



DEPARTMENT OF THE ARMY
US ARMY TRIAL DEFENSE SERVICE
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TDS INFO PAPER #3c
**Applying for Upgrade
of Discharge or Dismissal**

Applying for an Upgrade of Your Discharge/Dismissal

This fact sheet contains detailed answers to common questions concerning applying to have a discharge upgraded. Discharges are not automatically upgraded after six months. A request for discharge upgrade must be submitted.

Who may apply? Former members of the Regular Army, the Army Reserve, and the Army National Guard may submit an application (DD Form 293) to the Army Discharge Review Board (ADRB). If the former member is deceased or incompetent, the surviving spouse, next of kin, or legal representative may apply. However, the application must include supporting documentation such as a certified copy of marriage license, death certificate, or power of attorney as appropriate.

What do I do first? If you need any of your personnel records for inclusion in your application, obtain them before you submit your request for review. After your application for discharge review is submitted your records are sent to the ADRB where they cannot be reproduced. To obtain copies of your military personnel records, submit a Standard Form 180 (Request Pertaining to Military Records) to:

National Personnel Records Center (NPRC)
Military Personnel Records
9700 Page Boulevard
St. Louis, MO 63132-1547

How do I apply? After you have all your documents ready, submit an original, completed and signed Application for Review of Discharge or Dismissal (DD Form 293). Blank forms and instructions are available on the ADRB web site: <http://arba.army.pentagon.mil/adrb.htm>. Application forms can also be obtained by sending a request to:

Army Review Boards Agency (ARBA)
ATTN: Client Information and Quality Assurance
Arlington, VA 22202-4508
Phone number: (703) 607-1600

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How long do I have to apply? Requests for review to the ADRB must be made within 15 years of discharge/dismissal. However, if it has been more than 15 years since the date of your discharge/dismissal, you may apply to the Army Board for Correction of Military Records (ABCMR) using DD Form 149 (Application for Correction of Military Records). We suggest that you wait at least a short time (6 months - 2 years) of discharge before applying to the ADRB in order to allow time for you to establish some references in the civilian community where you live.

What characterization of discharge can I request? You can apply to have your discharge upgraded to honorable the first time you apply, regardless of the characterization of discharge you were awarded. However, we suggest you be realistic in your request. Soldiers discharged under Other Than Honorable conditions after 1 October 1982 while in entry level status (less than 6 months service) may request upgrade to an uncharacterized discharge. To do this, write in block 3c "Change to Entry Level Separation".

What reasons justify an upgrade of my discharge? There are two grounds for upgrading a discharge and the burden of proof rests with the applicant.

a. Propriety - requesting change in discharge due to an error in the application of a regulation, statute, constitutional provision or other source of law.

b. Equity - requesting change in discharge due to (1) the policies and procedures under which you were discharged differing in material respects from those currently applicable on a service-wide basis. (2) the discharge being inconsistent with the standards of discipline in the military service of which you were a member at the time of issuance, (3) your exemplary service record and other evidence presented to the ADRB, or (4) your capability to serve (age, educational level and aptitude scores, family and personal problems, capricious actions, or discrimination).

Can I appear personally before the review board? Yes. There are three types of reviews. The first two involve personal appearance.

a. Resident Panel Hearing - a review involving an appearance before the ADRB in Arlington, VA, by you and/or your representative. You must pay your own and your counsel's travel expenses.

b. Traveling Panel Hearing - a review involving an appearance before the ADRB at the regional location you request by you and/or your counsel or representative. The Board will travel to one of the regional locations when there are a sufficient number of cases to warrant the expense of travel. Normally, the Board will not appear at a regional location more than once a year. You must pay your own and your counsel's travel expenses.

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c. Record - a review of the application, available service record, and documents submitted by you or on your behalf. There is no personal appearance by you and/or your counsel or representative.

Can I submit a brief or supporting cases, regulations, previous decisions, etc. with my application? Yes, however, when a brief is submitted, we recommend that you list specific issues discussed in the brief separately at the beginning of your brief and that you separately identify each of these issues in the issues block of the DD Form 293. For clarification purposes, we recommend that you cite on the DD Form 293 the page and paragraph of the brief where the issue is raised. Also, to save time in the review process, you should attach copies of cited cases, excerpts from regulations, and copies of previous decisions.

What if I want to apply for a change in my "Reason for Discharge"? You must specifically note that as a reason for your application in Block 3c of the application and provide documents to support your issue(s). If you fail to do this, the ADRB will assume you are applying for an upgrade of the characterization of your discharge only.

Can I apply to the ADRB for a change in my RE Code? No, RE code change requests, along with supporting documentation should be sent to:

Commander, PERSCOM
ATTN: TAPC-EPR-P
Alexandria, VA 22331

Can I apply to the ADRB for a discharge I received at court-martial? The ADRB can hear any discharge except a Bad Conduct Discharge (BCD) or a Dishonorable Discharge (DD) issued by a general court-martial. BCDs given as a result of a special court-martial may be upgraded only on the basis of clemency.

If my discharge is upgraded, will I receive my Montgomery GI Bill or get the money I paid into it back? Not necessarily. The ADRB does not make decisions on policies and procedures related to the Montgomery GI Bill. Your local Department of Veterans Affairs can assist you with such matters.

How long does it take to process an application? You should receive a letter from the Board within one month that acknowledges receipt of your application. In this letter the Board may also request additional information, so read it carefully. You should then have a decision within the following timelines.

- a. Personal appearance (Arlington, VA) - within two to three months
- b. Personal appearance (regional location) - within twelve months
- c. Records reviews - within six months

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Can I ask for a reconsideration of my application? Yes, you may apply for reconsideration as often as you wish. However, the primary reason for reconsideration is due to newly discovered evidence. When applying for this reason, you must show new, substantial and relevant evidence that was not available at the time of any previous review. A record of all ADRB reviews and findings are maintained. Therefore, if a comparison shows that the evidence you submit would have had a probable effect, the request for reconsideration should be granted. Other reasons for reconsideration include, but are not limited to, representation by a counsel or representative on your behalf when your previous application did not involve such representation and retroactive changes in discharge policies that are announced after your earlier review. AR 15-180 outlines the complete eligibility criteria for reconsideration of a discharge review.

Sources of Information:

AR 15-180 DoD Directive 1332.28 10 United States Code §1553

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