

# Military Discharge Upgrades

## Board for Correction of Military Records

Following the service of any enlisted member of the United States military, the military issues them with a discharge if they do not retire. The most common and highest is the Honorable Discharge. There are, however, other levels that may impact your ability to get VA and other benefits.

In order to upgrade your discharge, you must go before one of two review boards. The Board for Correction of Military Records or the Discharge Review Board. 10 U.S.C. §§ 1552-1553a (2018).

The Board for Correction of Military Records is exactly what its name suggests. This is a board you apply to correct your military records if there is an error or an injustice. 10 U.S.C. §1552, 32 CFR § 865.2. Each branch of the armed forces has its own Board that a veteran of that branch must first apply to. The deadline to file with this board is no later than three (3) years after you leave the military. § 1552(b).

In order to apply, you must file a DD-149 (Application for Correction of Military Records) to the military department you served in. 32 CFR § 723.3(a). Example: Army send to the Department of the Army; Marine Corps send to the Department of the Navy. The Air Force provides an informational pamphlet on their process and can be found at Air Force Pamphlet 36-2607. 32 CFR § 865.3(b).

Critically, the board does not investigate, you must provide them with all of your necessary military medical and service records in order for them to make the best decision. 32 CFR §§581.3(c)(2), 723.1, 865.2.

## Discharge Review Board

The Second Board is the Discharge Review Board, this board reviews and may change the characterization of your discharge or if you were an officer, dismissal. 10 U.S.C. § 1553a. Similar to the Corrections Board, each department of the armed forces has a discharge review board. You must apply for a discharge upgrade within 15 years of being discharged or dismissed. 32 C.F.R. § 70.8(a)(2).

To begin the process, you will need a number of forms ready. First, you will have to apply for a discharge upgrade using form DD 293 "Application for Review of Discharge or Separation from the Armed Forces of the United States". §70.8(a)(1). You should also include any related statements from people who you served under (commanding officers, etc), sworn statements (affidavits), and other documentation such as your DD 214. §70.8(a)(1). It is recommended that you send the documents together to the review board as one group or within 60 days of your application. §70.8(a)(1).

On the DD 293, you must state what review you are applying for such as your character of service (honorable, other than honorable, etc.). §70.8(a)(2).

In order to apply for a review of your service, you must be eligible. Other than the aforementioned 15-year limit, there are a number of other conditions that you must meet to apply. The purpose of the review board is to examine the equity and if it was proper. 32 C.F.R. § 70.9(a). There are two standards that must be met, Propriety and equity. § 70.9. Generally, a discharge is considered to be both proper and fair.

A discharge is not proper if: (32 C.F.R. § 70.9(b).)

- There is a mistake of fact, law, procedure, or discretion when the discharge was issued to you.
- A change in Military Service policy from the service you were in and was *expressly* made retroactively to your type of discharge.

A discharge is not equitable if: ( 32 C.F.R. § 70.9(c).)

- If the policies and procedures under which you were discharged had a significant difference in respect to how those same policies and procedures used today that are on a service-wide basis.

This is the case if those policies or procedures are an enhancement to the rights afforded to you and, there is doubt that you would have gotten the same discharge if the current policies and procedures are in place. Such an example would be the military treatment of post-traumatic stress disorder (PTSD).

The Board looks into a number of parts of your background when further considering your upgrade. A few of these conditions include: Service history, awards, combat service, combat wounds, promotions, length of service, convictions by court-martial, conviction by civilian courts, if you went AWOL, etc. From 32 C.F.R. § 70.9(c)(3)(i).

Once you have determined that you meet the standards laid out by the Department of Defense, you can apply to your service's Discharge Review Board.