
- (8) Location of the subject.
- (9) Subject's status (Service member or civilian).
- (10) Other pertinent circumstances or facts, such as potential disposition of collateral misconduct, availability of positions within other units on the installation, the training status of the requesting Soldier, and the Soldier's input.

h. Procedures—

(1) Requests will be submitted by the Soldier on a DA Form 4187 to their battalion-level commanding officer, with a CID case number, name of investigating agent, and a statement from the Soldier explaining why they want to be moved or deleted from assignment. Victims are encouraged to include all their concerns in the request to aid the commander in understanding their needs and in making an informed decision.

(2) The battalion commander must document the date and time the request is received.

(3) The battalion commander or above must make a credible report determination at the time the request is made, after considering the advice of the supporting judge advocate, or other legal advisor concerned, and the available evidence provided by investigative organizations. Only reports that are determined credible will be forwarded to the approval and/or disapproval authorities for reassignment consideration. If the Expedited Transfer is rejected because there was no credible report, the grounds on which it was rejected must be documented by the battalion commander.