

## CHAPTER ELIMINATION INFORMATION

Your commander has recommended that you be administratively separated from the service under the provisions of AR 635-200. This handout will answer some general questions about your administrative separation (also called a chapter).

If separated, you could receive one of the following types of discharges, depending on your type of chapter: Honorable, General (Under Honorable Conditions), also called just a General discharge, or a discharge Under Other Than Honorable Conditions, also called an "OTH." An Honorable discharge is the best discharge you can receive from the service. A General discharge is the second best discharge that the Army gives, but it is also "good paper." An OTH discharge will deprive you of most of the benefits you would receive with an Honorable discharge and may cause you substantial prejudice in civilian life. Generally, an OTH discharge is only possible under chapters 14 and 15 and before you can be given an OTH, you have the right to have your case heard by an administrative separation board.

The benefits available to you under the different types of discharges are listed on a Veterans Administration (VA) benefits chart. Since this chart may change, you should obtain the latest version in order to ensure you understand the benefits you stand to lose. Note that with a General discharge you keep most of the pay entitlements or VA benefits that you might have accrued thus far. For example, you can still cash in your accrued leave, however, you do lose any GI Bill contributions and any civil service retirement credit (that is, credit toward federal civil service retirement for your active duty military time) to which you would otherwise be entitled. The biggest problem with a General discharge is that it is the second best type of discharge and not the best. As such, a future employer may inquire as to why you got the second best instead of the best. However, because it is under honorable conditions and is still considered good paper, most employers probably will not press the issue.

The Separation Authority (your Battalion/Brigade Commander or the Commanding General, depending on your type of chapter) decides whether or not you should be separated and, if so, what type of discharge you should get. There are three ways you can have input into those decisions:

a. If you have less than six years of active and reserve military service, and you are not being considered for an OTH discharge, the only way you can fight this action (or at least have some input into what sort of discharge you receive) is to submit statements in your own behalf. These statements can be your own, from people with or for whom you work. They should talk about your duty performance, potential, and ability for retention, as well as any significant past contributions you have made. They can ask that you either be retained in the service or given an Honorable discharge. These statements should be submitted to your Commander, who in turn will forward them to the Separation Authority to aid him in his decision.

b. If you have six years or more of active and reserve military service, or you are being considered for an OTH discharge, you have these two additional options:

(1) You have the right to have your case heard before an Administrative Separation Board (Chapter Board). This Board would normally consist of three people; two officers and one senior enlisted soldier. The Board's job is to decide whether you should be separated, and if so, with what type of discharge. The Board then makes a recommendation to the Separation Authority. The Separation Authority makes the final decision, but cannot do anything less favorable to you than the Board recommended (i.e.: If the Board recommends you receive a General discharge, the Separation Authority cannot issue you an OTH discharge). At the Board you have certain rights. You have the right to be represented by a detailed military lawyer or another military lawyer you might request (if that lawyer is reasonably available), both at no cost to you. You can also hire a civilian lawyer at no cost to the Government to represent you. If you decide you would like a civilian lawyer, feel free to contact our office. If you are a minority member you could request that a minority member be part of your Board. You could make a statement to the Board, or choose to remain silent.

(2) You also have the right to submit a Conditional Waiver. A Conditional Waiver is a document you send to the Separation Authority telling him that you will agree to give up your right to a Board hearing if he promises to give you a better type of discharge (usually a General discharge). If the Separation Authority agrees, you get that better type of discharge. If he turns down your proposal, you still have the right to a Board.

In any case, you also have the right to consult with a military lawyer or your civilian lawyer to decide what option is best for you. You can always obtain copies of all documents that will be forwarded to the Separation Authority.

If you are discharged, you will not be eligible to reenlist in the United States Army for a period of two years. However, if discharged with an Honorable Discharge, the Separation Authority may direct that you serve the rest of your obligated time in a Reserve status. If discharged with a General discharge (Under Honorable Conditions), once out of the service you may petition the Army Discharge Review Board and the Army Board for Correction of Military Records to upgrade your discharge. An upgrade is neither guaranteed nor automatic. A memorandum on the procedures to try to upgrade your discharge is available on this website. Should you need assistance in applying for an upgrade, feel free to contact our office.

You now have some very important decisions to make. You should spend some time with either your military or civilian attorney to make sure all of your questions are answered and that you fully understand your rights. Your attorney should thoroughly review your discharge packet to ensure that the Commander has satisfied all of the regulatory obligations and that every possible avenue to fight for you is explored. You and the attorney will then fill out a form indicating what options you wish to exercise in this matter.

If you have any additional questions, feel free to contact the law offices of David E. Coombs.