



PERSONNEL AND
READINESS

UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

May 5, 2023

MEMORANDUM FOR SENIOR PENTAGON LEADERSHIP
DEFENSE AGENCY AND DOD FIELD ACTIVITY DIRECTORS

SUBJECT: Directive-type Memorandum 23-006 – “DoD Discharge Appeal Review Board”

References: Deputy Secretary of Defense Memorandum, “Department of Defense Implementation of Section 523 of the National Defense Authorization Act for Fiscal Year 2020,” January 29, 2021
Deputy Secretary of Defense Memorandum, “Update to Department of Defense Discharge Appeal Review Board Procedures,” May 17, 2022
DoD Directive 5124.02, “Under Secretary of Defense for Personnel and Readiness (USD(P&R)),” June 23, 2008
Public Law 116-92, Section 1790, “National Defense Authorization Act for Fiscal Year 2020,” December 20, 2019
United States Code, Title 10

Purpose. In accordance with the authority in DoD Directive 5124.02; Section 1553a of Title 10, United States Code (U.S.C.); and the May 17, 2022, Deputy Secretary of Defense Memorandum, this directive-type memorandum (DTM):

- Provides updated policy on the DoD Discharge Appeal Review Board (DARB) as the required review process to conduct final reviews of requests for upgrades in the characterization of a discharge or dismissal and assigns responsibilities for that purpose.
- Is effective May 5, 2023; it will be converted to a new DoD instruction, which will also incorporate the January 29, 2021 and May 17, 2022 Deputy Secretary of Defense Memorandums. This DTM will expire effective May 5, 2024.

Applicability. This DTM applies to OSD, the Military Departments (including the Coast Guard at all times, including when it is a Service in the Department of Homeland Security (DHS) by agreement with that Department), the Board for Correction of Military Records of the Coast Guard, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this issuance as the “DoD Components”).

Definitions. See Glossary.

Policy.

- The Military Departments will, to the extent practicable, uniformly and consistently implement applicable DoD policies related to the review of discharges or dismissals by their respective Discharge Review Boards and Boards for Correction of Military/Naval Records (BCM/NRs), such as, for the Military Services (other than the USCG), DoDD 1332.41 and DoDI 1332.28.
- Petitioners are afforded an opportunity to apply to the DARB to request an upgrade to their service characterization of a discharge or dismissal from the Military Service consistent with Section 1553a of Title 10, U.S.C.
- Petitioners must exhaust all administrative remedies available to them under Sections 1552 and 1553 of Title 10, U.S.C., before applying to the DARB.

Responsibilities. See Attachment 1.

Procedures. See Attachments 2 and 3.

Releasability. Cleared for public release. Available on the Directives Division Website at <https://www.esd.whs.mil/DD/>.

A handwritten signature in black ink, appearing to read "Gilbert R. Cisneros, Jr.", with a stylized, cursive script.

Gilbert R. Cisneros, Jr.

Attachments:
As stated

ATTACHMENT 1
RESPONSIBILITIES

1. UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS (USD(P&R)). The USD(P&R):

- a. Establishes the process required by Section 1553a of Title 10, U.S.C., and directs its implementation.
- b. Serves as the Principal Staff Assistant with oversight of the DARB process.
- c. Reviews and approves any DARB or DARB-related policies or procedures that the Secretaries of the Military Departments or the President, DARB develop before implementation.

2. SECRETARIES OF THE MILITARY DEPARTMENTS AND THE SECRETARY OF HOMELAND SECURITY.

- a. The Secretaries of the Military Departments:
 - (1) Develop implementing guidance, as needed, pursuant to the policies and procedures in this DTM.
 - (2) Ensure that the DARB is given access to their BCM/NRs systems of records.
 - (3) Review and approve or disapprove, in writing, any DARB recommendations to upgrade or partially upgrade the characterization of a discharge or dismissal.
- b. The Secretary of Homeland Security will develop guidance as the Secretary deems appropriate.

3. SECRETARY OF THE AIR FORCE (SECAF). In addition to the responsibilities in Paragraph 2 of this attachment, the SECAF:

- a. Serves as the lead agent for the DARB with responsibility for the formation, operation, and management of the DARB.
- b. Exercises the authority under Section 1553a of Title 10, U.S.C., on behalf of the Secretary of Defense and may delegate, in writing, this authority to a Presidentially appointed, Senate-confirmed (PAS) civilian official in the Office of the SECAF; further re-delegation is not authorized.
- c. Ensures that responses are provided, as appropriate, to all inquiries from private individuals, organizations, or public officials with regard to DARB matters.
- d. Ensures that online publication of DARB case information is in conformity with Section 523(e) of Public Law 116-92, codified as a note in Section 1553a of Title 10, U.S.C.

ATTACHMENT 2

DARB MEMBERS

1. MEMBERSHIP APPOINTMENT. Except for the DARB President appointed by the USD(P&R), DARB members are appointed by the Director of the Air Force Review Boards Agency.

2. PRESIDENT, DARB. The President, DARB:

- a. Administers and oversees the DARB's routine operations.
- b. Reviews and provides final adjudication, subject to the discretionary review of the SECAF, for all DARB recommendations regarding a petitioner's request for an upgrade in the characterization of their discharge or dismissal.
- c. Develops policy, procedures, and evaluation standards for the DARB, subject to review and approval by the SECAF and the USD(P&R).
- d. May delegate, in writing, their authority to the Deputy Director, DARB; no further re-delegation is authorized.
- e. Drafts the annual report for DARB cases as required by Section 523(e) of Public Law 116-92, also found as a note to Section 1553a of Title 10, U.S.C., for amplifying information.

3. DARB REVIEW. DARB members review each DARB request and make a recommendation to the President, DARB on whether the petitioner's request for an upgrade to the characterization of a discharge or dismissal should be granted, partially granted, or denied.

ATTACHMENT 3

PROCEDURES

1. INTAKE OF DARB REQUESTS.

a. Before consideration by DARB members, the DARB intake personnel will review each request to ensure eligibility for DARB review. They must confirm that:

(1) The petitioner received a discharge characterization that was less than an Honorable characterization, or received a dismissal.

(2) The petitioner has exhausted all available administrative remedies, to include the appropriate discharge review board and BCM/NR.

(3) The review conducted by the discharge review board and BCM/NR resulted in a determination that the petitioner was:

(a) Denied an upgrade in the characterization of a discharge or dismissal;
or

(b) Partially granted an upgrade in the characterization of a discharge or dismissal by a BCM/NR. For example, the petitioner requested an upgrade to an Honorable characterization, but received an upgrade to General, Under Honorable Conditions characterization.

(4) The petitioner was separated from military service on or after December 20, 2019.

b. For requests that do not meet the criteria in Paragraph 1.a. of this attachment, the petitioner will be notified in writing of the reason(s) their request did not qualify for DARB review.

c. If a request contains new information, the DARB will notify the petitioner that they must first seek reconsideration from the BCM/NR and Discharge Review Boards, as appropriate, to exhaust their administrative remedies and qualify for a DARB review.

2. CONSIDERATION OF DARB REQUESTS.

a. A board consisting of three DARB members will consider each request.

b. The assigned DARB members will conduct a *de novo* review of the petitioner's request for an upgrade in the characterization of their discharge or dismissal.

c. The information considered during this *de novo* review will be limited to:

(1) The existing BCM/NR case file records related to the matter for which the petitioner is requesting an upgrade in the characterization of a discharge or dismissal. The petitioner will not be permitted to provide new information.

(2) Applicable OSD policies, regulations, and guidance.

(3) Applicable Military Department, Military Service or USCG policies and regulations.

(4) Applicable law.

d. DARB members will not act as investigative bodies.

e. DARB members will apply the presumption of regularity in the conduct of governmental affairs in all reviews unless there is clear and convincing evidence to rebut the presumption of regularity related to official acts of public officers).

f. Only DARB members and DARB staff may be present during DARB deliberations. However, the Chair of the DARB may permit observers for training purposes or to otherwise further DARB functions.

g. The DARB members will vote to determine whether to recommend that a petitioner's request be granted, partially granted, or denied. A DARB majority vote constitutes the action of the DARB members. The Chair of the DARB will ensure the record of proceeding includes the votes and rationales of the majority and minority, as appropriate.

h. If it is unclear whether the BCM/NR considered matters required by law and applicable policy to be considered when it denied the requested upgrade in the characterization of a discharge or dismissal, the DARB members may recommend that the President, DARB, return a case to the appropriate BCM/NR for reconsideration.

(1) Any case returned to the BCM/NR for reconsideration will include a letter signed by the President, DARB, with the rationale for the case being returned. The relevant BCM/NR will inform the petitioner of the change of status once the case has been accepted for reconsideration and provide a copy of the notification to the DARB.

(2) Any BCM/NR reconsideration case resulting in a partial grant or denial will be returned to the DARB for review within 180 days of the case being returned. If additional time is needed, the BCM/NR may request an extension, which will be granted for good cause shown. The relevant BCM/NR will inform the petitioner of the extension.

3. REVIEW OF DARB RECOMMENDATIONS BY THE PRESIDENT, DARB, FOR USCG CASES. For all USCG cases, the President, DARB, will review and transmit the DARB's written recommendation and rationale to the Secretary of DHS for final action.

4. REVIEW OF DARB RECOMMENDATIONS BY THE PRESIDENT, DARB, FOR CASES FROM A MILITARY SERVICE OTHER THAN THE USCG.

a. For all cases, the President, DARB, will review the DARB's written recommendation and rationale.

(1) If the President, DARB, approves the recommendation, the President, DARB will transmit the DARB recommendation to the Military Department Secretary concerned.

(2) If the President, DARB, disapproves the recommendation, he or she will draft a new recommendation with supporting rationale and will transmit the recommendation to the Military Department Secretary concerned.

b. All President, DARB, actions will be subject to discretionary review by the SECAF, in his or her DARB capacity.

(1) If the President, DARB, determines that an upgrade to the characterization of a discharge or dismissal *is not* warranted, the action will be forwarded to SECAF. Unless SECAF exercises his or her authority to revise the recommendation within 30 calendar days, this will become the final action within the Department on the consideration of the request for DARB review with no further review or appeal available under this process. Notice of this final action will be provided to the Military Department Secretary concerned.

(2) If the President, DARB, recommends that an upgrade to the characterization of a discharge or dismissal *is* warranted, the action will be forwarded to SECAF. If within 30 days SECAF exercises his or her authority to revise the recommendation, SECAF's recommendation will be the final action within the Department on the consideration of the request for DARB review with no further review or appeal available under this process. Notice of this final action will be provided to the Secretary concerned. If within 30 days SECAF does not exercise his or her authority to revise the recommendation, it will be forwarded to the Military Department Secretary concerned for final action in accordance with Paragraph 4.a. of this attachment.

5. FINAL ADJUDICATION BY THE MILITARY DEPARTMENT SECRETARY CONCERNED ON DARB RECOMMENDATIONS FOR AN UPGRADE, FOR CASES OTHER THAN THE USCG.

a. The Military Department Secretary concerned will act on a DARB's recommendation to upgrade or partially upgrade the characterization of a discharge or dismissal within 90 calendar days of receipt. The Military Department Secretary concerned will approve the recommendation for upgrade *unless* he or she finds that the recommendation is not supported by the preponderance of the evidence.

(1) If a DARB recommendation for an upgrade in characterization of a discharge or dismissal is approved, the Military Department Secretary concerned will notify the petitioner, with a copy to the DARB, of the approved change and ensure that all necessary administrative actions are taken to effect the change, including issuance of a new or corrected DD Form 214,

“Certificate of Uniform Service,” available on the DoD Forms Management Program Website. Any change to the characterization of a discharge or dismissal will be effective as of the original separation date.

(2) If a DARB recommendation for an upgrade in characterization of a discharge or dismissal is not approved, the Military Department Secretary concerned must provide a brief written explanation to the petitioner detailing the rationale for the disapproval, sending a copy to the DARB.

b. The Secretaries of the Military Departments may delegate, in writing, the authority to take action on DARB recommendations to upgrade the characterization of a discharge or dismissal to a PAS official; further re-delegation is not authorized.

c. The Secretary’s action upon such DARB recommendations to upgrade a discharge or dismissal will be the final action within the Military Department, as appropriate, with no further review or appeal available under this process.

6. REPORTING REQUIREMENTS.

a. The President, DARB will provide the draft annual report to the USD(P&R) no later than September 1. The report includes:

(1) The number of requests that the DARB receives during the fiscal year (FY).

(2) The number of requests that the DARB rejects during the FY for failure to meet the criteria in Paragraph 1.a. of this attachment.

(3) The number of requests that the DARB considers during the FY.

(4) The number of requests returned to the Military Department BCM/NR pursuant to Paragraph 2.h. of this attachment during the FY.

(5) The number of DARB recommendations to upgrade the characterization of a discharge or dismissal, to include the most common reasons for such upgrades, transmitted to the Military Department Secretaries concerned during the FY.

(6) The number of DARB recommendations to upgrade the characterization of a discharge or dismissal declined by the Military Department Secretaries concerned, to include the most common reasons for such declinations.

b. The President, DARB will publish an annual report on October 1 covering the preceding FY with the information in Paragraphs 5.a.(1) – (6) of this attachment on a publically accessible DoD website.

GLOSSARYPART I. ABBREVIATIONS AND ACRONYMS

ACRONYM	MEANING
BCM/NR	Board for Correction of Military/Naval Records
DARB	discharge appeal review board
DD	Department of Defense (forms)
DTM	directive-type memorandum
FY	fiscal year
PAS	Presidentially-appointed, Senate-confirmed
SECAF	Secretary of the Air Force
U.S.C.	United States Code
USD(P&R)	Under Secretary of Defense for Personnel and Readiness
USCG	United States Coast Guard

PART II. DEFINITIONS

Unless otherwise noted, these terms and their definitions are for the purpose of this issuance.

TERM	DEFINITION
case file records	All records that members of the BCM/NR have access to, not limited to what the BCM/NR analyst presents to the DARB.
de novo review	A new review that occurs when a board decides an issue regarding the petitioner's request without deference to a previous board's decisions.
final review	A petitioner's request for an upgrade to the characterization of a discharge or dismissal that was not granted under Sections 1552 and 1553 of Title 10, U.S.C. after the petitioner has exhausted all remedies available to them under Sections 1552 and 1553 of Title 10, U.S.C.
new information	Material not previously presented to, or considered by, the appropriate BCM/NR.

TERM	DEFINITION
PAS civilian official	A civilian official who is Presidentially appointed and confirmed by the U.S. Senate.
petitioner	Defined in Section 1553a of Title 10, U.S.C.
preponderance of the evidence	Evidence that, as a whole, shows that the claim to be proved is more likely than not.