during the (Special Discharge Review Program) (rereview program under Pub. L. No. 95–126) should be reissued to improve the clarity of the statement of findings, conclusions, and reasons for the decision in your case.

In order to obtain a new decisional document you may elect one of the following options to receive a new review under the (Special Discharge Review Program) (rereview program mandated by Pub. L. No. 95–126):

1. You may request a new review, including a personal appearance hearing if you so desire, by responding on or before the suspense date noted at the top of this letter. Taking this action will provide you with a priority review before all other classes of cases.

2. You may request correction of the original decisional document issued to you by responding on or before the suspense date noted at the top of this letter. After you receive a corrected decisional document, you will be entitled to request a new review, including a personal appearance hearing if you so desire. If you request correction of the original decisional document, you will not receive priority processing in terms of correcting your decisional document or providing you with a new review; instead, your case will be handled in accordance with standard processing procedures, which may mean a delay of several months or more.

If you do not respond by the suspense date noted at the top of this letter, no action will be taken. If you subsequently submit a complaint about this decisional document, it will be processed in accordance with standard procedures.

To ensure prompt and accurate processing of your request, please fill out the form below, cut it off at the dotted line, and return it to the Discharge Review Board of the Military Department in which you served at the address listed at the top of this letter.

Check only one:

[ ] I request a new review of my case on a priority basis. I am requesting this priority review rather than requesting correction of the decisional document previously issued to me. I have enclosed DD Form 293 as an application for my new review.

[ ] I request correction of the decisional document previously issued to me. I understand that this does not entitle me to priority action in correcting my decisional document. I also understand that I will be able to obtain a further review of my case upon my request after receiving the corrected decisional document, but that such a review will not be held on a priority basis.

Dates _____

Signatures _____

Printed Name and Address

[47 FR 37785, Aug. 26, 1982, as amended at 48 FR 9856, Mar. 9, 1983]

§ 70.11 DoD semiannual report.

(a) Semiannual reports will be submitted by the 20th of April and October for the preceding 6-month reporting period (October 1 through March 31 and April 1 through September 30).

(b) The reporting period will be inclusive from the first through the last days of each reporting period.

(c) The report will contain four parts:

(1) *Part 1.* Regular Cases.

(2) *Part 2.* Reconsideration of President Ford's Memorandum of January 19, 1977, and Special Discharge Review Program Cases.

(3) *Part 3.* Cases Heard under Pub. L. 95–126 by waiver of 10 U.S.C. 1553, with regard to the statute of limitations.

(4) *Part 4.* Total Cases Heard.

SEMIANNUAL DRB REPORT—RCS DD-M(SA) 1489; SUMMARY OF STATISTICS FOR DISCHARGE REVIEW BOARD (FY)

[Sample format]

Name of board	Nonpersonal appearance			Personal appearance			Total		
	Applied	Number approved	Percent approved	Applied	Number approved	Percent approved	Applied	Number approved	Percent approved
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....

Note:
Identify numbers separately for traveling panels, regional panels, or hearing examiners, as appropriate.
Use of additional footnotes to clarify or amplify the statistics being reported is encouraged.

PART 73—DOD DISCHARGE APPEAL REVIEW BOARD (DARB)

Sec.

AUTHORITY: 10 U.S.C. 1553a.

SOURCE: 89 FR 94610, Nov. 29, 2024, unless otherwise noted.

§ 73.1 Purpose.

(a) This part establishes the DARB as the administrative body to conduct a final review of a petitioner's request for an upgrade in the characterization of a discharge or dismissal, pursuant to 10 U.S.C. 1553a. This part also provides the procedures for Service members (or their representatives) to request a final review, the standards that the DARB will apply when it reviews a petitioner's request, and the procedures following the DARB's recommended disposition of a request.

(b) The DARB ensures that DoD-level policies, procedures, and standards related to the review of discharges and dismissals are uniformly and consistently applied across the military services. Reporting of the number of upgrades granted or denied pursuant to this final review process will also be made available for public inspection through the DoD Reading Room available at *https://boards.law.af.mil*. The term ''Military Department'' as used here in this part includes the Coast Guard. The terms, ''Military Services,'' and ''Armed Forces,'' refers to the Army, Navy, Marine Corps, Coast Guard, Air Force, and Space Force.

§ 73.2 Definitions.

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. These records necessarily include the record of proceedings, exhibits, and findings and decisions of both the BCM/NR and DRB.

Characterization of a discharge or dismissal. The characterization of a discharge or dismissal is a determination reflecting a Service member's conduct and performance of duty while in military service during a specific period of military service. Administrative discharges can be characterized as honorable, general (under honorable conditions), other than honorable conditions, or can be described as uncharacterized (as in an entry-level separation). If a discharge is adjudged at a court-martial, the assigned characterization may be a bad-conduct discharge, or dishonorable discharge, or a dismissal. The term characterization of a discharge or dismissal is also referred to as a ''character of discharge'' or ''character of service.''

Characterization of less than honorable. A characterization that is less than honorable includes a general under honorable conditions, other than honorable conditions, uncharacterized, bad-conduct discharge, dishonorable discharge, or a dismissal.

DARB member. A person authorized to review a DARB request and make a recommendation to the DARB president on whether the petitioner's request for an upgrade to the characterization of a discharge or dismissal should be granted, partially granted, or denied.

Discharge Appeal Review Board (DARB). An administrative board constituted by the Secretary of Defense and vested with the authority to conduct a final review of a request for an upgrade in the characterization of a discharge or dismissal under the provisions of 10 U.S.C. 1553a.

Exhausted all remedies available. Petitioner requested an upgrade in the characterization of a discharge or dismissal and presented all evidence and arguments in support of their request to their respective Military Department's DRB and BCM/NR, including any materials not previously presented or considered by the board in making such determination when requesting reconsideration by the Military Department BCM/NR.

Final review. The process by which a petitioner's request for an upgrade to the characterization of a discharge or dismissal that was not granted at the respective Military Department's DRB and BCM/NR after the petitioner exhausted all remedies available to the petitioner is evaluated.

New information. Material not previously presented to, or considered by, the appropriate Military Department's BCM/NR.

Petitioner. A member or former member of the Armed Forces whose request for an upgrade to the characterization of a discharge or dismissal was not granted by the relevant Military Department's DRB and BCM/NR. If the

member or former member is deceased or legally incompetent, the term ''petitioner'' includes the surviving spouse, next-of-kin, or legal representative who is acting on behalf of the member or former member. The term ''petitioner'' also includes a member or former member of the Armed Forces' counsel.

Preponderance of the evidence. A standard of proof, evidence which as a whole shows that the fact sought to be proved is more probable than not.

Record review. A review of the Service member's case file records.

Service member. A member or former member of the Armed Forces.

§ 73.3 Membership and designation.

The DARB is set up independently from the Military Departments' DRBs and BCM/NRs. The DARB is comprised of civilian government employees and consists of a President, Deputy Director, and at least three members for each panel. The DARB President and Deputy Director are appointed as inferior officers by the Secretary of Defense. The Secretary of the Air Force (SECAF), as the designated lead agent for the DARB, appoints DARB members and assigns them to a panel(s).

§ 73.4 Responsibilities.

(a) The USD(P&R) is responsible for directing the implementation of the DARB and serves as the Principal Staff Assistant with oversight of the DARB process, policies, procedures, and standards for the final review of a request for an upgrade in the characterization of a discharge or dismissal under 10 U.S.C. 1553a. The USD(P&R) must:

(1) Ensure that petitioners are afforded an opportunity to request a final review of their requests for an upgrade to the characterization of a discharge or dismissals consistent with 10 U.S.C. 1553a;

(2) Ensure that Secretary of Defense appoints the DARB President and DARB Deputy Director as inferior officers;

(3) Review and approve any DARB or DARB-related policies or procedures that the Secretaries of the Military Departments or the DARB President develops before implementation of such policies or procedures;

(4) Resolve all issues concerning the DARB that cannot be resolved between the DARB President and the Secretaries of the Military Departments; and

(5) Modify or supplement this part as necessary.

(b) The Secretaries of the Military Departments have the authority to approve, partially approve, or disapprove a DARB's recommendation to upgrade or partially upgrade a petitioner's characterization of a discharge or dismissal. The Secretary of the Military Department's decision is the final agency action. If an upgrade or partial upgrade is approved, the Secretary of the Military Department is responsible for ensuring that all necessary administrative actions are taken to effect the change, including issuance of a new or corrected DD 214.

(c) SECAF is responsible for the formation, operation, and management of the DARB. The SECAF must:

(1) Appoint DARB members to a panels and assign cases to ensure reviews are conducted in an impartial manner;

(2) Appoint other staff as necessary for intake procedures;

(3) Respond to all inquiries from private individuals, organizations, or public officials about DARB matters. When the specific Military Service can be identified, refer such correspondence to the appropriate Secretary of the Military Department; and

(4) Ensure the timely online publication of annual reports as required by section 523 of the FY 2020 NDAA, Public Law 116–92.

(d) The DARB President is responsible for administrating and overseeing the DARB. The DARB President may delegate their authority to the Deputy Director of the DARB, but no further delegation is authorized. The DARB President shall:

(1) Review a DARB panel's recommendation and provide the final adjudication of the DARB recommendation regarding a petitioner's request for an upgrade to the characterization of a discharge or dismissal.

(2) Develop policy, procedures, and evaluation standards for the DARB, subject to review and approval by the

SECAF and the USD(P&R) before implementation of such policy, procedures, and evaluation standards.

(e) The DARB Deputy Director is responsible for managing the DARB's day-to-day operations.

(f) A DARB panel considers a petitioner's final review request properly brought before it, is responsible for performing a record review, applying DoD policies and standards, and if appropriate will make a recommendation to the DARB President on whether a petitioner's request for an upgrade to the characterization of a discharge or dismissal should be granted, partially granted, or denied.

§ 73.5 Application procedures.

(a) *Who is eligible for a final review?* To be eligible for a final review, the following criteria must be met:

(1) The Service member's date of discharge or dismissal was on or after December 20, 2019;

(2) Service member received a less than honorable characterization of service at the time of discharge or dismissal;

(3) All remedies available have been exhausted at the respective Military Department's DRB and BCM/NR; and

(4) The request for an upgrade in the characterization of a discharge or dismissal was denied or it was only partially granted at the respective Military Department's BCM/NR.

(b) *Who may request a final review?* (1) In most cases, the petitioner is the Service member, and the final review relates to their military service records.

(2) If the Service member is deceased or legally incompetent and incapable of acting on their own behalf, a spouse, next of kin, or legal representative may be able to act on behalf of the Service member.

(c) *When can a petitioner request a final review?* (1) Petitioners must first exhaust all available remedies at their respective Military Department's DRB and BCM/NR before requesting a final review. The DARB will return an unexhausted request to the petitioner without considering it.

(2) After exhausting their administrative remedies, Petitioners must request a final review within 365 calendar days after the date of receipt of their respective Military Department's BCM/NR decision. The DARB may deny an untimely request.

(d) *How does a petitioner make a final review request?* (1) A request must be made in writing, but the completion of a DoD form is not required to request a final review. An email or letter requesting a final review is sufficient to make a request. Sample templates to request a final review can be accessed at *https://afrba-portal.cce.af.mil/#application-submission-darb*.

(2) The contents of a request must include the following:

(i) the petitioner's name, address, telephone number, and email address;

(ii) the Service member's name if represented by counsel or a representative; and

(iii) the BCM/NR docket number to assist the DARB in obtaining records from the respective Military Department's BCM/NR. If this information is not provided, the DARB may return the request without considering it.

(3) Additional documentation may be needed in support of a request for review by the DARB. If requesting a final review on behalf of a Service member, proof of status or relationship documents are required and must be enclosed or attached to a request for a final review. Proof of status or relationship documentation may include a death certificate, marriage license, divorce decree, birth certificate, notarized power of attorney, and court appointment of conservatorship or guardianship. The DARB will return the request to the petitioner without considering it when a proper relationship to a Service member has not been shown.

(4) If there is new information in support of a request to upgrade the characterization of a discharge or dismissal, the DARB cannot review it. If the petitioner has new information, the petitioner must first seek reconsideration from the appropriate Military Department's BCM/NR to exhaust all remedies available.

(e) *Where do petitioners send a final review request?* Petitioners may submit a request for a final review by mail or email. Requests by email are preferred and should be sent to the following address: *saf.mr.darb@us.af.mil*. Requests

by mail should be sent to the following address: Air Force Review Boards Agency, SAF/MRBD (DARB), 3351 Celmers Lane, Joint Base Andrews, MD 20762–6435.

(f) *How do petitioners withdraw a final review request?* Petitioners may withdraw a request for a final review in writing at any time before the DARB panel's scheduled review.

§ 73.6 Review procedures and standards.

(a) *Intake of final review requests.* (1) Before conducting a final review, DARB personnel will review submitted requests to ensure eligibility for a final review.

(2) DARB personnel will provide notification to the petitioner to confirm receipt of the final review request. If it is determined that the petitioner is ineligible for a final review, DARB personnel will also notify the petitioner in writing of the reason(s) their request did not qualify for a final review.

(3) Once a case intake is complete, DARB personnel will access or request case file records from the respective Military Department's BCM/NR and assign a DARB panel to consider the final review request.

(4) If it is determined that a petitioner's case involves the adjudication of a Mental Health condition, a military or civilian health care provider will review the case file records to determine if a medical advisory opinion is required and missing. If the case file is missing a medical advisory opinion or other pertinent information the case will be returned the Military Department's BCM/NR for reconsideration or a document request.

(b) *Consideration of final review requests*—(1) *Scope of review.* The DARB's review is limited to the case file records related to a petitioner's request for an upgrade in the characterization of a discharge or dismissal. The DARB is not authorized to review or address new information provided by a petitioner in support of a request for an upgrade in the characterization of a discharge or dismissal.

(2) *Standard of review.* In considering a petitioner's request for an upgrade in the characterization of a discharge or dismissal, the DARB will review the Military Department's BCM/NR decision *de novo.* The DARB independently reviews the case file records, applies DoD discharge review polices and standards and applicable Military Service policies, and recommends an upgrade, if appropriate. This new review occurs without giving any deference to the Military Department's BCM/NR findings and decision.

(3) *DARB panel adjudication.* The DARB panel will consider the petitioner's request and case file records, examine pertinent DoD and Military Service regulations and policies, discuss the case and issues, and vote to determine whether a petitioner's request for an upgrade in the characterization of a discharge or dismissal should be granted, partially granted, or denied.

(4) *DARB panel recommendation.* A majority vote constitutes the recommended action of the DARB panel. The DARB panel will provide a written recommendation including the number of votes and any minority votes and their reason(s) for their recommendation. The written recommendation must provide a basis for their decision to deny a request to upgrade, to partially upgrade, or to fully upgrade the characterization of a discharge or dismissal. The DARB panel's written recommendation will be submitted to the DARB President.

(5) *Review of the DARB panel's recommendation and the recommendation of the DARB.* The DARB President reviews the DARB panel's written recommendation and makes the recommendation for the DARB. The DARB President will submit the DARB's written recommended action to the SECAF.

(i) If the DARB President approves the DARB panel's recommendation, the recommendation will constitute the recommended action of the DARB.

(ii) If the DARB President disagrees with the DARB panel's recommendation, the DARB President will provide a new recommendation. This new recommendation will be in writing and will include the change to be made and the reasons for rejecting the recommendation of the DARB panel.

(6) *Discretionary review of the DARB's recommended action.* The DARB President's actions are subject to discretionary review by the SECAF.

(i) The DARB's recommended action will be the final recommended action unless the SECAF exercises their discretionary review authority within 30 calendar days after the DARB President submits the recommendation to the SECAF.

(ii) If the SECAF chooses to exercise their discretionary review authority to review the DARB's recommended action within 30 calendar days, and the SECAF changes the DARB's recommended action, the SECAF will provide a written recommendation with supporting reasons and the new recommendation will constitute the final recommended action.

(iii) The SECAF may delegate, in writing, its discretionary authority to act on DARB recommendations to a Presidentially appointed, Senate-confirmed (PAS) official but further redelegation is not authorized.

(c) *Reconsideration at the BCM/NR.* If it is unclear from the DARB's review whether the appropriate Military Department BCM/NR considered relevant evidence when it denied the requested discharge or dismissal upgrade, the DARB may return a case directly to the BCM/NR for reconsideration. If the Military Department BCM/NR concerned accepts the case for reconsideration, the petitioner will be notified in writing.

§ 73.7 Final action.

(a) The Secretary of the Military Department concerned will approve or disapprove the DARB's recommended action to upgrade or partially upgrade the characterization of a discharge or dismissal within 90 calendar days. The Secretary of the Military Department must approve the DARB's recommended action unless the Secretary finds that the recommendation is not supported by the preponderance of the evidence.

(b) If the DARB recommends to deny an upgrade to the characterization of a discharge or dismissal and upholds the Military Department's BCM/NR decision, the DARB will notify the petitioner in writing of its final decision. If the DARB recommends to upgrade or partially upgrade the characterization of a discharge or dismissal, the Secretary of the Military Department concerned will notify the petitioner in writing of its final decision.

(1) If the Secretary of the Military Department approves the DARB recommendation, the petitioner will be notified of the approved change and any change to the characterization of a discharge or dismissal will be effective as of the date of discharge.

(2) If the Secretary of the Military Department disapproves the DARB recommendation, the Secretary concerned must provide the petitioner a written explanation detailing its rationale for disapproving the DARB's recommendation.

(c) The Secretaries of the Military Departments may delegate, in writing, the authority to act on DARB recommendations to a PAS official but further re-delegation is not authorized.

(d) The Secretary's or designee's action will be the final action. The petitioner has no right to a further review or to appeal this decision.

§ 73.8 Annual reporting requirements.

(a) The DARB President will submit draft reports to OUSD(P&R) by the 1st of October for the preceding FY (October 1st through September 30th). The first report will be published on October 1, 2022, and the report will contain the DARB data for FY 2022.

(b) The reporting period will be inclusive from the first through the last days of each reporting period.

(c) The report will contain the following information:

(1) The number of requests received;

(2) The number of requests rejected for failure to meet eligibility criteria for a final review;

(3) The number of requests considered;

(4) The number of requests returned to the BCM/NRs for reconsideration;

(5) The number of recommendations to upgrade the characterization of a discharge or dismissal granted by the Secretaries of the Military Departments pursuant to the DARB, to include the most common reasons for such upgrades; and

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

(d) The annual reports will be published on a publicly accessible DoD website; the reports can be accessed at *https://boards.law.af.mil/OSD_DARB.htm*.

PART 74—APPOINTMENT OF DOCTORS OF OSTEOPATHY AS MEDICAL OFFICERS

Sec.
74.1 Purpose.
74.2 Policy.

AUTHORITY: 10 U.S.C. 3294, 5574, 8294.

SOURCE: 25 FR 14370, Dec. 31, 1960, unless otherwise noted.

§ 74.1 Purpose.

The purpose of this part is to implement the provisions of Pub. L. 763, 84th Congress (70 Stat. 608), relating to the appointment of doctors of osteopathy as medical officers.

§ 74.2 Policy.

In the interest of obtaining maximum uniformity, the following criteria are established for the appointment of doctors of osteopathy as medical officers:

(a) To be eligible for appointment as Medical Corps officers in the Army and Navy or designated as medical officers in the Air Force, a doctor of osteopathy must:

(1) Be a citizen of the United States;

(2) Be a graduate of a college of osteopathy whose graduates are eligible for licensure to practice medicine or surgery in a majority of the States, and be licensed to practice medicine, surgery, or osteopathy in one of the States or Territories of the United States or in the District of Columbia;

(3) Possess such qualifications as the Secretary concerned may prescribe for his service, after considering the recommendations for such appointment by the Surgeon General of the Army or the Air Force or the Chief of the Bureau of Medicine and Surgery of the Navy;

(4) Have completed a minimum of three years college work prior to entrance into a college of osteopathy;

(5) Have completed a four-year course with a degree of Doctor of Osteopathy from a school of osteopathy approved by the American Osteopathic Association; and

(6) Have had subsequent to graduation from an approved school of osteopathy 12 months or more of intern or residency training approved by the American Osteopathic Association.

(b) [Reserved]

PART 75—EXCEPTIONAL FAMILY MEMBER PROGRAM (EFMP)

Subpart A—General

Sec.
75.1 Purpose.
75.2 Applicability.
75.3 Definitions.

Subpart B—Policy

75.4 Policy.

Subpart C—Procedures

75.5 DoD criteria for identifying family members with special needs.
75.6 Civilian employees on overseas assignment.

AUTHORITY: 10 U.S.C. 1781c.

SOURCE: 84 FR 3690, Feb. 13, 2019, unless otherwise noted.

Subpart A—General

§ 75.1 Purpose.

This part:

(a) Provides guidance and prescribes procedures for:

(1) Identifying a family member with special needs who is eligible for services as defined in this part.

(2) Processing DoD civilian employees who have family members with special needs for an overseas assignment.

(b) Does not create any rights or remedies in addition to those already otherwise existing in law or regulation, and may not be relied upon by any person, organization, or other entity to allege a denial of such rights or remedies.