

THE AMERICAN LEGION



GUIDE TO FILING
MILITARY DISCHARGE REVIEW BOARD
AND
BOARD FOR CORRECTION OF MILITARY RECORDS
APPLICATIONS

CONTENTS

OVERVIEW
AUTHORITY
APPLICATIONS
CASE DEVELOPMENT
GLOSSARY
AMERICAN LEGION SERVICE OFFICES
APPLICATION FORMS

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1608 K Street, NW • Washington, DC 20006-2847
February 2001



OVERVIEW

The purpose of this guide is to provide former service members with less than honorable discharges and/or with service records containing errors or injustices assistance in filing for relief.

Be aware that no single publication can cover every situation. This guide is only intended to provide you, as a former service member, with a basic resource, an outline, to understanding how the Military Discharge Review Boards and Boards for Correction of Military Records process and consider your application. In addition, we have a national network of professional service officers that will provide you more in-depth assistance should you need it, free of charge. Our motivation in doing this is simple. The more you know about the process, the more likely you are to receive a favorable decision. After all, seeing that you receive due process of law and that you have every opportunity to satisfactorily resolve your problem is our business.

In any given year, there are millions of active duty and reserve personnel serving in our nation's armed forces. Also, in any given year, there are tens of thousands of members being separated from service. Given the sheer numbers of members serving and being discharged, it is inevitable that mistakes will and do occur. Some are as simple as misspellings or omissions on separation documents and are generally easily corrected. Others, such as medical evaluation and rating assignments of physical disabilities, within the context of occupational specialties, may prove more complex and difficult to fairly resolve.

Congress, recognizing the impact of these errors to both serving and separated military personnel, established the Military Discharge Review Boards (MDRBs) and the Boards for Correction of Military Records (BCMRs) shortly after World War II. Although their authority, composition, and procedures are different, the basic intent of both boards is to correct any regulatory errors or inequities found in military personnel records.

Each year these boards do, in fact, correct or amend thousands of records. Yet, the vast majority of applications considered are denied. There are at least two related reasons for this low allowance rate. The first is that both boards are required, by law, to review applications under the presumption of the regularity in the conduct of government affairs. In other words, the boards presume that the military did not make a mistake and that your record is correct as issued. It is your job to show that it is not. The second is that many former members do not correctly complete their applications, nor, more importantly, fully develop their cases and submit viable issues for review. It is our hope that this guide will assist you in both.

One last note on the overview, Congress established the boards to review your request and The American Legion is here to do what we can to support you. But, in the final analyses you must remember that it is your discharge or service record that is in error or unjust and your responsibility to see that it is corrected. So we encourage you to roll up your sleeves, do the same kind of hard work that you performed in the military, and prove your case!

A FEW TIPS ABOUT THIS GUIDE

This guide is divided into three (3) sections. The first, **AUTHORITY**, lets you know which board, the *Military Discharge Review Board* (MDRB) or Board for Corrections of Military Records (BCMR), can, under law, consider your request. The second, **APPLICATIONS**, shows you which form to use to apply to the MDRB or BCMR. The third, **CASE DEVELOPMENT**, gives you some basic strategies, and a few generic examples, on how to present your case.

Frankly, although we have made a genuine effort to keep this guide as simple and straight forward as possible, the structure of the boards, particularly the terminology, may prove somewhat complicated and confusing if you are not familiar with it. So, as an additional aid, you will note several words throughout this guide in *ITALICS* that will be referenced in a short **GLOSSARY** section to give you a little clearer understanding of their use. Lastly, we have included a listing of our state *AMERICAN LEGION* service offices where you can get additional assistance, if you need it, and the proper applications forms used to apply.



AUTHORITY

MILITARY DISCHARGE REVIEW BOARDS

Congress authorizes, under title 10, United States Code, section 1553, the Secretary of the *service department* concerned (Army, Navy/Marine Corps, Air Force or Coast Guard) *authority* to upgrade characterizations of service and correct narrative reasons for discharges of former service members. Such reviews are by the Secretary acting through the *Military Discharge Review Boards* (MDRBs).

The MDRBs are composed of *panels*. The *panels* consist of five senior military officers that recommend to the Secretary relief or denial of your application.

The MDRBs have *authority* to review the *discharge*, or *dismissal* of any former member, not sentenced by a general court-martial, applying within 15 years from the date of *discharge*. Their *jurisdiction* is limited to review of the *character of service* and the *narrative reason for discharge*.

SPECIAL NOTE - The MDRBs DO NOT have *authority* to down grade any *discharge* or *narrative reason* reviewed unless there is clear administrative or clerical error in the separation issued.

More specifically, the MDRBs have *authority* to upgrade: *Uncharacterized (Entry Level Separation)*; *General (Under Honorable Conditions)*; *Under Other Than Honorable Conditions*; and *Bad Conduct* discharges issued by special court-martial.

SPECIAL NOTE - As all special *court-martials* are reviewed for legal errors by the Military Review Courts, the MDRBs, being administrative review boards, are **ONLY** allowed to

consider *clemency issues*, post-service conduct, when reviewing *Bad Conduct* discharges.

Moreover, the MDRBs can change all incorrect *narrative reasons* or amend them to current regulatory standards provided the change represents an enhancement of the *applicant's* rights.

The MDRBs DO NOT have *authority* to review applications of former members *discharged* more than fifteen (15) years; *discharges* issued by general court-martial (*Bad Conduct* or *Dishonorable*); nor change reenlistment codes, separation program designator codes, the *narrative reason for discharge* from or to physical disability; or recall or reinstate former members to active duty. If you fall into one of these categories, and are not requesting any other action of the MDRB, refer to the following part on BCMRs, and the APPLICATIONS and CASE DEVELOPMENT sections.

BOARDS FOR CORRECTION OF MILITARY RECORDS

Congress authorizes, under provisions of title 10, United States Code, section 1552, the Secretary of the *service department* concerned (Army, Navy/Marine Corps, Air Force or Coast Guard) *authority* to review and correct military personnel records of both serving members and former members. Such reviews are by the Secretary acting through the *Boards for Correction of Military Records* (BCMRs).

The BCMRs are composed of *panels*. Each *panel* consists of three senior civil service personnel who make recommendations to the Secretary for relief or denial of your petition.

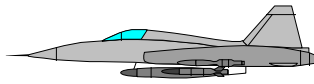
SPECIAL NOTE - The BCMRs consist of multiple sections with varying areas of specialization. Many of these sections, more than half, deal with active duty personnel petitions. *THE AMERICAN LEGION*, being a *veterans service organization*, is prohibited from representing actively serving members. Accordingly, this guide will ONLY address the two (2) sections of the BCMRs, Discharge Review and Physical Disability, that deal primarily with former service member's petitions.

The BCMRs can recommend to the applicable Secretary correction of ANY error or injustice in the service record of active duty or discharged members with the following stipulations: ALL other administrative remedies, including MDRB review if applicable, have been exhausted and the application is filed within three (3) years of the discovery date.

SPECIAL NOTE - The purpose of the *three (3) year rule* is to ensure that all pertinent records will be available for the BCMR's consideration. However, the BCMRs may, and often do, waive the rule if it is found in the interest of justice. So, if you are filing a petition beyond the three year limit explain why or request that the BCMR waive the rule.

SOME ADVICE ON APPLYING

Now that you know which board, the MDRB or BCMR, has AUTHORITY, under law, to consider your request, the next section, APPLICATIONS, will show you the correct form to use when applying: DD-293 for the MDRBs, DD-149 for the BCMRs, and SF-180 to request your service records.



APPLICATIONS

MILITARY DISCHARGE REVIEW BOARDS

APPLICATION FOR REVIEW OF DISCHARGE OR DISMISSAL FROM THE ARMED FORCES OF THE UNITED STATES (DD Form 293) is the proper form to use in applying to the MDRBs. A copy of this form, which can be used to apply, is contained in the back of this guide.

INSTRUCTIONS for completion of DD-293 come with the form and much of the information is self explanatory. There are, however, three sections that hold particular importance to you.

BLOCK 4 - TYPE OF REVIEW REQUESTED Regulatory provisions governing the MDRBs provide that you are entitled to TWO reviews of your case, a *Record Review* and a *Hearing Review*, BUT only if conducted in that order. Unless you are within a couple years of your 15 year *discharge* date, it is almost always to your advantage to request a *Record Review* FIRST for the following reasons. (1) If the MDRB decision is favorable you save the time and expense of attending a hearing. (2) If the MDRB decision is unfavorable, you will be provided a *decisional document* that explains why your request was denied which can be a valuable aid in preparing for a subsequent *Hearing Review*. (3) It provides you TWO opportunities to have your case considered thereby improving your chances for a final favorable decision. We recommend that you avail yourself of this entitlement, if possible.

SPECIAL NOTE - This two step process DOES NOT apply to Coast Guard cases. Current Department of Transportation regulations provide for only ONE consideration of your application so choose the type of review that best suits your circumstance. Further note that the neither the Coast Guard nor the Navy/Marine Corps currently offer *Travel Panel reviews*.

BLOCK 5 - I HAVE ARRANGED TO BE REPRESENTED BY AND AUTHORIZE THE RELEASE OF RECORDS TO As noted earlier, this guide is limited to providing you with a basic understanding of the way your application will be processed and considered. In addition, *THE AMERICAN LEGION* has full time professional service officers located throughout the country that will assist you. If you need more help, we suggest you contract one.

BLOCK 8 - ISSUES An *issue* is a single, certain and material request for a specific correction or amendment of your military record. In other words, the reason(s) that you believe your *character of service* should be upgraded or *narrative reason of discharge* changed. The MDRBs review *issues* on the basis of propriety and equity. *Propriety issues* relate to the regulatory correctness of your discharge and *equity issues* concern any extenuating or mitigating factors that may have contributed to your discharge. The MDRBs are ONLY required, under law, to address the specific *issue(s)* that are presented. See the CASE DEVELOPMENT section for more information on issues.

BOARDS FOR CORRECTION OF MILITARY RECORDS

APPLICATION FOR CORRECTION OF MILITARY RECORD UNDER THE PROVISIONS OF TITLE 10, U. S. CODE, SECTION 1552 (DD Form 149) is the proper form to use in applying to the BCMRs. A copy of the form, which can be used to apply, is contained in the back of this guide.

INSTRUCTIONS for completion of DD-149 are on the back of the form and are generally self-explanatory. There are five (5) sections, however, that we wish to amplify.

BLOCK 7 - COUNSEL This also means *representative*. As noted throughout this guide, *THE AMERICAN LEGION* has professional service officers available nationwide to assist you, free of charge, if you need it.

BLOCK 8 - REQUEST THE FOLLOWING CORRECTION OF ERROR OR INJUSTICE This is your *issue(s)*, a single, certain and material request for a specific correction or amendment of your military record. The BCMRs review *issues* on the basis of error which address to the regulatory correctness of a decision made by the military and on the basis of injustice which relates to whether the military's decision through negligence, mistake or omission is unfair or inequitable. The BCMRs are **ONLY** required, under law, to address the specific *issue(s)* presented.

BLOCK 9 - I BELIEVE THE RECORD TO BE IN ERROR OR UNJUST IN THE FOLLOWING PARTICULARS This block is for elaboration of your *issue(s)*. A statement, contention, supporting why your *issue(s)* should be granted. Kindly refer to the CASE DEVELOPMENT section for more information.

BLOCK 10 - IN SUPPORT OF THIS APPLICATION I SUBMIT AS EVIDENCE THE FOLLOWING The BCMRs review petitions on the basis of whether sufficient evidence has been presented to demonstrate the existence of probable material error or injustice. The more relevant, creditable, documentation you are able to provide in support of your *issue(s)* the better your chances for a favorable decision.

BLOCK 11 - ALLEGED ERROR OR INJUSTICE The BCMRs require that applications filed beyond three (3) years of the date of discovery include a separate statement explaining why it is in the interest of justice to excuse the failure to apply within the prescribed time. The BCMRs may, and often do, waive the rule. In the vast majority cases, former members are simply unaware of the rule. If this is true in your case, say so. If not, briefly explain why you are filing late. But, do not leave the block blank as your petition may well be rejected.

MORE ON APPLICATIONS

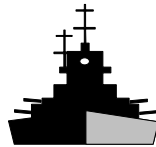
REQUEST PERTAINING TO MILITARY RECORDS (STANDARD FORM-180) is the proper form to use to request your service records. A copy of the form, which can be used to request your service records, is located in the back of this guide. This form is, again, fairly self-explanatory. The only point that we wish to emphasize is that you complete the form as fully and accurately as possible. The National Personnel Records Center, where most service records are housed, contains more than twenty (20) million individual service

records so leaving out even a small amount of information could cause your request to be returned.

SPECIAL NOTE - If you have questions or concerns about the exact information contained in your service records, you should request the records BEFORE you apply to the MDRB or BCMR.

THE PAPER CHASE

Now that you know which board, the MDRB or BCMR, has AUTHORITY to consider your request and the correct APPLICATION to use in applying, the next section, CASE DEVELOPMENT, will provide you some guidance on how to present your case. This section is not divided by MDRBs or BCMRs as we believe the basic process of developing your case is fundamentally the same for both boards. Aside from some general procedural guidance, each of the HYPOTHETICAL CASES in the section is broken down into four (4) parts. The first, CASE SUMMARY, will give you an idea of how the boards will review your service record. Notice that the focus of the review is on facts derived from evidence in the service record. The second, CONTENTION, reflects why you believe that the service record should be changed. The third, SUPPORTING EVIDENCE, gives a strategy for providing the boards with the necessary evidence to support the fact that your record is incorrect. The fourth, EXAMPLE ISSUE, represents specifically what it is that you want the boards to legally consider based on the first three (3) parts.



CASE DEVELOPMENT

Neither the MDRBs or BCMRs have ANY statutory duty to assist former service members in correctly developing their case NOR in formulating proper *issues*. To the contrary, the presumption of the *regularity of government affairs* is applied in ALL decisions UNLESS there is substantial creditable evidence to rebut the presumption. Therefore, a basic understanding of *case development* and how to generate proper *issue(s)* is not only your sole responsibility, it is crucial to receiving a full and fair review of your case.

There are, to say the least, a wide range of *issues* that may be presented to the MDRBs and BCMRs for consideration. The factors that ultimately lead to a *discharge* are often as unique and diverse as the former service members themselves. This diversification requires that each application be considered on an individual, case by case, basis so there is not a set criterion to follow. The following HYPOTHETICAL CASES are a few generalizations of the many *issues* presented to the MDRBs and BCMRs. The specific details of the cases are NOT particularly important. The intent is to provide you with a method, a process, that you can use for your case. We emphasize that these examples are ONLY intended to show how cases, usually, should be presented for review. YOUR *issue(s)* should fit YOUR individual circumstance.

As noted earlier, an *issue* is a single, certain and material request for a specific correction or amendment of a military record. An *issue* is NOT an unprovable allegation or an

expression of dissatisfaction with the military's determination. Any decision that caused an error or injustice in your records or that resulted in the type of *discharge* you received has ALREADY been made. You MUST now PROVE, to the MDRBs or BCMRs satisfaction, that the decision made was either improper (erroneous) in accordance with military regulations in effect at the time of your discharge or that it is inequitable (unjust) in light of your specific circumstances. So we encourage you, as difficult as it might be, to separate your emotions and feelings from the process and focus on the facts and evidence that you can use to support your *issue(s)*.

HYPOTHETICAL CASE

This application is a request for an upgrade of the character of service from *General (Under Honorable Conditions)* to *Honorable* and a *narrative reason* change from Unsatisfactory Performance to Weight Control Failure. The *discharge* was issued less than fifteen (15) years ago and should be directed to the appropriate MDRB using a DD-293. If the MDRB's final decision is unfavorable, the case should then be appealed to the BCMR, using a DD-149, within three (3) years.

CASE SUMMARY - This former member enlisted in the military on 910605 under a six (6) year contract. During her first four (4) years of service she received high performance evaluations, was promoted to E-4, was awarded the Good Conduct Medal, the National Defense Service Medal and received two (2) Letters of Commendation. On 950706, she was sent for a medical evaluation for being overweight. The report showed no underlying pathological reason for her being twenty-eight (28) pounds above standards. On 950718, she was counseled, provided sources of assistance, and assigned to a weight control program. On 951215, she was counseled concerning unsatisfactory performance on her weight control program. On 960119, she was again counseled and granted a six (6) month extension on the program. With her current weight now thirty four (34) pounds above standards, she was notified on 960719 of the military's intent to process her for separation for unsatisfactory performance due to failure to meet height and weight standards. After being fully advised of her rights, she was separated on 960815 with a *General (Under Honorable Conditions)* discharge due to Unsatisfactory Performance.

CONTENTION - Although this former member recognizes that she did have a weight problem, she feels that after having served five (5) years in the military without any misconduct, to not receive a fully *Honorable discharge* is unjust. Moreover, she believes that her *narrative reason* for *discharge*, Unsatisfactory Performance, is incorrect because all her enlisted performance, conduct and physical evaluations reports were above average. She contends that her only deficiency was her weight and that her basis for *discharge* should be Weight Control Failure.

SUPPORTING EVIDENCE - In this case, all the supporting evidence needed is contained in the *applicant's* service records. Before applying to the MDRB, she should request copies of her complete service and medical records from the National Personnel Records Center using SF-180. Upon receipt, she would want to make copies of her enlisted performance reports, awards and decorations, certificates of commendation and rate of promotions. The intent is to show that her overall service was, in fact, *Honorable*. Next she would want to make copies of her counseling entries, medical reports and any other assistance she received during her weight control program. The intent is to show that her sole problem was her weight not performance of her duties. The copies that she has made of these documents should be submitted with her DD-293.

SPECIAL NOTE - This former member is requesting two (2) separate decisions from the MDRB: character of service upgrade and a *narrative reason* change. Therefore, there should be two (2) separate issues.

EXAMPLE ISSUE ONE (1) - My weight control deficiencies aside, I opine that my overall service record, including my enlisted performance reports, rate of promotions, awards, decorations and letters of commendation, shows that my five (5) years of service was both faithful and honorable. On this basis, I petition the Board's relief with recharacterization of my service period to fully *Honorable*.

EXAMPLE ISSUE TWO (2) - I further contend that the *narrative reason* assigned for my *discharge*, Unsatisfactory Performance, is improper. As my service records show, my only deficiency was my inability to meet weight standards. Therefore, I request that the Board amend my reason for *discharge* to Weight Control Failure.

APPEAL TO BCMR - If her application is denied by the MDRB, she should petition the BCMR using DD-149. Her *issues* and supporting documents would remain essentially the same.

BCMRs THREE (3) YEAR RULE - I disagree with the MDRB decision which was rendered less than three (3) years ago.

HYPOTHETICAL CASE

This application is a request for a character of service change from *General (Under Honorable Conditions)* to *Honorable* and a *narrative reason* change from Personality Disorder to Secretarial Authority. If the MDRB final decision is unfavorable it should be appealed to the BCMR, using DD-149, within three (3) years.

CASE SUMMARY - This former member enlisted in the military on 850701 under a four (4) year contract. After four (4) years of honorable service, he reenlisted for an additional six (6) years with the intent of making the military a career. He continued his service without incidence until 930824. After being counseled several times for poor work performance and minor disciplinary infractions, he was referred for a medical evaluation due to unusual behavior. On 930903, a psychological evaluation, which included appropriate psychometric testing, diagnosed him with a paranoid personality disorder. He was found "fit for duty at this time". On 931012, he was again counseled for unsatisfactory performance. On 931103, he received *Non-Judicial Punishment* (NJP) for violation of the *Uniform Code of Military* (UCMJ), Article 108: destruction of military property (threw his weapon down and kicked it). He was awarded reduction in rank to E-4, suspended for six (6) months, forfeiture of \$150 and extra duty for fourteen (14) days. On 931104, he was advised of deficiencies, consequences of further misconduct, notified of corrective actions, available assistance and issued a discharge warning. On 931115, he was again referred to medical for expressed suicidal ideation. Following three (3) days of in-patient psychiatric observation, he was again diagnosed with a personality disorder, and with depression, resolved. The clinician further indicated that, although fit for duty, he was considered unsuitable for further military service. He was recommended for administrative separation and, following *due process* notifications, was subsequently discharged on 940104 with a *General (Under Honorable Conditions) discharge* with a *narrative reason* of Personality Disorder.

CONTENTION - This former member continued to experience multiple problems following service. He was unable to maintain steady employment or relationships and was arrested several times for minor offenses. After years of mental health evaluations and several hospitalizations, he was eventually diagnosed with schizophrenia, paranoid type. With appropriate medications he is now living a much happier and productive life. In hindsight, this former member believes that the primary basis of his in-service problems was due to his psychiatric condition. He is proud of his military service, and contends that his condition sufficiently mitigates his in-service deficiencies to warrant a fully *Honorable discharge*. He further believes, based on his current medical history, that his original diagnosis of personality disorder was in error and should be changed to Secretarial Authority.

SUPPORTING EVIDENCE - In this case, additional evidence will be necessary to support the *issues*. He will need to secure statements from family members, friends or associates who may be familiar with his circumstances. Request reports from any community agencies that maybe able to provide medical, counseling, or police records regarding his history. Provide a private psychological or psychiatric opinion, based on the evidence, indicating that his psychosis was a substantially contributing factor to his in-service behavior and that he does not have a personality disorder. All documentation should be submitted with the DD-293.

EXAMPLE ISSUE ONE (1) - As the supporting documents that I have submitted demonstrate, I contend that early manifestations of my currently diagnosed psychosis sufficiently mitigated my deficiencies of record to warrant upgrade of my discharge to fully *Honorable*.

EXAMPLE ISSUE TWO (2) - I further believe, based on the evidence that I have submitted, that my *narrative reason* for discharge is in error and should be amended from Personality Disorder to Secretarial Authority.

APPEAL TO BCMR - If his application is denied by the MDRB, he should petition the BCMR using DD-149. His *issues* and supporting documents would remain essentially the same.

BCMRs THREE (3) YEAR RULE - I disagree with the MDRB decision which was rendered less than three (3) years ago.

HYPOTHETICAL CASE

This application is a request for a character of service change for a *discharge* issued less than fifteen (15) years ago and should be submitted to the appropriate MDRB. If the MDRB decision is unfavorable, it should be appealed to the BCMR at an appropriate time in the future.

CASE SUMMARY - On 870526, this former member enlisted in the military under a six (6) year contract. After almost three (3) years of satisfactory service, on 900519, he received *Non-Judicial Punishment* (NJP) for violation of the *Uniform Code of Military Justice* (UCMJ), Article 86: unauthorized absence (UA) from 900501 to 900506 (5 days). He was awarded reduction in rank to E-2, suspended for six (6) months, forfeiture of \$100 and restriction for fourteen (14) days. On 900522, he broke restriction and returned to UA. On 900621, he voluntarily returned to military control. On 900706, he again received NJP for violations UCMJ Articles 90: failure to follow a lawful order; and 86: UA from 900522 to 900621 (29 days). He was awarded confinement for 3 days, forfeiture of \$250 and his suspended reduction to E-2 from the NJP on 900519 was vacated. He was given a retention warning, counseled and advised that further deficiencies may result in

administrative separation. On 910509, following his release from confinement, he failed to return to his unit and remained UA until 920408 when he was returned to military control by local law enforcement. On 920420, the member was charged with violation of UCMJ Article 86 and referred to a special *court-martial*. The court-martial found him guilty of violation UCMJ Article 86: 910509 to 920406 (364 days) and sentenced him to confinement for ninety (90) days, forfeiture of \$200 per month for three (3) months, and a *Bad Conduct discharge*. On 920422, the sentence was approved and ordered executed, except for the *Bad Conduct discharge*. On 920722, the member was released from confinement and placed on appellate leave. On 921221, the Military Review Court affirmed the finding of guilty and the sentence. On 930114, the member was separated with a *Bad Conduct discharge* due to conviction by a special *court-martial*.

CONTENTION - This former member, while recognizing the seriousness of his misconduct, believes that he has led a productive life since his discharge and that he warrants *clemency* with upgrade of his *Bad Conduct discharge* based on his post-service citizenship.

SUPPORTING EVIDENCE - Character or reference letters from family members, friends, associates, co-workers, and employers; educational pursuits; acknowledgments from religious, community, and volunteer organizations; employment history; clean police report; etc. Although there is not a set criterion, the MDRB's and BCMR's are looking for evidence sufficient to offset the in-service misconduct. So, the more positive information that he is able to provide regarding his post-service conduct the better his possibility of relief. All documentation should be submitted with the DD-293.

SPECIAL NOTE - Five (5) years is generally viewed as the minimum amount of time required to establish sufficient post-service accomplishments to merit consideration of this *issue*. Most often, it takes longer.

EXAMPLE ISSUE - As the supporting documents that I have submitted demonstrate, my post-service conduct and accomplishments have been sufficiently creditable to warrant the Board's clemency relief with upgrade of my characterization of service.

APPEAL TO BCMR - If his application is denied by the MDRB, he should petition the BCMR using DD-149, but not necessarily within a three (3) period. Although his *issue* will remain the same, his post-service accomplishments are likely to increase over time which will add value to his *issue*.

BCMRs THREE (3) YEAR RULE - It is opined that the *issue* raised, by its very nature, requires many years of constructive effort to establish a sufficient history of citizenship and accomplishments to receive realistic consideration. As such, it is averred that it is in the interest of justice for the Board to waive the *three (3) year rule*.

MORE ON MISCONDUCT DISCHARGES

The above example was a hypothetical case for a *Bad Conduct discharge*. Under current statutes, *clemency* is the only *issue* that the MDRBs and BCMRs are allowed to consider as a basis for upgrade of these *punitive discharges*. But, there are many *administrative discharges*, *General (Under Honorable Conditions)* or *Under Other Than Honorable Conditions*, issued for various kinds of MISCONDUCT that this *issue* would ALSO apply and may well be the ONLY viable *issue* available.

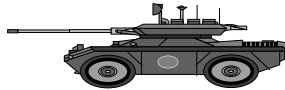
If you were legitimately discharged for some type of misconduct, post-service *clemency* may represent your best avenue for relief. Most former service members, regardless of the type of *discharge* they received, readjust to civilian life and become valuable assets to their families and communities. Therefore, it is important to document your successes. Start a file. If you get a promotion at work, go back to school, volunteer for some good cause, etc., get something, a letter, certificate, diploma, etc., to verify it. Over time, your file will grow and you will be readily able to produce documentation of your accomplishments, large and small, to the MDRB, BCMR or anyone else that would view the information meaningful.

WELL THAT IS IT

You now know which of the boards can consider your request, which application to use to apply, and how to develop your case and present your issues. If you feel comfortable with the process, assemble your evidence, get your facts in order, complete the application in the back of this guide and file your petition.

On the other hand, as we noted at the beginning of this guide no single publication can cover every situation and at this point you may well have unanswered questions or still be somewhat confused about this whole process. If you are, contact one of our service offices in the back of this guide and we will do what we can to assist you, free of charge.

In either case, we hope that this guide has given you a better understanding of the MDRB and BCMR process, conveyed a few helpful ideas on filing your petition and moved you a few steps closer to satisfactorily resolving your problem.



GLOSSARY

ADMINISTRATIVE DISCHARGE - Any separation issued to a service member that is not the result of a courts-martial sentence.

APPLICATION FOR CORRECTION OF MILITARY RECORD UNDER PROVISIONS OF TITLE 10, U.S. CODE, SECTION 1552 (DD FORM 149) - The application used to apply to the BCMRs.

APPLICATION FOR REVIEW OF DISCHARGE OR DISMISSAL FROM THE ARMED FORCES OF THE UNITED STATES (DD FORM 293) - The application used to apply to the MDRBs.

APPLICANT - A former member whose case is pending review by the MDRBs.

AUTHORITY - The federal statutes that give the MDRBs and BCMRs administrative power to review and correct service records.

BAD CONDUCT DISCHARGE - A punitive separation issued by the sentence of a general or special courts-martial.

BOARDS FOR CORRECTION OF MILITARY RECORDS - Administrative review boards authorized under title 10, section 1552 of the United States Code to correct errors or injustices found in service records.

CASE - A pending application. Also referred to as a petition.

CASE DEVELOPMENT - A process of assembling pertinent evidence to support an issue.

CHARACTER OF DISCHARGE - A determination made by a service department that reflects a former member's behavior and performance of duty during a specific period of service.

CLEMENCY - Often referred to as post-service clemency. Kindness, forgiveness or leniency; usually relating to a less than honorable characterization of service. The MDRBs and BCMRs may grant clemency relief based on lengthy, creditable post-service conduct even though a discharge was proper and equitable at the time of issuance.

COUNSEL - An individual or agency designated by an applicant or petitioner who agrees to represent his case before the MDRB or BCMR.

COURTS MARTIAL - Judicial court for trying members of the armed forces. Proceedings are held in accordance with the Uniformed Code of Military Justice. Special and general court martial have authority to adjudge Bad Conduct and Dishonorable discharges.

DECISIONAL DOCUMENT - The final written MDRB or BCMR decision.

DISCHARGE - A general term indicating a complete separation from the U.S. Armed Forces. The term includes the assignment of the reason for separation and characterization of service.

DISHONORABLE DISCHARGE - A punitive separation issued by the sentence of a general court-martial.

DISMISSAL - A complete separation of a military officer from the U.S. Armed Forces by secretarial or court-martial action.

DUE PROCESS OF LAW - A course of legal proceedings according to those rules and principles which have been established in our systems of jurisprudence for the enforcement and protection of private rights.

EQUITY ISSUE - A request to have a discharge changed on the basis that it is inequitable. Most of these issues address extenuating factors that contributed to the separation or relate to the current equity in light of a former member's post-service conduct.

ENTRY LEVEL SEPARATION - See Uncharacterized Discharge.

FIFTEEN (15) YEAR RULE - The time limit, fifteen (15) years from the date of discharge, for applying to the MDRBs for relief.

GENERAL (UNDER HONORABLE CONDITIONS) DISCHARGE - Previously issued as Under Honorable Conditions (General), reflects that a member's service was generally honorable.

HEARING REVIEW - A formal session of an assigned panel convened for the purpose of reviewing an application on basis of an applicant's testimony as well as the documentary evidence.

HONORABLE DISCHARGE - An administrative separation from the service with honor.

ISSUE - A single, certain and material request for a specific correction or amendment of a military record.

JURISDICTION - The specific authority that an agency has under federal law.

MILITARY DISCHARGE REVIEW BOARDS - Administrative review boards authorized under title 10, U.S.C., section 1553 to change the character and narrative reason for discharge.

NARRATIVE REASON FOR DISCHARGE - Also referred as basis, the term identifies why a discharge was issued.

NON-JUDICIAL PUNISHMENT - Also referred to as Article 15 of the Uniformed Code of Military Justice, administrative punishment awarded other than by court-martial.

PANEL - Members of the boards assigned to decide a specific case. For the MDRBs five active duty military officers; for the BCMRs three senior civil service personal.

PETITIONER - A member whose application is pending before the BCMR.

PROPRIETY ISSUE - A request to have a discharge changed on the basis that it is improper. These issues address specific errors of law, regulatory directives, and military policies.

PUNITIVE DISCHARGE - A discharge issued by sentence of a special or general court-martial.

RECORD REVIEW - Also known as a documentary review, a formal review of a case. Includes the application, supporting documents, available service and medical records, applicable laws, regulations, policies and any other information considered relevant.

REGULARITY OF GOVERNMENT AFFAIRS - Federal law provides that there is a presumption of regularity in the conduct of government affairs. Both the MDRBs and BCMRs are required to apply the presumption.

REPRESENTATIVE - Someone familiar with the MDRB and BCMR process who assists applicants in the preparation and presentation of their cases. Also referred to as counsel.

REQUEST PERTAINING TO MILITARY RECORDS (STANDARD FORM-180) - The form used to request copies of service personnel and medical records.

SERVICE DEPARTMENTS - The branches of the U.S. Armed Forces: Army, Navy, Marine Corps, Air Force, Coast Guard.

SPECIAL NOTE - Emphasis being placed on a particular point or an exception to a general rule is being highlighted.

THE AMERICAN LEGION - The nation's largest veterans' service organization.

THREE (3) YEAR RULE - BCMRs require that applications be filed within three years of the date of discovery. The boards can waive the rule if it is found in the interest of justice.

TRAVEL BOARD REVIEW - A personal hearing review convened by the MDRBs at specified locations outside the Washington, DC metropolitan area. The Coast Guard and Navy do not offer travel panels.

UNCHARACTERIZED DISCHARGE - Also referred to as Entry Level Separation. A separation in which the service member did not serve a sufficient period of time, 180 days, to be assigned a characterization of service.

UNDER OTHER THAN HONORABLE CONDITIONS - Previously known as Undesirable. Reflects that a member's service was less than honorable.

UNIFORM CODE OF MILITARY JUSTICE - Chapter 47 of title 10 of the United States Code. Military law.

VETERANS SERVICE ORGANIZATION - A non-profit organization, made up of veterans, that provide program services to all veterans and their dependents. The American Legion is the nations largest veterans organization.



AMERICAN LEGION SERVICE OFFICES

ALABAMA

The American Legion
P.O. Box 1391
Montgomery, AL 36102-1391
(334) 213-1391
276-8211

ARIZONA

The American Legion
3325 N. Central Avenue, Suite 421
Phoenix, AZ 85012-2421
(602) 640-4701

CALIFORNIA

The American Legion
Federal Building
11000 Wilshire Blvd., Room 5201
Los Angeles, CA 90025-3689
(310) 473-6534

CALIFORNIA

The American Legion
8810 Rio San Diego Drive, Room 1173
San Diego, CA 92108-1622
(619) 400-5301

CONNECTICUT

The American Legion
450 Main Street, Room 102
Hartford, CT 06103
(860) 240-3347

DISTRICT OF COLUMBIA

The American Legion
1120 Vermont Avenue, NW
Washington, DC 20421
(202) 691-3185

GEORGIA

The American Legion
730 Peachtree Street, NE, Room 215
Atlanta, GA 30365
(404) 894-5213

IDAHO

The American Legion
805 West Franklin Street
Boise, ID 83702
(208) 334-1245

ALASKA

The American Legion
2925 BeBarr Road, Suite 3103
Anchorage, AK 99508-2989
(907)

ARKANSAS

The American Legion
c/o VARO, Box 1280
North. Little Rock, AR 72115
(501) 370-3820

CALIFORNIA

The American Legion
Oakland Federal Building
1301 Clay Street, Room 1135N
Oakland, CA 94612
(510) 834-0310

COLORADO

The American Legion
155 Van Gordon Street
Denver, CO 80225
(303) 914-5585

DELAWARE

The American Legion
1601 Kirkwood Highway, Elsmere
Wilmington, DE 19805
(302) 998-9448

FLORIDA

The American Legion
P.O. Box 31003
St. Petersburg, FL 33731
(727) 319-7400

HAWAII

The American Legion
P.O. Box 50188
Honolulu, HI 96850
(808) 566-1676

ILLINOIS

The American Legion
c/o VARO, Federal Building
536 S. Clark Street, Room 485
Chicago, IL 60605
(312) 353-2615

INDIANA

The American Legion
575 North Pennsylvania Street
Room 325
Indianapolis, IN 46204
(317) 226-7918

KANSAS

The American Legion
c/o VAM & ROC
5500 East Kellogg
Wichita, KS 67218
(316) 688-6814

LOUISIANA

The American Legion
P.O. Box 52438
701 Loyola Avenue
New Orleans, LA 70152-2438
(504) 619-4345

MAINE

The American Legion
c/o VAROMC, P.O. Box 3411
Togus, ME 04330
(207) 623-5726

MASSACHUSETTS

The American Legion
J.F. Kennedy Federal Building
Government Center, Room 1500D
Boston, MA 02203-0393
(617) 565-2591

MINNESOTA

The American Legion
Fort Snelling Federal Building, Room 182A
1 Federal Drive
St. Paul, MN 55111-4050
(612) 970-5402

MISSOURI

The American Legion
c/o VARO, Room 106
400 South 18th Street
St. Louis, MO 63103
(314) 589-9884

NEBRASKA

The American Legion
c/o VARO, 5631 South 48th Street
Lincoln, NE 68516
(402) 420-4021

NEVADA

The American Legion
c/o VA Ambulatory Care Center
1700 Vegas Drive, Room 1719
Las Vegas, NV 89106

IOWA

The American Legion
1003 A Federal Building
210 Walnut Street
Des Moines, IA 50309
(515) 284-4539

KENTUCKY

The American Legion
P.O. Box 3661
Louisville, KY 40201-3661
(502) 582-5852

LOUISIANA

The American Legion
P.O. Box 94095
Capital Station
Baton Rouge, LA 70804
(225) 925-6436

MARYLAND

The American Legion
31 Hopkins Plaza, Suite 114C
Fallon Federal Building
Baltimore, MD 21201
(410) 962-4106

MICHIGAN

The American Legion
Patrick V. McNamara Building
c/o VARO, Room 1210
477 Michigan Avenue at Cass
Detroit, MI 48226
(313) 964-6640

MISSISSIPPI

The American Legion
1600 East Woodrow Wilson
Boulevard, Room 116
Jackson, MS 39216
(601) 364-7175

MONTANA

The American Legion
c/o VARO, Fort Harrison
Fort Harrison, MT 59636
(406) 442-6410, ext. 7319

NEVADA

The American Legion
1201 Terminal Way
Reno, NV 89520
(775) 688-1155

NEW HAMPSHIRE

The American Legion
Norris Cotton Federal Building
c/o VARO
275 Chestnut Street

(702) 636-3070

NEW JERSEY

The American Legion
20 Washington Place
Newark, NJ 07102
(973) 623-6298

NEW YORK

The American Legion
Federal Building
111 West Huron Street
Buffalo, NY 14202
(716) 551-5101

NORTH CAROLINA

The American Legion
c/o VARO, Room 424
251 North Main Street
Winston-Salem, NC 27102
(336) 631-5471

NORTH DAKOTA

The American Legion
P.O. Box 2566
Fargo, ND 58108-2666
(701) 293-3120

OHIO

The American Legion
c/o VARO, 3200 Vine Street
Cincinnati, OH 45220
(513) 475-6440

OHIO

The American Legion
c/o VARO, 4100 West Third Street
P.O. Box 335
Dayton, OH 45428
(937) 268-6511, ext. 2966

OREGON

Legion
c/o VARO, 1220 SW Third Avenue
Portland, OR 97204
St.(503) 326-2616

PENNSYLVANIA

The American Legion
Federal Building
1000 Liberty Avenue
Pittsburgh, PA 15222
(412) 395-6792

Manchester, NH 03101
(603) 666-7627

NEW MEXICO

The American Legion
c/o VARO, 500 Gold Street, SW
Albuquerque, NM 87102
(505) 248-6733

NEW YORK

The American Legion
245 West Houston Street
Room. 315A
New York, NY 10014
(212) 807-3066, ext. 3190

NORTH CAROLINA

The American Legion
c/o VARO, Room 543
251 North Main Street
Winston-Salem, NC 27102
(336) 631-5474

OHIO

The American Legion
1240 East Ninth Street
Room 1005
Cleveland, OH 44199
(216) 522-3504

OHIO

The American Legion
c/o Wade Park VAMC
10701 East Boulevard
Room A-157
Cleveland, OH 44106
(216) 421-3005

OKLAHOMA

The American Legion
Federal Building, Room 1B28
125 South Main Street
Muskogee, OK 74401
(918) 687-2426

PENNSYLVANIA

The American Legion
c/o VARO, P.O. Box 42938
Wissahickon Ave. & Manheim
Philadelphia, PA 19101-2938
(215) 381-3500

PENNSYLVANIA

The American Legion
100 North Wilkes-Barre Blvd.
Suite 200
Wilkes-Barre, PA 18702
(570) 824-0911

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The American Legion
P.O. Box 2324
Harrisburg, PA 17105-2324
(717) 730-9100

SOUTH CAROLINA

The American Legion
1205 Pendleton Street, Suite 226
Columbia, SC 29201
(803) 734-0200

TENNESSEE

The American Legion
1135 Blaylock Road
Dickson, TN 37055
(615) 441-6224

TEXAS

The American Legion
c/o VARO, 701 Clay Avenue
Waco, TX 76799
(254) 299-9960

VERMONT

The American Legion
c/o VAROMC, North Hartland Road
White River Junction, VT 05009
(802) 296-5166

WASHINGTON

The American Legion
New Federal Building
915 Second Avenue, Room 1244E
Seattle, WA 98174
(206) 220-6223

WISCONSIN

The American Legion
c/o VAROMC, 5000 West National Avenue
Milwaukee, WI 53295
(414) 382-5245

RHODE ISLAND

The American Legion
c/o VARO, 380 Westminster Mall
Providence, RI 02903
(401) 528-4409

SOUTH DAKOTA

The American Legion
P.O. Box 152
Brandon, SD 57005
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TEXAS

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Houston, TX 77030-4200
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UTAH

The American Legion
125 South State Street
Room 5231
Salt Lake City, UT 84147
(801) 524-5943

VIRGINIA

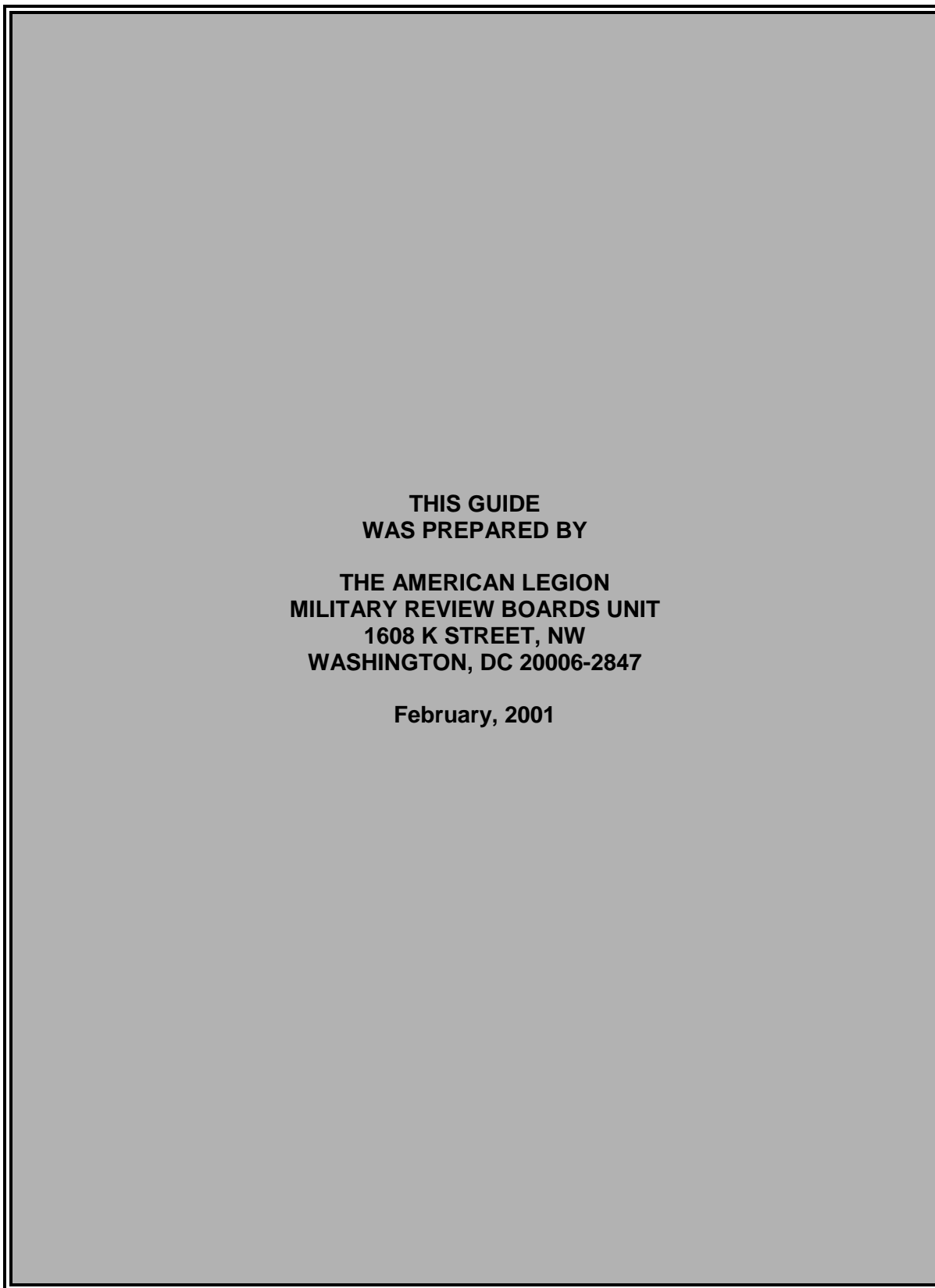
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The American Legion
1321 Plaza East, Suite 101
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February, 2001