

Military discharge in the United States

Discharge or separation should not be confused with retirement; career U.S. military members who retire are not separated or discharged; rather, they enter the *retired reserve* and may be subject to recall to active duty.

Reasons for discharge

Contrary to popular belief, the vast majority of those leaving the service after completing an initial enlistment are **separated** rather than **discharged**. The key difference lies in that a discharge completely alleviates the veteran of any unfulfilled military service obligation, whereas a separation (which may be voluntary or involuntary) may leave an additional unfulfilled military service obligation (MSO) to be carried out in the Individual Ready Reserve (IRR).

Below are some of the most common reasons for discharge:

- Expiration of Term of Service (ETS)
- Reaching the maximum age limit
- Disability, Dependency, or Hardship
- Pregnancy/Parenthood
- Physical or Mental Conditions that interfere with military service resulting in being placed on the Temporary Disability Retirement List or the Permanent Disability Retirement List
- Convenience of The Government/Secretarial Authority (voluntary redundancy due to funding cutbacks, for example)
- Unsuitability
- Misconduct - Minor Disciplinary Infractions
- Entry-Level Performance and Conduct
- Resignation (available to officers only)

If discharged for any of the above reasons, the service member will normally receive an honorable or a general (under honorable conditions) discharge.

Types of discharge

Honorable

To receive an honorable discharge, a service member must have received a rating from good to excellent for their service. Service members who meet or exceed the required standards of duty performance and personal conduct, and who complete their tours of duty, normally receive honorable discharges. However, one need not complete a term of service to receive an honorable discharge, provided the reason for involuntary discharge is not due to misconduct. For instance, a person rendered physically or psychologically incapable of performing assigned duties will normally have their service characterized as

honorable, regardless of whether the condition or disability was incurred in the line of duty, provided they otherwise exceeded standards.

An honorable discharge can, on rare occasions, be granted to a former service member (whose service was characterized as less than honorable) as an act of clemency, should that person display exemplary post-service conduct and show evidence of outstanding post-service achievement in areas such as education and employment.

General

General discharges are given to service members whose performance is satisfactory but is marked by a considerable departure in duty performance and conduct expected of military members. Reasons for such a characterization of service vary, but are always preceded by some form of nonjudicial punishment utilized by the unit commander as a means to correct unacceptable behavior prior to initiating discharge action (unless the reason is homosexual conduct or drug abuse, in which case discharge is mandatory). A commander must disclose the reasons for the discharge action in writing to the service member, and must explain reasons for recommending the service be characterized as General (Under Honorable Conditions). The service member is normally required to sign a statement acknowledging receipt and understanding of the notification of pending discharge memorandum. They are also advised of the right to seek counsel and present supporting statements.

In addition, service members are required to sign documents acknowledging that "substantial prejudice in civilian life" may be encountered under a general discharge.^[1] Despite this, some personnel think because the discharge is described as general *under honorable conditions*, it is as good as or the same as an honorable discharge. Concerning VA disability and most other benefits that is true, however, a general discharge may preclude participation in the GI Bill, service on veteran's commissions, and other programs where a fully-honorable discharge is required.

Other Than Honorable (OTH)

An OTH is the most severe form of administrative discharge. This type of discharge represents a serious departure from the conduct and performance expected of all military members. OTH discharges are typically given to service members convicted by a civilian court in which a sentence of confinement has been adjudged or in which the conduct leading to the conviction brings discredit upon the service. It can also be given as the result of certain civil hearings, like a divorce for adultery. OTH discharges can be accepted in-lieu of court-martial proceedings at the service-member's request. Persons facing OTH are guaranteed, by the Uniform Code of Military Justice, the right to have their discharge heard by an administrative discharge board, which is similar to a court-martial but is not a public forum.

Recipients of OTH discharges are barred from reenlisting into any component of the Armed Forces (including the reserves), and are normally barred from joining the Army

National Guard or Air National Guard, except under rare circumstances that require exception-to-policy waivers. As of September 2006, all 50 states had policies barring the reenlistment of UOTHC discharge recipients.

In addition, the majority of veterans' benefits are not available to individuals who receive an other than honorable conditions discharge, including the Montgomery GI Bill and (in most cases) VA healthcare benefits.

Bad Conduct (BCD)

Unlike an administrative discharge, a Bad Conduct Discharge (BCD) is a punitive discharge that can only be given by a court-martial (either Special or General) as punishment to an enlisted service-member. Bad conduct discharges are often preceded by a period of confinement in a military prison. The discharge itself is not executed until completion of both confinement and the appellate review process. Virtually all veterans' benefits are forfeited by a Bad Conduct Discharge. Also referred to as the "Big Chicken Dinner".

Dishonorable

A dishonorable discharge (DD), like a BCD, is a punitive discharge rather than an administrative discharge. It can only be handed down to an enlisted member by a general court-martial. Dishonorable discharges are handed down for what the military considers the most reprehensible conduct. This type of discharge may be rendered only by conviction at a general court-martial for serious offenses (e.g., desertion, sexual assault, murder, etc.) that call for dishonorable discharge as part of the sentence.

With this characterization of service, all veterans' benefits are lost, regardless of any past honorable service. This type of discharge is universally regarded as shameful, and the social stigma attached to it makes it very difficult to obtain gainful post-service employment. Additionally, US federal law prohibits ownership of firearms by those who have been dishonorably discharged.^[2] In most cases, a person who receives a dishonorable discharge loses the right to vote and the right to receive governmental assistance of any kind. They cannot obtain a bank loan and they are unable to find work at the state or government level. Finding gainful civilian employment is also an arduous task for someone with a DD as most states now require employers to conduct background checks and the results of military records and discharges are often disclosed. Going to college is another pitfall because government loans and grants are unavailable for anyone with a DD. This is a permanent record that will follow the individual for the duration of their lives anywhere in the world. In some US states, the United Kingdom and other countries this may be for the duration of his/her sentence, elsewhere this may be permanent.

Entry level separation (ELS)

Entry level separations, or uncharacterized discharge, are given to individuals who separate prior to completing 180 days of military service, or when discharge action was initiated prior to 180 days of service. This type of discharge does not attempt to characterize service as good or bad.

Commissioned officers

Commissioned officers cannot be reduced in rank by a court-martial, nor can they be given a bad conduct discharge or a dishonorable discharge. If an officer is convicted by a General Court-Martial, then that officer's sentence can include a "dismissal." This is considered to be the same as a dishonorable discharge. An officer convicted at court-martial, but not sentenced to a dismissal, can be dropped from the rolls, by the service Secretary. That is an administrative separation, not punitive. See *Goldsmith v. Clinton*, 48 M.J. 84 (C.A.A.F. 1998), reversed *Clinton v. Goldsmith*, 526 U.S. 529, 119 S. Ct. 1538, 143 L. Ed. 2d 720,(1999).

Appeal procedures

After a discharge, the service member (or his next-of-kin, if deceased) can appeal the type of discharge that was given. Most of these requests are not approved,^[3] and then only if the service member can prove they were unfairly denied an honorable characterization.

Appellate Review of Punitive Discharges

Any punitive discharge adjudged by a Court-Martial is automatically reviewed by a military appellate court for each respective branch. These are the Army Court of Criminal Appeals (ACCA), Air Force Court of Criminal Appeals, Navy-Marine Corps Court of Criminal Appeals, and the Coast Guard Court of Criminal Appeals. These courts are staffed by appellate military judges and function as an intermediate appellate court and have the power to review de novo both any questions of legal error and the factual basis of the conviction. If either the government or the accused is unsatisfied with the results of this appeal, the conviction or the sentence can be appealed to the Court of Appeals for the Armed Forces (CAAF). This court has the power of discretionary review, in that it can in some cases deny a petition to grant a review. This court however must hear any death penalty cases or cases certified by the Judge Advocate General of each respective service for appellate review. Litigants before the Court of Appeals for the Armed Forces can appeal to the United States Supreme Court. However, this right only applies to any case that the Court of Appeals for the Armed Forces has reviewed. Therefore, in most military justices cases, the Court of Appeals for the Armed Forces is the court of last resort since a denial of a petition of review by that court will prevent any higher appeal.

Service members who are given a punitive discharge and have completed any adjudged confinement are normally placed on appellate leave pending final review of their case by

the appellate courts. This includes members who plead guilty at their court-martial since all cases are automatically reviewed. The member is considered to be on active duty and is subject to the Uniform Code of Military Justice while on appellate leave. While the member is entitled to full health care benefits and other privileges of being on active duty, the member receives no pay or allowances and is not required to perform any military duties.

A service member who was adjudged a punitive discharge at a court martial and then dies before the appellate review process is complete is considered to have died on active duty under honorable conditions. Their next-of-kin is then entitled to any rights and benefits that any other service member's family would be entitled.

Upgrade of Administrative Discharges and Special Court-Martial BCDs

Once discharge is finalized, General, Entry-Level/Uncharacterized, and Under Other Than Honorable Conditions (UOTHC or OTH) discharges may be appealed for upgrade through the Discharge Review Board of the respective service, however, the appeal must be filed within 15 years of the date of separation, and it must be shown that the characterization of service was the result of an error or injustice. Bad Conduct Discharges handed down by a Special Court-Martial may be upgraded only as an act of clemency. Discharge Review Boards may also consider appeals for a change to the Narrative Reason for Discharge (contained in Block 28 of the DD 214). The DRB will not consider a request for the change of a Reenlistment Eligibility (RE) or Separation Designator (SPD) Code by itself, however, in the case that a discharge is upgraded, the RE and SPD codes are often changed to correspond with the new characterization of service and/or narrative reason for discharge.

If more than 15 years have passed since discharge, appeals must be directed to the Board For Correction of Military/Naval Records of the respective service. The BCM/NR hears a wide array of appeals and correction requests, and can be utilized by Active Duty, Reserve, National Guard, retired and discharged veterans alike. Normally, an appeal must be filed within 3 years of the occurrence of an error or injustice, however, exceptions are often made.

Military Discharge Certificate

In the United States of America every service member who is discharged, or released from active duty, is issued a DD Form 214, a military discharge certificate. A reservist who is called up to active duty is given a DD 214 when they are deactivated and returned to the reserves. Those who are discharged before completing 8 years of active duty or reserve duty in an active drilling status are transferred to the Individual Ready Reserve (IRR) for the remainder of their military service obligation (MSO). The Individual Ready Reserve does not drill or receive pay, however, a member in IRR status can be recalled to active duty during time of war or national emergency until the 8 years have expired. Most members separating with an honorable discharge after completing a single term of service (typically 3-6 years) are transferred to the IRR for the remainder of the 8-year MSO.

Additionally, retirees are furnished with the DD 214, though a U.S. military retirement is not characterized as a discharge as retirees may be recalled to active duty, under certain circumstances, until they have achieved a total of 30 years of service.

The DD 214 is a complete documentation of military service. It contains everything from total time in service, dates of entry and discharge, dates of rank, documentation of foreign service, ribbons, medals and badges awarded, professional military education completed, characterization of service, and reason for discharge (among other things). When applying for many jobs, employers will often request a copy of the DD 214. There are two types of the DD 214, known as the edited and unedited (or "short" and "long") versions. The edited version will omit certain information, including the characterization and reason for discharge. Many employers will often request the unedited version but the legality of this is debatable in certain situations and can be denied, especially if the "long" version references any facts (such as non-relevant psychological, medical, or disability issues) that conflict with an employee's right to privacy or could be used in a discriminatory fashion explicitly cited as illegal by federal or state hiring laws. A service member may request the edited, unedited or both versions upon separation.

The Freedom of Information Act has made (limited) records of military service available to the public, upon request. However, information protected by the Privacy Act of 1974 can be released only with the veteran's consent.

Re-enlistment Eligibility Code

Another important aspect is the RE (Re-enlistment Eligibility) Code. This specifies under what conditions the member can reenlist in the armed forces. The definition of each RE Code may vary from Service to Service, as currently it is the responsibility of each branch of the Armed Forces to establish reenlistment eligibility criteria. As a general rule, however, an RE Code in the "1" series will allow for reenlistment into any component of the Armed Forces, and an RE Code in the "3" series will usually allow the veteran to reenlist with a waiver. RE Codes in the "2" series often place restrictions on reenlistment: this is especially true in the Air Force, which has a policy permanently barring airmen separated from the Air Force with an RE Code 2 from reenlisting in the Air Force (though reenlistment into other components of the Armed Forces may be possible with a waiver). An RE Code in the "4" series typically bars reenlistment into any component of the Armed Forces. (It is possible for a person with an RE Code of 4 to enlist in the Navy or Air Force if the SPD Code and the Narrative Reasoning are waivable.) A veteran issued an RE Code in the "4" series will usually require an Exception to Policy waiver to reenlist.

The Department of Veterans Affairs uses different criteria than the Departments of the Air Force, Army, and Navy when establishing veteran status. VA benefits can sometimes be enjoyed if the veteran's service was under "other than dishonorable" conditions. An example of this would be the VA's home loan program.