

Resources

Statutes regulations and other information useful in the discharge review process

10 USC 801-946 Uniform Code Of Military Justice (UCMJ)

<http://www.au.af.mil/au/awc/awcgate/ucmj.htm>

10 USC 951-956 Military Correctional Facilities

10 USC 1161-1178 – Separation and Discharge of Service Members

10 USC 1552 – Establishes Boards for Correction of Naval and Military Records

10 USC 1553 – Establishes Service Discharge Review Boards

10 USC 1554 and 1554a Establishes Physical Disability Review Boards

10 USC 1557 – Timeliness of Action of Correction Boards

Regulations

Separation and Discharge Regulations

Navy - MILPERSMAN (NAVPERS 15560D) – Chapter 1900 Enlisted Separations

http://advancement.corpsman.com/files/MILPERSMAN_1910_-_ENLISTED_ADMINISTRATIVE_SEPARAT.pdf

Army – AR 635-200 Active Duty Enlisted Separations

<http://www.sdmcp.org/Regs/armyenlistedseps.pdf>

Air Force - AFI 36-3208 Administrative Separation of Airmen

<http://www.af.mil/shared/media/epubs/AFI36-3208.pdf>

Marine Corps Separation and Retirement Manual (MCO P1900.16F)

<http://www.usmc.mil/news/publications/Documents/MCO%20P1900.16F%20W%20CH%201-2.pdf>

Coast Guard CMDT Instruction 1000. 6A Coast Guard Personnel Manual

<http://isddc.dot.gov/OLPFiles/USCG/010564.pdf>

Chapter 12

Military Personnel Records

Navy – MILPERSMAN Chapter 1070

<http://www.npc.navy.mil/NR/rdonlyres/FE028C4B-47C5-4C24-A766-569FF51F8D44/0/MILPERSMAN1070PERSONNELRECORDS.pdf>

Army – AR 600-108-104 Military Personnel Information Management/Records
http://www.army.mil/usapa/epubs/pdf/r600_8_104.pdf

Air Force – 36-2608 Military Personnel Records System
<http://www.af.mil/shared/media/epubs/AFI36-2608.pdf>

Marine Corps MCO P1070.12K Individual Records Administration Manual (IRAM)
<http://www.usmc.mil/news/publications/Documents/MCO%20P1070.12K%20W%20CH%201.pdf>

Coast Guard - CMDT Instruction 1000. 6A Coast Guard Personnel Manual
Chapters 1, 6 and 10.

Forms

Application for Review by a Service Discharge Review Board – DD Form 293
http://www.google.com/#hl=en&q=dd+form+293+download&aq=1sx&aqi=g-s1g-sx4g-msx3&aql=&oq=DD+From+293&gs_rfai=&fp=3b8c5ebfdaf3b352

Application for correction of a military record under the provisions of
Title 10 U.S. Code Section 1552.
<http://www.dtic.mil/whs/directives/infomgt/forms/eforms/dd0149.pdf>

Request pertaining to military records. SF 180: <http://www.archives.gov/st-louis/military-personnel/standard-form-180.html>

Regulations governing the Discharge Review Boards

Army AR 15-180 http://www.army.mil/usapa/epubs/pdf/r15_180.pdf

Air Force AFI 36-3208 http://boards.law.af.mil/AF_DRB.htm

Navy and Marine Corps
<http://doni.daps.dla.mil/Directives/05000%20General%20Management%20Security%20and%20Safety%20Services/05-400%20Organization%20and%20Functional%20Support%20Services/5420.174D.pdf>

Coast Guard 33 CFR Part 51 <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&rgn=div5&view=text&node=33:1.0.1.2.20&idno=33>

Regulations related to the military correction boards

Army <http://arba.army.pentagon.mil/abcmr-overview.cfm>

Air Force AFI 36-2603 <http://www.af.mil/shared/media/epubs/AFI36-2603.pdf>

Navy and Marine Corps SECNATINST 5420.193

Coast Guard <http://www.uscg.mil/legal/BCMR.asp>

Military Justice Terms

Uniform Code of Military Justice (UCMJ) 10 USC 801 et seq

The statutes enacted by congress under its authority to make rules for the government of the military. Predecessors Articles of War (Army) Articles for the Proper Government of the Navy (Navy and Marine Corps – and the Coast Guard and PHS in time of war). The individual sections of the Code are known as “articles” as in Article 86, Unauthorized Absence.

Nonjudicial Punishment – Commanding officer’s punishment (AKA NJP) -

Punishment administered by a commanding officer under Article 15, UCMJ

NOTES – For enlisted members, punishments include restraints on liberty (restriction to limits etc) reduction in grade, and forfeiture of pay and reprimands and admonitions. Officers may only suffer restraints on liberty, forfeiture of pay and reprimands and admonitions. Punishments are also limited by the grade of the officer imposing punishment. Ordinarily a service member may refuse to accept NJP. However, if the member is “embarked on a vessel” he/she may not refuse it if offered.

In the Army and Air Force it is referred to as “Article 15.” In the Navy and Coast Guard it is called “Mast” and in the Marine Corps “Office Hours” In earlier days 3 days confinement on “bread and water” was a permissible punishment.

Summary Court-Martial – (SCM) (10 USC 819).

A proceeding of limited jurisdiction; composed of one commissioned officer (usually in the grade of O-4 (Major or Lieutenant Commander) and above) used for minor offenses. Punishment is limited to 30 days confinement; partial forfeiture of pay for 30 days, and a reduction; not considered to be a “court of record.” Accused is entitled to counsel.

NOTES – a commissioned officer may not be tried by summary court martial. A service member may refuse to be tried by summary court-martial and demand trial by a special court martial.

In the Army and Air Force, the term is also used to denominate a special proceeding for legal purposes, e.g. inventory of a soldier’s personal effects if he/she absents himself/herself without authority.

Special Court-Martial – (SPCM) a court of limited jurisdiction. (10 USC 819)

Composed of a minimum of three members (the military equivalent of jurors) and a military judge. Upon request by an accused not less than one third of the members may be enlisted personnel from a unit other than that of the accused. Punishment is limited to confinement for one year, reduction to the lowest enlisted grade and a bad conduct discharge (BCD) along with a possible fine and reprimands and admonitions. **NOTE** - discharge and reduction may only be imposed if the accused is an enlisted member. Prior to 199 confinement was limited to six months.

General Court-Martial (GCM) A court-martial of unlimited jurisdiction. (10 USC 818)

Composed of a minimum of five members and a military judge. Accused may request enlisted membership; may imposed any punishment not prohibited by law including (in appropriate cases) death, dishonorable discharge; (DD) bad conduct discharge, (BCD) and in the case of military cadets and commissioned officers “dismissal.”

NOTES: Normally reserved for felonies. If a case is to be heard as a capital case (see appropriate articles of UCMJ) there must be a minimum of 12 members (jurors)

Absence without leave – A violation of Art. 86 UCMJ. In the Army and Air Force it is known as Absence without leave (AWOL) in the Sea Services it is called Unauthorized Absence (UA). The most common violation of the UCMJ.

Desertion – A violation of Article 85 UCMJ. Desertion consists of unauthorized absence “with intent to remain away therefrom permanently.” In “time of war” this is a capital offense.

NOTE There is a difference between administrative desertion and the criminal offense. In all services when a member is gone without authority for 30 days, (or in certain other circumstances, e.g. awaiting trial) she/he becomes a “deserter” for administrative purposes. This triggers a number of actions including the publication of a “DD Form 553” “Report of absentee or deserter wanted by the armed Forces.” This is in effect a federal warrant authorizing civilian authorities to apprehend the individual for the offense of desertion. When the service member returns he/she may be tried for either desertion or unauthorized absence. The common practice is to try the member for unauthorized absence as the elements of the offense are simpler.

Courts of Criminal Appeal. An intermediate court established in each service (The Navy and Marine Corps are combined) for the appellate review of courts-martial. Previously known as Courts of Military Review, and Boards of Review. The members are senior judge-advocates of the services, generally with experience as military judges. (The statute still provides for civilian to serve, but no civilian has served since the middle 1970s.) The judges are appointed by the Judge Advocate General of each service. To be eligible for review a member must have an approved (see convening authority) sentence which extends to a bad conduct discharge or confinement for one year.

Court of Appeals for the Armed Forces (CAAF) formerly known as the Court of Military Review. Consists of five judges appointed by the President “from civilian life.” Its jurisdiction is primarily discretionary and is based on a “petition for grant of review” from a decision of the Court of Criminal Appeals by the convicted service member or his/her counsel. It must review all affirmed death sentences.

Convening Authority – the officer who “convenes” (i.e. creates) a court-martial, and refers cases to it.