

Index

A

- ABCMR. *See* Army Board for Correction of Military Records (ABCMR)
- absence without leave (AWOL). *See* misconduct
- acknowledgment documentation, in administrative separation, 1–4.5.2
- ACLU. *See* American Civil Liberties Union (ACLU)
- Active Guard Reserve (AGR). *See also* National Guard
- in DD 214, 16–3
 - misconduct separation and, 16–5.3
 - multiple periods of service and, 16–4.2
 - separation without medical evaluation, 16–5.4
- ADCON. *See* administrative control (ADCON)
- adequacy, in class actions. *See* class actions
- adjustment disorder. *See* mental health
- administrative control (ADCON), 1–2.2
- administrative investigations, 1–4.2.1.2
- Administrative Procedure Act (APA), xxxv, 7–2.2.5
- Equal Access to Justice Act and, 2–8.1
 - exhaustion in, 2–6.1.3
 - federal district courts and, 14–6.1
 - judicial review and, 2–6.1, 7–7.2.2.5, 13–6.1, 14–6.3, 16–6.3
 - legal standards dictated by, 2–6.1.1
 - Military Whistleblower Protection Act and, 9–3.2.2
 - Privacy Act and, 3–4.2
 - relief in, 1–6.1.4
 - use of precedent and, 2–2.7
- administrative reduction. *See* administrative separation
- administrative reprimands. *See* administrative separation
- administrative separation, 1–4.5.3
- acknowledgment documentation in, 1–4.5.2
 - administrative chain of command, 1–2.2
 - administrative investigations, 1–4.2.1.2
 - administrative reduction, 1–4.2.2.2
 - administrative reprimands, 1–4.2.2.1
 - assignment to oversee, xxxviii
 - character of service and, 1–7.1
 - checklist, 6–B.1
 - civilian records, 1–4.2.1.3
 - composition of board, 1–4.5.3.1
 - conditional waivers in, 1–4.5.3.4, 6–4.3.2.1
 - courts-martial, 1–4.2.2.4
 - documentation to support, 1–4.2.1
 - evidence with, 6–4.3.3.2
 - findings of board, 1–4.5.3.3, 6–4.3.3.2
 - hearing process errors, 6–4.3.3.2
 - immigration and, 17–2.1.2.1
 - involuntary *vs.* voluntary, 6–3.1, 6–3.1 n.29, 6.3.1 n.34, 6–3.2.1, 6–3.2.3, 6–3.2.4.2, 9–1.2 n.16
 - in lieu of court-martial, 1–5, 6–3.7, 19–2.3
 - mental health screenings and, 8–4.4.2
 - misconduct-based, 1–4.2
 - nonjudicial punishment, 1–4.2.2.3
 - notice of, 1–4.5.1, 6–4.2.1
 - other, 1–4.4
 - other administrative discharges, 1–4.4
 - overview, 1–4.1

administrative separation (*continued*)

- pre-hearing process, 6-4.3.2.1
- procedures, contentions in, 6-4.3.2
- procedures of, 1-4.5.3.2
- process, 1-4.5
- process for officers *vs.* enlisted, 1-4.5.1
- process rights, 6-4.3.3.2
- reasons for, 1-4.1
- recommendations of, 1-4.5.3.3, 6-4.3.3.2
- regulations governing enlisted personnel, 1-4.1
- regulations governing officers, 1-3.2
- secretarial plenary authority and, 1-4.1, 1.4.4
- in United States Code 10 Section 1214a, 13-2.14
- unsatisfactory performance-based, 1-4.3
- written counseling statements, 1-4.2.1.1

AFDRB. *See* Air Force

AFOSI. *See* Air Force

Air Force

- Air Force Board for Correction of Military Records (AFBCMR), 2-4 (*See also* Boards for Correction of Military or Naval Records (BCMR/BCNR); Discharge Review Boards (DRBs))
 - address for, 7-B
 - briefs to, 5-3
 - clemency and, 6-5.3
 - cover letter sample, 7-C.3
 - decisions from, 13-4.4
 - legal standards, 2-4.1
 - post-service conduct and, 1-2.12
 - post-traumatic stress disorder
 - upgrade denial, 8-B
 - records gathering by, 7-3.3
 - regulations, 7-A
 - responding to medical advisory opinions, 4-3.2
 - sample decision template, 7-D.7
 - “snapshot in time” standard, 13-5.4
 - success rates, 2-4.10
 - summaries, 7-3.1.2.1

Air Force Discharge Review Board

- (AFDRB) (*See also* Boards for Correction of Military or Naval Records (BCMR/BCNR); Discharge Review Boards (DRBs))
 - address, 7-B
 - composition of, 2-3.2
 - cover letter sample, 7-C.4
 - medical experts in, 7-3.1.1
 - presumption of regularity with, 4-4.1
 - regulations, 7-A
 - sample decisional template, 5-4.1, 5-B
 - sample hearing voting sheet, 7-D.6
 - sample recorder sheet, 7-D.5
 - sample summary sheet, 7-D.4
 - success rates, 2-3.10

Air Force Historical Research Agency, 1-2.2

Air Force National Guard and Reserve records, 3-3.1.2

Air Force Office of Special Investigations (AFOSI), 1-4.2.1.4

as branch of service, 1-2.0

command-directed investigations, 1-4.2.1.2

conditions not constituting disabilities regulations in, 10-A

courts-martial transcripts contact, 3-C

criminal investigation records, 3-B

discrimination in, 11-1.3, 11-2.1.2.3

discrimination policies and regulations, 11-A

entry-level separation in, 15-A

FOIA office, 3-D

Guard and Reserve records, 3-3.1.2

JAG Corps, xxiii, xxv-xxvii

junior enlisted rank in, 1-3.1

medical records requests, 3-3.3.3, 3-5.4

medical separation regulations in, 13-A

military criminal investigation files, 1-4.2.1.4

museums and libraries, 3-A

National Personnel Records Center Fire, 3-5.4

- nonjudicial punishment, 1–4.2.2.3
- pay grades and ranks, 1–3.1, 1–3.3
- Personnel Review Boards regulations, 2–A
- separations in lieu of court-martial, 1–5.2
- service treatment records, 3–3.3.1, 3–3.3.2
- Sexual Assault Prevention and Response regulations, 9–A.1
- sexual harassment regulations, 9–A.2
- standard of proof for nonjudicial punishment in, 1–4.2.2.3
- substance abuse administrative and disciplinary action, 14–4.2.2
- substance abuse treatment and prevention in, 14–4.2.2
- alcohol. *See* misconduct
- alienage, 6–3.1 n.29, 6–3.2.4 n.53, 17–2.1.1, 17–3.1.1, 19–2.2
- American Civil Liberties Union (ACLU), xxix, xxxii
- “American Rule,” 2–8
- amnesty, xxiii, 18–1, 19–3.4
 - Amnesty movement, xxxix
 - Amnesty Project, xxxii
 - forms of, xxiii
 - program, xxxviii
- anxiety disorders. *See* mental health
- APA. *See* Administrative Procedure Act (APA)
- Army
 - acknowledgment documentation in, 1–4.5.2
 - administrative reductions in, 1–4.2.2.2
 - administrative separation board
 - composition in, 1–4.5.3.1
 - administrative separation in lieu of court-martial, 1–5.2
 - area jurisdiction in, 1–2.2
 - Army Board for Correction of Military Records (ABCMR) (*See also* Boards for Correction of Military or Naval Records (BCMR/BCNR); Discharge Review Boards (DRBs))
 - address for, 7–B
 - clemency, 2–2.6.3
 - decisions of, 13–4.4
 - Disability Evaluation System and, 13–5.4
 - legal standards, 2–4.1
 - mental health and, 9–3.1.1, 9–3.1.3
 - Monk v. Mabus* litigation, 2–7.2
 - precedent, 5–4.2
 - regulations, 7–A
 - Shepherd v. McHugh* litigation, 2–7.2
 - success rates, 2–4.10
 - suit against, xxxv
 - Watson v. United States* and, 13–2.4
 - whistleblower case process, 9–3.2.3
 - Army Center of Military History, 1–2.2
 - Army Criminal Investigation Command, 1–4.2.1.4
 - Army Discharge Review Board (ADRB) (*See also* Boards for Correction of Military or Naval Records (BCMR/BCNR); Discharge Review Boards (DRBs))
 - address for, 7–B
 - Air Force vs.*, 2–2.12
 - Brotzman Memorandum, 2–2.6.6, 2–B.1
 - composition of, 2–3.2
 - denial rates, 5–4.1
 - evidence in discharge proceedings, xxxvi–xxxvii
 - Kennedy v. Whitley* litigation, 2–7.2
 - post-traumatic stress disorder
 - claims and, 7–3.3
 - regulations, 7–A
 - review of service treatment records, 2–3.4
 - secretarial authority and, 6–5 n.197
 - success rates, 2–3.10
 - Travel Board hearings, 2–3.5
 - Army Reserve, records from, 3–3.1.2
 - Army Review Boards Agency (ARBA)
 - address, 7–B
 - precedent and, 5–4.2
 - sample document request from, 7–D.1
 - as branch of service, 1–2.0
 - character of service, 1–7.1

Army (*continued*)

- command-directed investigations,
 - 1-4.2.1.2
- conditions not constituting disabilities regulations in, 10-A
- courts-martial transcripts contact, 3-C
- criminal investigation command,
 - 1-4.2.1.14
- Criminal Investigation Division, 3-3.2.2
- criminal investigation records, 3-B
- DD-214 contents, 3-5.1
- discrimination in, 11-1.3, 11-2.1.2
- discrimination policies and regulations, 11-A
- entry-level separation in, 15-A
- FOIA office, 3-D
- Guard and Reserve records, 3-3.1.2
- junior enlisted rank in, 1-3.1
- medical records requests, 3-3.3.3
- medical separation regulations in, 13-A
- museums and libraries, 3-A
- National Personnel Records Center fire,
 - 3-3.3.2, 3-5.4
- noncommissioned officers, 1-3.1
- nonjudicial punishment in, 1-4.2.2.3
- pay grades and ranks, 1-3.1, 1-3.3
- Personnel Review Board regulations, 3-A
- Regulation 600-443, 12-2
- reprimands, 1-4.2.2.1
- service treatment records, 3-3.3.1
- 74(b) Secretarial Review Authority,
 - 2-2.10
- Sexual Assault Prevention and Response regulations, 9-A.1
- sexual harassment regulations, 9-A.2
- standard of proof for nonjudicial punishment in, 1-4.2.2.3
- substance abuse treatment
 - administrative and disciplinary action, 14-4.2.3
- substance abuse treatment and prevention in, 14-4.2.3
- unsatisfactory performance discharges
 - in, 1-4.3
- warrant officers, 1-3.2

- Article 74(b) review, 2-2.10

- Articles of War, xxx

- attorney's fees

- "American Rule" and, 2-8

- Equal Access to Justice Act and, 2-8.1

- applicability of, 2-8.1

- application, 2-8.1.4

- fees and expenses defined in, 2-8.1.4

- government position justification in, 2-8.1.3

- government's position, 2-8.1.3

- net worth, 2-8.1.1

- party's net worth in, 2-8.1.1

- prevailing party, 2-8.1.2

- prevailing party status in, 2-8.1.2

- purpose of, 2-8.1

- reasonableness of fees and costs in, 2-8.1.4

- reasonableness standard, 2-8.1.4

- special circumstances, 2-8.1.5

- special circumstances exception in, 2-8.1.5

- Freedom of Information Act and, 2-8.2

- Privacy Act and, 2-8.2

- awards, in DD 214. *See* Department of Defense Form 214 (DD 214)

- AWOL. *See* misconduct

B

- Bad Conduct discharge (BCD)

- character of service, 2-2.2

- clemency, 2-3.1

- defined, 1-7.2.1

- Discharge Review Board powers, 2-3.3

- fraudulent entry and, 6-3.3.2

- in general court-martial, 1-6.2

- Kennedy v. Whitley* litigation, 2-7.2

- punitive discharges, 1-7.2

- in special court-martial, 1-6.1

- terms for, 2-2.2

- "bad paper," as term, 1-5.0

- basic training, 1-3.1, 11-4.1.2

- BCD. *See* Bad Conduct discharge (BCD)

- BCM/NRs. *See* Boards for Correction of Military or Naval Records (BCMR/BCNR)
- BCNR. *See* Navy
- bipolar disorder. *See* mental health
- Blassingame v. Sec’y of the Navy*, 15–5
- Board for Correction of Naval Records (BCNR). *See* Navy
- Board of Veterans’ Appeals (BVA), 19–1.4, 19–5.3, 19–A
- Boards for Correction of Military or Naval Records (BCMR/BCNR). *See also individual branch boards*
- advisory opinions, 2–4.2, 3–3.2.4, 5–3.4, 7–5, 8–3.1.3, 13–4.2, 13–4.3, 13–5.2, 14–3.1.1
- application, 13–4.2
- authority of, 1–2.1, 2–4.0
- backlogs of, 2–2.4, 7–3.1.2.1
- caseloads of, 2–2.4
- composition of, 2–2.1, 2–4.2
- denied requests, 7–7.2.2.3
- differences between, in branches, 2–2.12
- discrimination regulatory framework for, 11–4.1
- DoD memoranda and, 2–2.6.6
- DRB *vs.*, 2–4.2
- DRB *vs.*, applying to, 2–2.0
- evidence with, 2–4.4, 6–4.1.1
- examiners, 6–4.1.1, 7–3.1.2.1
- ex parte communications and, 7–5.2, 13–4.3
- expediting with, 2–4.9
- final decisions of, 13–4.4
- hearings, 2–4.5
- in history of discharge upgrades, xxx–xxxi, xxxviii
- IDES appeals and, 13–3.1
- impermissible to downgrade character of service, 2–2.8
- judicial review of decisions of, 13–6
- legal standards with, 2–2.6, 2–4.1
- overview of, 2–2.0
- performance evaluation removal and, 6–4.1.1
- powers of, 2–4.3
- practice before, 13–4
- precedent with, 2–2.7, 5–4.2
- presumption of regularity by, 2–2.6.5
- procedures, 7–3, 13–4
- processes, 7–3.1
- reconsideration with, 2–4.8, 7–7.2.2.3
- records collected by, 7–3.2
- records gathering practices of, 7–3.3
- records used by, 2–4.4
- regulatory framework for, 13–3.1.2
- relief from, 2–4.6
- secretarial review, 7–7.2.2.1
- standard of proof, 2–2.6.4
- standard of review
- for clemency, 2–2.6.4
 - for inequity, 2–2.6.4
 - for injustice, 2–2.6.4
 - “liberal consideration,” 2–2.6.4
 - training on, 1–1
- statute of limitations with, 2–4.7
- structure of, 2–4.2
- success rates at, 2–4.10
- timeline with, 2–4.9
- time waiver from, 2–4.5
- body composition program (BCP), 6–3.5. *See also* weight control failure
- “boot camp,” 1–3.1
- branches of service, overview of, 1–2.0
- breathalyzer test, 14–4.2.1.1
- brief writing
- contention crafting in, 5–5
 - contention samples for, 5–A
 - equity and, 5–4.4.2
 - legal standards in, 5–4
 - linking contentions and remedies sought, 5–3.3
 - making the record, 5–3.4
 - mitigating factors in, 6–4.3.1.2
 - for non-legal audience, 5–3.4
 - precedent and, 5–4.2, 5–4.3
 - presumption of regularity standard in, 5–4.1
 - remedies sought in, 5–3.2
 - separation of contentions in, 5–3.1

brief writing (*continued*)

- standards of review and, 5–4.4
 - structure in, 5–3
 - value of precedent, 5–4.2, 5–4.3
 - waiver of statute of limitations in, 7–2.1.2.1
 - where to apply with, 5–2
- Brotzman Memorandum, 2–2.6.6, 2–B.1
- BVA. *See* Board of Veterans' Appeals (BVA)

C

- CALCO. *See* clemency, Clemency Amnesty Law Coordinating Office (CALCO)
- Carson Memorandum, 2–2.6.6, 2–B.5
- advocacy checklist, 8–3.2.2.1
 - cover letter and, 7–2.1.2
 - liberal consideration policy and, 8–3.2.2
 - mental health and, 8–3.2.2, 8–4.3.1, 9–3.1.3
 - new applications and, 2–4.8
 - post-traumatic stress disorder and, 9–3.1.3
 - statute of limitations and, 2–4.7, 7–2.1.2.1
- CAVC. *See* Court of Appeals for Veterans Claims (CAVC)
- CBOs. *See* community based organizations (CBOs)
- CDIs. *See* Commander Directed Investigations (CDIs)
- chain of command, 1–2.2
- administrative separation process, 1–4.5.1, 1–4.5.2
 - area jurisdiction, 1–2.2
 - arguments to discharge review, 2–3.5
 - diagramming of, 1–2.2
 - statements, 4–3.2.2
- Chapter 17 health care, 19–2.5.2.1, 19–6.3
- Character of Discharge (COD) determination
- absence without leave and, 19–2.2, 19–3.1
 - adjudication of, 19–4.2, 19–5.3
 - administrative separation in lieu of court-martial and, 19–2.3
 - advocacy in, 19–5, 19–5.4
 - alienage and, 19–2.2
 - as alternative or complementary path, 2–9
 - “at least as likely as not” standard of proof, 19–2.5.1, 19–5.3
 - back-to-back enlistments and, 19–2.5.1.2, 19–3.3
 - case types, 19–3
 - Chapter 17 health care and, 19–2.5.2.1, 19–6.3
 - comparison with discharge upgrades, 19–7.0
 - conditional discharges and, 19–3.3
 - confusion over, 3–2.1
 - conscientious objection and, 19–2.2
 - court-martial and, 19–2.2, 19–2.3
 - desertion and, 19–2.2
 - discharge upgrade *vs.*, 19–7
 - duty to assist in, 19–5.3
 - for each period of service, 19–2.1
 - education benefits and, 19–5.6.1
 - entry-level separation and, 19–3.5
 - evaluations in, 19–2.1
 - fact development in, 19–5.2
 - failure to distinguish types of court-martial in, 19–2.5.1.1
 - Ford Clemency Program and, 19–3.4
 - homeless veterans and, 19–6.2
 - ignoring other honorable terms of service in, 19–2.5.1.2
 - impact of successful, 19–7.1.1.5
 - initiation of, 19–4.1
 - insanity exception and, 19–C.2, 19–2.4, 19–2.5.1.3, 19–3.1
 - juvenile offenses and, 19–C.1
 - legal standards in, 19–5.3
 - LGBTQ veterans and, 19–2.3, 19–3.2
 - mental health and, 19–C.2, 19–2.4, 19–3.1, 19–7.1.1.3
 - military sexual trauma and, 19–3.1
 - misconduct and, 19–2.3
 - Montgomery G.I. Bill and, 19–5.6.1
 - moral turpitude and, 19–C.1, 19–2.3
 - multiple terms of service and, 19–2.1, 19–2.5.1.2, 19–3.3
 - notice in, 19–4.2
 - Post-9/11 G.I. Bill and, 19–5.6.1
 - post-service conduct and, 19–7.1.1.4
 - predetermination hearing in, 19–4.2

- procedural errors in, 19–2.5.2
- process, 19–4
- proposed rulemaking on, 19–1
- records collection in, 19–4.2, 19–5.2
- regulatory bars and, 19–2.3
- section 17201 mental health care, 19–6.4
- service-connected disabilities and, 19–2.5.1
- sources of law in, 19–5.3
- Special Discharge Review Program and, 19–3.4
- Special Vietnam-era programs and, 19–3.4
- standard of proof in, 19–2.5.1, 19–5.3
- standard of review in, 19–7.1.1
- statutory bars and, 19–2.2
- strategy with, 19–7.2
- substantive errors in, 19–2.5.1
- timeline, 19–4.2
- Uncharacterized discharge, 19–3.5
- Vet Centers and, 19–6.6
- VHA referral problems in, 19–2.5.2.2
- which veterans receive, 19–2.1
- character of service. *See also* specific characterizations
 - assigned at discharge, 1–7
 - in DD 214, 1–2.11
 - discharge upgrades, 2–2.8
 - importance of, xlv–xlvii
 - limits on, 6–2.5
 - pattern of behavior as determinant of, 1–7.1.1
 - remedy from boards for correction, 2–4.3
 - remedy from Discharge Review Board, 2–3.6
 - service-wide standards for, 2–4.3, 6–2.4
 - terms of service and, 19–2.5.1.2
 - in void enlistments, 15–2.1
- character statements, 4–2.2, 4–3.2.2, 6.5.3
- Charge Sheet, 1–5.1, 1–6
- charging errors, in misconduct discharge, 6–3.6.6
- childbirth. *See* pregnancy
- CID. *See* Criminal Investigation Division (CID)
- class actions
 - adequacy in, 2–7.1.2
 - basic principles of, 2–7.1
 - class representative in, 2–7.1.2
 - commonality in, 2–7.1.2
 - counsel in, 2–7.1.2
 - evolution of in discharge upgrade cases, xxxiv–xxxvii, 2–7.2
 - in Federal Rules of Civil Procedure, 2–7.1.1
 - numerosity in, 2–7.1.2
 - post-traumatic stress disorder, 8–3.2
 - required findings, 2–7.1.1
 - types of, 2–7.1.3
 - typicality in, 2–7.1.2
- clemency
 - 74(b) secretarial review, 2–2.10
 - and Air Force Board for Correction of Military Records, 2–2.12
 - appellate review, 2–2.6.3
 - Clemency Amnesty Law Coordinating Office (CALCO), xxxix
 - contentions, 6–5.3
 - defined, 2–2.6.3
 - discharge, in history of discharge upgrades, xxxix
 - discharge upgrade for, 2–2.6.3
 - equity claims and, 6–5.3
 - fairness and, 2–2.6.3
 - Ford Clemency Program, xxxix, xl, 18–2.1, 18–2.2, 19–3.4
 - historical perspective, xxiii, xxviii
 - legal standards at boards, 2–3.1, 2–4.1 and punitive discharges, 1–7.2
 - remorse and, 4–2.1
 - sample contention with, 5–A
 - as standard in punitive discharge, 2–4.1
 - standard of proof for, 2–2.6.4
 - supporting statements, 4–2
 - Wilkie Memorandum and, 2–2.6.3
- CNDs. *See* conditions not constituting disabilities (CNDs)-based discharges
- Coast Guard
 - address for, 7–B
 - board of corrections regulations, 7–A
 - as branch of service, 1–2.0

Coast Guard (*continued*)

- Coast Guard Board for Correction of Military Records (CGBCMR), 1-4 (*See also* Boards for Correction of Military or Naval Records (BCMR/BCNR); Discharge Review Boards (DRBs))
 - advisory opinions and, 2-4.2
 - governing document, 7-3
- conditions not constituting disabilities regulations in, 10-A
- courts-martial transcripts contact, 3-C
- criminal investigation records, 3-B
- discrimination policies and regulations, 11-A
- entry-level separation in, 15-A
- FOIA office, 3-D
- medical separation regulations in, 13-A
- museums and libraries, 3-A
- nonjudicial punishment in, 1-4.2.2.3
- Sexual Assault Prevention and Response regulations, 9-A.1
- sexual harassment regulations, 9-A.2
- substance abuse administrative and disciplinary action, 14-4.2.4
- substance abuse treatment and prevention, 14-4.2.4
- COD. *See* Character of Discharge (COD) determination
- Combat-Related Special Compensation (CRSC), 13-2.11
- combat stress
 - defined, 8-2.8 n.68
 - depression and, 8-2.6
 - mental health and, 8-2.8
- commander. *See also* chain of command
 - battalion, 1-2.2
 - brigade, 1-2.2
 - combatant, 1-2.2
 - company, 1-2.2
 - defined, 1-2.2
 - division, 1-2.2
 - installation, 1-2.2
- Commander Directed Investigations (CDIs), 1-4.2.1.2
- commonality, in class actions. *See* class actions
- community based organizations (CBOs), xxxiii, xlii-xliii
- company commander. *See* commander
- Compensation and Pension (C&P) Examination, 19-2.4
- Concurrent Retirement and Disability Payments (CRDP), 13-2.11
- conditional discharge, 19-3.3
- conditional waivers, in administrative separation boards, 1-4.5.3.4, 6-4.3.2.1
- conditions not constituting disabilities (CNDs)-based discharges
 - adjustment disorder as, 10-2.3
 - branch compliance with restrictions in, 10-3.1
 - contentions in, 10-3.4
 - current servicemembers and, 10-1.4
 - defined, 10-2.1
 - Disability Evaluation System and, 10-1.1
 - effect, 10-1.2
 - errors, 10-3.1
 - honorable characterization in, 10-3.3
 - imminent danger pay and, 10-3.1, 10-3.2.1
 - improper characterization of service in, 10-3.3.1
 - impropriety and, 10-3.1
 - medical definitions in, 10-2
 - mental health and, 10-1.5
 - misdiagnosis, 10-2.2.1, 10-2.2.2, 10-2.2.3, 10-2.3.1
 - misuse of, 10-1.1
 - Other Than Honorable characterization in, 10-3.3.1
 - personality disorder, 10-2.2
 - protections for servicemembers, 10-1.1, 10-3.2, 10-3.2.1, 10-3.4
 - regulations on, 10-3, 10-A
- congressional offices, supporting statements and, 4-3.3
- conscientious objection
 - burden of proof in, 6-3.2.4
 - Character of Discharge review and, 19-2.2
 - contentions in, 6-3.2.4
 - criteria, 6-3.2.4

- immigration and, 6-3.2.4, 17-2.1.1, 17-3.1.1
- less-than-Honorable characterization in, 6-3.2.4.1
- removal of label in, 6-3.2.4
- as statutory bar to VA benefits, 16-2.2
- wrongful denial in, 6-3.2.4.2
- conscription, xxiii, xxiii-xxiv
- Constitution
 - district courts in, 14-6.1
 - judicial review and, 2-6.3.4
- contentions
 - in access to counsel, 6-4.3.1
 - in adjustment disorder misdiagnosis, 10-2.3.1
 - in administrative discharge board procedures, 6-4.3.2
 - in Administrative Discharge Board procedures, 6-4.3.2
 - in administrative separation in lieu of court-martial, 6-3.7
 - in brief writing, 5-3.1, 5-3.3, 5-5
 - in childbirth, 6-3.2.2
 - in clemency, 6-5.3
 - in conditions not constituting disabilities, 10-3.4
 - in conscientious objection, 6-3.2.4
 - in convenience of government discharge, 6-3.2
 - crafting, 5-5
 - in defective enlistment and induction, 6-3.3
 - Department of Defense Instruction 1332.14 and, 6-3
 - in discrimination, 11-4.2
 - end term of service, 6-3.1
 - equity, 6-5
 - errors and, by stages of separation process, 6-4
 - expiration end of service, 6-3.1
 - in fraudulent enlistment, 6-3.3.2
 - identifying, 6-2
 - impropriety, 5-5.1
 - in inadequate counseling or rehabilitation, 6-4.1.2
 - in initiation of separation errors, 6-4.2
 - in LGBTQ, 12-3.3, 12-3.4
 - limits on characterization and, 6-2.5
 - in mental health, 8-4.3, 9-3.1.4
 - in misconduct, 6-3.6
 - in notice of administrative separation, 6-4.2.1
 - in parenthood, 6-3.2.3
 - in performance evaluation errors, 6-4.1.1.1
 - in personality disorder diagnosis timing, 10-2.2.2
 - in personality disorder misdiagnosis, 10-2.2.1, 10-2.2.3
 - in pregnancy, 6-3.2.2
 - in pre-initiation errors, 6-4.1
 - in processing separation errors, 6-4.3
 - regulation relevance and, 6-2.2
 - regulations and, 6-2.1
 - in retaliation, 9-3.2.4, 9-3.2.5
 - sample, 5-A
 - separating, 5-3.1
 - in separation memo errors, 6-4.2.2
 - template for impropriety, 5-5.2.1
 - tying, to remedies, 5-3.3
 - in unsatisfactory performance, 6-3.4
 - in weight control failure, 6-3.5
 - in Wilkie Memorandum, 6-5.2
- contract, enlistment. *See* enlistment contract
 - contract
- convenience of government discharge
 - conditions not constituting disability and, 10-2.1
 - contentions in, 6-3.2
 - dependency in, 6-3.2.1
 - hardship in, 6-3.2.1
 - Honorable characterization in, 10-3.3
- corroborating statements
 - from chain of command, 4-3.2.2
 - from current servicemembers, 4-3.2.1
 - from family, 4-3.2.4
 - from fellow veterans, 4-3.2.1
 - forms of, 4-3.2.2
 - in-service sources for, 4-3.2.2
 - post-service sources for, 4-3.2.2
 - pre-service sources for, 4-3.2.2
 - from supervisor, 4-3.2.2
 - as supporting statement, 4-3.2.2

- counsel
 - access to, 6-4.3.1
 - in entry-level separation, 15-2.1
 - qualified, 6-4.3.1.1
 - right to, 6-4.3.2.1
 - waiving right to, 6-4.3.1.2
 - counseling
 - in entry-level separation, 15-2.1, 15-4.1
 - errors in, 6-4.1.2.1
 - example, 6-B.4
 - inadequate, 6-4.1.2
 - in minor disciplinary infractions, 6-3.6.1
 - in pattern of misconduct, 6-3.6.2
 - requirements, 6-4.1.2
 - responding to, 6-4.1.2
 - statements, 1-4.2.1.1
 - in unsatisfactory performance, 6-3.4
 - in weight control failure, 6-3.5, 6-3.5 n.85
 - court(s)-martial, 1-6
 - administrative separation in lieu, 1-5.2, 6-3.7, 19-2.3
 - BCMR/BCNR authority to change
 - characterization from, 2-4.3
 - Character of Discharge review and, 19-2.2, 19-2.3
 - counsel in, 1-6
 - discharge in lieu of, 1-5
 - documentation from, 1-6
 - failing to distinguish types of, 19-2.5.1.1
 - Ford Clemency Program and, xxxvii
 - general, 1-4.2.2.4, 1-6.2
 - incidence of, 1-4.1
 - for misconduct, 1-4.2.2.4, 1-6
 - as not able to be overturned, 2-2.6.3
 - punitive discharge in, 1-7.2
 - special, 1-4.2.2.4, 1-6.1
 - summary, 1-4.2.2.4, 3-3.2.3 n.38, 17-2.1.2.2
 - transcripts, 3-C, 3-3.2.1, 3-3.2.3, 3-E
 - in Vietnam, xxxi
 - in *White v. Secretary of Army*, xxxvii
 - in World War II, xxx
 - Court of Appeals for Veterans Claims (CAVC), 19-1.4, 19-5.3
 - Court of Federal Claims, 1-6.2.1, 2-6.2.2, 5-4.2, 13-6.2
 - cover letter, 7-2.1.2
 - mental health, 7-C.2
 - sample, 7-C.1, 7-C.2, 7-C.3, 7-C.4, 7-C.5
 - coversheet, 5-2, 5-3.1, 7-2.1.3
 - C&P. *See* Compensation and Pension (C&P)
 - Examination
 - CRDP. *See* Concurrent Retirement and Disability Payments (CRDP)
 - crew books, 3-3.2.1
 - criminal conviction
 - civilian, as misconduct, 6-3.6.4
 - immigration and, 17-2.1.2.2
 - criminal investigation
 - files, military, 1-4.2.1.3, 1-4.2.1.4, 3-3.2.2, 3-E
 - military sexual trauma and, 9-2.4
 - Criminal Investigation Division (CID), 1-4.2.1.4, 3-3.2.2
- D**
- DARB. *See* Discharge Appeal Review Board (DARB)
 - dates of service, in DD 214. *See* Department of Defense Form 214 (DD 214)
 - DCIO. *See* Defense Criminal Investigation Organization (DCIO)
 - DD 149. *See* Department of Defense Form 149 (DD 149)
 - DD 214. *See* Department of Defense Form 214 (DD 214)
 - DD 215. *See* Department of Defense Form 215 (DD 215)
 - deceased veterans
 - applications on behalf of, 2-2.5, 2-9
 - OMPF for, 3-3.1
 - deck logs, 3-3.2.1
 - Declaratory Judgment Act, judicial review and, 1-6.3.2
 - decorations, in DD 214. *See* Department of Defense Form 214 (DD 214)
 - defective enlistment
 - in administrative separation, 1-4.1
 - case examples, 15-5
 - contentions in, 6-3.3
 - defective enlistment agreements in, 6-3.3.1

- entry-level separation and, 15–2.1
- fraud in, 6–3.3.2
- Honorable discharge in, 15–2.1
- predicate of, 15–2.1
- recruiter in, 6–3.3
- strategies for, 15–5
- defense counsel
 - defined, 1–6
 - former, as resource, 4–2.2.3
- Defense Criminal Investigation Organization (DCIO), 1–4.2.1.4
- Defense Personnel Records Information Retrieval System (DPRIS), 3–3.1.1
- Defense Security Service (DSS), 3–B
- Department of Defense Form 149 (DD 149), 2–4.5, 5–2, 5–3.2, 6–2.1, 7–1, 7–2.1.1, 13–4.2
- Department of Defense Form 214 (DD 214), 2–2.0
 - awards in, 3–5.1
 - codes
 - reentry, 2–2.3, 2–2.8, 13–3.5.2
 - separation, 2–2.3, 2–2.8, 3–5.1, 6–3.2.1
 - congressional assistance with, 4–3.3
 - in criminal investigation file requests, 3–3.2.2
 - dates of service in, 3–5.1
 - decorations in, 3–5.1
 - foreign service in, 3–5.1
 - issuance of new, 2–2.11, 7–7.1
 - Military Occupational Specialty in, 3–5.1
 - name change on, 12–5
 - narrative reason, 2–2.3, 2–2.8, 6–3.3, 6–3.3.1.2, 12–3.3.1
 - National Guard status in, 16–3
 - in OMPF, 3–5.1
 - overview of, 1–8
 - periods of service and, 16–4.2
 - in records collection, 3–3.1
 - Reserve Component status in, 16–3
 - sample, 3–5.1
 - Separation Authority block on, 6–2.1
 - Separation Block on, 8–4.3.3
 - special additional information in, 3–5.1
 - Special Vietnam-era review programs, 18–3
 - time lost in, 3–5.1
- Department of Defense Form 215 (DD 215), 1–8, 18–3
- Department of Defense Form 293 (DD 293), 2–3.5, 2–3.7, 5–3.2, 7–1, 7–2.1.1, 7–2.2.1
- Department of Defense Form 2870 (DD 2870)
 - at intake, 3–2.4
 - in-theater treatment records and, 3–3.3.4
 - medical records and, 3–3.3.2
 - psychiatric records and, 3–3.3.5
- Department of Homeland Security, Coast Guard and, 1–2.0
- dependency
 - in administrative discharge, 1–4.4
 - compensation, 15–2.2
 - in convenience of government discharge, 6–3.2.1
- deployment health assessments, 8–4.4.1, 8–A.1, 8–A.2
- DES. *See* Disability Evaluation System (DES)
- desertion
 - Character of Discharge review and, 19–2.2
 - Special Discharge Review Program, 18–2.2
 - Vietnam War and, xxix, xxxi
- diagnosis. *See* mental health
- Diagnostic and Statistical Manual of Mental Disorders (DSM), 8–2.1
 - adjustment disorder in, 10–2.3
 - major depressive disorder in, 8–2.7
 - personality disorder in, 10–2.2
 - post-traumatic stress disorder in, 8–2.3
 - substance abuse in, 14–3.1
 - traumatic brain injury in, 8–2.5
- “dining in,” 14–2
- disability. *See* medical disability; mental health; physical disability
- Disability Evaluation System (DES), 1–4.1, 8–4.4.3, 13–2, 13–5.2
- Disability Rating Activity Site (D-RAS), 13–2.6

- disability retirement. *See also* Permanent Disability Retired List (PDRL); Temporary Disability Retired List (TDRL)
- adjustment disorder, 10–2.3.1
- Combat-Related Special Compensation and, 13–2.11
- Concurrent Retirement and Disability Payments and, 13–2.11
- disability rating and, 13–2.9
- legal framework, 13–2
- regulations, 13–A
- sources of law and, 13–3.1.2
- Discharge Appeal Review Board (DARB), 2–5.0, 2–7.2.2.4
- discharge characterizations. *See* character of service
- Discharge Review Boards (DRBs). *See also* standard of review; *individual branch boards*
- advisory opinions, 3–3.2.4, 5–3.4, 7–3.1.1, 7–5
 - responding to, 7–5.1
- authorizing statute for, 2–3.1
- backlogs of, 2–2.4
- BCM/NR *vs.*, 2–4.2
- BCM/NR *vs.*, applying to, 2–2.0
- briefs to, 5–2
- caseloads of, 2–2.4
- composition of, 2–2.1, 2–3.2
- denied requests, 7–7.2.2
- discrimination regulatory framework for, 11–4.1
- DoD memoranda and, 2–2.6.6
- evidence used by, 2–3.4
- examiners, 7–3.1.2.1
- ex parte communications and, 7–2.1.2, 7–5.2
- expediting with, 2–3.9
- hearings, 7–6.1
- in history of discharge upgrades, xxx–xxxi, xxxvii–xxxviii
- impropriety, 5–5.1.1
- inequity contentions and, 2–2.6.2
- legal standards with, 2–3.1
- overview of, 2–2.0
- performance evaluation removal and, 6–4.1.1
- personal appearance hearings with, 2–3.5
- powers of, 2–3.3
- precedent in, 2–2.7, 5–4.3
- presence of veteran at, 2–3.5
- presumption of regularity by, 2–2.6.5
- procedures, 7–3
- processes, 7–3.1
- reconsideration by, 2–3.8, 7–7.2.2.2
- records collected by, 7–3.2
- Records Corrections Boards *vs.*, 2–3.3
- records gathering practices of, 7–3.3
- records review by, 2–3.5
- records used by, 2–3.4
- relief from, 2–3.6
- sample cover letter, 7–C.1
- standard of review (*See* standard of review)
- statute of limitations with, 2–3.7
- structure of, 2–3.2
- success rates at, 2–3.10
- telephonic appearance at, 2–3.5
- timeline with, 2–3.9
- videoconferencing, 2–3.5
- discrimination
 - aggravating facts in, 11–4.1.2
 - in Air Force, 11–1.3, 11–2.1.2.3
 - in Army, 11–1.3, 11–2.1.2
 - capacity to serve and, 11–4.2.2
 - case theories, 11–4.2
 - civilian *vs.* military personnel and, 11–3.1.1
 - contentions, 11–4.2
 - context, 11–2
 - definitions with, 11–1.2
 - discipline and, 11–2.1.2.2
 - disparate treatment and, 11–4.2.4
 - evidence of, 11–5
 - evidence outside of military record in, 11–4.2
 - Executive Order 9981 and, 11–2.1.1
 - forms of, 11–1
 - gender-based, 11–2.2
 - G.I. Bill and, 11–1

- history of, 11–1, 11–1.3, 11–2
- impropriety contentions in, 11–4.2.1
- independent corroboration of, 11–5.1.1
- inequity contentions in, 11–4.2.1, 11–4.2.6
- intersectionality and, 11–1 n.10
- in Korean War, 11–2.1.2.1
- Kurta Memorandum and, 11–4.2.3
- lawful, 11–1.2
- legal racial, 11–2.1.1
- less-than-Honorable discharge and, 11–1.3
- LGBTQ servicemembers
 - aggravating factors with, 12–3.3.2
 - broader impacts of discrimination on, 12–4
 - Character of Discharge reviews and, 19–2.3, 19–3.2
 - contentions with, 12–3.3
 - Don't Ask Don't Tell discharge and, 12–3.3.1
 - historical policies on, discharges resulting from, 12–2
 - Military Equal Opportunity program and, 12–3.2
 - military sexual trauma and, 9–1.6
 - names changes and, 12–D, 12–5, 12–E
 - narrative reasons used with, 12–3.3.1
 - policy changes and, 12–3
 - reenlistment of, 12–3.5.2
 - reentry codes and, 12–3.5.2
 - relief normally granted with, 12–3.5.1
 - relief requests with, 12–3.5
 - in Stanley Memorandum, 2–2.6.6
- liberal consideration standard and, 11–4.2.6
- in Marine Corps, 11–2.1.2, 11–2.1.2.3
- Military Whistleblower Protection Act and, 11–4.2.5
- mitigating factors in, 11–4.1.2, 11–4.2.3
- not limited to unlawful acts, 11–4.1.1.2
- as official policy, 11–2.1.1
- personality disorder discharge and, 11–2.2.2 n.95
- personal statements supporting, 11–4.1.2
- policies, 11–3
- post-integration order, 11–2.1.2
- prevention programs, 11–3.1
- Project 100,000 and, 11–2.1.2.2
- proving, 11–5.1
- racial, 11–2.1
- regulations, 11–A
- regulatory framework with, 11–4.1
- resources, 11–B
- terminology with, 11–1.2
- in Vietnam War, 11–2.1.2.2
- Wilkie Memorandum and, 11–4.1.2, 11–4.1.2.1, 11–4.2.3, 11–4.2.4, 11–5.1
- Dishonorable discharge
 - and Article 74(b) secretarial review, 2–2.10
 - bad conduct discharge *vs.*, 1–7.2.1
 - as characterization, 1–7.2, 1–7.2.2
 - clemency and, 17–3.1.3
 - concealing, 6–3.3.2
 - in court-martial, 1–6.1, 1–6.2
 - dishonorable conditions *vs.*, 19–2
 - for drug possession/use/distribution, 14–2
 - Ford Clemency Program and, xxxix
 - for homosexuality, 12–2
 - and *Kennedy v. Whitley*, 2–7.2
 - and *Manker v. Braithwaite*, 2–7.2
 - naturalization eligibility and, 17–2.1
 - and power of Discharge Review Board, 2–3.3
 - in substance abuse, 14–2
 - for VA purposes, 1–3
- Dismissal
 - defined, 1–6.2
 - “dropped from the rolls” and, 15–2.1
 - naturalization eligibility and, 17–2.1
 - as statutory bar to VA benefits, 19–2.2
- Don't Ask, Don't Tell (DADT)
 - authorization of, 12–2
 - Character of Discharge review and, 19–3.2

Don't Ask, Don't Tell (DADT) (*continued*)

- repeal of, 12-C, 12-3.1, 12-A, 12-B
- sample contention with, 5-A
- in Stanley Memorandum, 2-2.6.6
- success rates in cases with, 2-3.10

DPRIS. *See* Defense Personnel Records

Information Retrieval System (DPRIS)

D-RAS. *See* Disability Rating Activity Site (D-RAS)

DRBs. *See* Discharge Review Boards (DRBs)

Driving Under Influence (DUI). *See* misconduct dropped from the rolls, 15-2.1

DSM. *See* Diagnostic and Statistical Manual of Mental Disorders (DSM)

due process

- with Administrative Discharge Boards, 6-4.3.2
- administrative separation proceedings, 1-4.2.1, 1-4.5
- command-directed mental health evaluations and, 9-3.2.5.4
- documentation and, 1-4.2.1
- errors, 6-3.6.6
- forfeiting, 1-5.2
- lack of notice and, 6-4.2.1
- in military sexual trauma, 9-3.2.5.2
- misconduct discharges and errors of, 6-3.6.6
- in nonjudicial punishment, 1-4.2.2.3
- notice of administrative separation and, 6-4.2.1
- racial discrimination and, 11-2.1.2.2

E

education benefits, Character of Discharge review and, 19-5.6.1. *See also* G.I. Bill benefits

ELS. *See* entry-level separation (ELS)

enlistment contract

- defective, 6-3.3.1
- end term of service, 6-3.1
- in OMPF, 3-5.2
- in servicemember life cycle, 1-3.1

entry-level separation (ELS)

- administrative discharge and, 6-4.3.3.2
- advocacy strategies, 15-4

case examples, 15-4

Character of Discharge review and, 19-3.5

consequences of, 15-2.2

counseling in, 15-2.1, 15-4.1

defective enlistment and, 15-2.1

defective enlistment contracts in, 6-3.3.1

entry-level status and, 15-2.1, 15-4.1

erroneous enlistment and, 15-2.1

generally, 15-2

G.I. Bill and, 15-2.2

history of, 15-3

in history of discharge upgrades, xlii

Honorable discharge in, 15-2.1, 15-4, 15-4.2

inequity and, 15-4.2

military sexual trauma and, 15-4.2

minors and, 15-2.1

Other-Than-Honorable discharge in, 15-2.1

procedural irregularities in, 15-4.1

recent trends in, 15-3

requirements for, 15-2.1

temporal component to, 15-2.1, 15-4.1, 15-4.2

as uncharacterized, 6-2.3, 6-3.3, 15-1, 15-3

as uncommon upgrade candidate, 1-7 VA benefits and, 15-2.2

weight control failure, 6-3.5

Equal Access to Justice Act (EAJA). *See* attorney's fees

equity. *See* inequity

erroneous enlistment, 6-3.3

case example, 15-5

entry-level separation and, 15-2.1

predicate for, 15-2.1

error(s). *See also* Boards for Correction of Military or Naval Records (BCMR/BCNR)

Administrative Discharge Board hearing process, 6-4.3.3.2

in administrative separation in lieu of court-martial, 6-3.7.1

in conditions not constituting disabilities, 10-3.1

in counseling, 6-4.1.2.1

- discharge upgrade for, 2–2.6.1
 - initiation of separation, 6–4.2
 - in misconduct discharge, 6–3.6.5, 6–3.6.6
 - in notification procedures, 6–4.2.1.1
 - in other than honorable standard, 19–2.5
 - with performance evaluation, 6–4.1.1.1
 - in post-deployment related health screenings, 8–4.4.1
 - pre-initiation, 6–4.1
 - as prejudicial, 2–2.6.1
 - in right to counsel, 6–4.3.1.3
 - in separation memo, 6–4.2.2.1
 - by stages in separation process, 6–4
 - in waivers of right to counsel, 6–4.3.1.3
 - evidence. *See all of Chapters 3 and 4; Boards for Correction of Military or Naval Records (BCMR/BCNR); Discharge Review Boards (DRBs)*
 - executive summary, accompanying
 - discharge upgrade petition, 5–2, 5–3.1, 7–C.6, 7–D.3, 7–D.4, 7–2.1.3
 - exhaustion
 - Discharge Appeal Review Board and, 2–9
 - before judicial review, 2–6.1.3
 - Tucker Act and, 2–6.2.3
 - ex parte communications, 7–5.2, 13–4.3
 - expediting
 - of Boards for Correction of Military or Naval Records proceedings, 2–4.9
 - Character of Discharge Review, 19–4.2
 - of Discharge Review Board proceedings, 2–3.9
 - homelessness and, 19–5.2
 - Military Whistleblower Protection Act and, 9–3.2.2
 - of naturalization, 17–2
 - terminal illness and, 2–4.9, 7–4
 - experts, medical
 - advisory opinions and, 13–4.3
 - credential request, 7–C.7
 - in fact development, 19–5.2
 - finding, 4–3.2.1
 - with medical evidence, 4–3
 - medical statements from, 4–3.2
 - National Defense Authorization Act for Fiscal Year 2020 and, 8–3.1.5
 - questions to be addressed by, 4–B
 - in substance abuse cases, 14–5.1
 - expiration end of service, 6–3.1
- F**
- family statements, 4–3.2.4. *See also* supporting statements
 - federal court, judicial review by, 2–6.0, 7–7.2.2.5, 13–6.1
 - Federal Rules of Civil Procedure, class actions in, 2–7.1.1
 - Federal Rules of Evidence, 2–3.4, 2–4.4
 - fee waiver, for Official Military Personnel Records, 3–3.1
 - 15–6, 1–4.2.1.2
 - Fifth Amendment. *See due process*
 - financial irresponsibility, xxviii n.17
 - First Amendment
 - Don't Ask, Don't Tell and, 2–6.3.4 n.128
 - judicial review and, 2–6.3.4
 - FOIA. *See Freedom of Information Act (FOIA)*
 - Ford Clemency Program (FCP). *See* clemency
 - foreign service, in DD 214, 3–5.1
 - Formal Physical Evaluation Board (FPEB), 13–2.1, 13–2.7
 - FPEB. *See Formal Physical Evaluation Board (FPEB)*
 - framing of requested relief, 2–2.8
 - fraudulent enlistment, 6–3.3, 6–3.3.2, 15–2.1
 - case example, 15–5
 - removal of, as basis of discharge, 15–5
 - VA benefits and, 15–2.2
 - Freedom of Information Act (FOIA), xli
 - acknowledgment of requests, 3–4.1
 - administrative separation boards and, 1–4.5.3.2
 - attorney's fees and, 2–8.2
 - civilian police records and, 1–4.2.1.3
 - command-directed investigations and, 1–4.2.1.2
 - courts-martial and, 1–6
 - criminal investigation files and, 3–2.2
 - deadlines to respond to requests, 2–6.3.3
 - judicial review and, 2–6.3.3

Freedom of Information Act (FOIA)
(*continued*)

- military criminal investigations and, 1-4.2.1.4
- National Guard records and, 16-4.1
- Privacy Act *vs.*, 3-4.2
- procedures, 3-4.1
- in records collection, 3-3.2.1, 3-4.1
- response timeline, 3-4.1
- sample requests, 3-E
- service branch offices, 3-D
- in substance abuse cases, 14-5.1

G

- GAF. *See* Global Assessment of Functioning (GAF)
- General Discharge (Under Honorable Conditions) (GUH), 2-2.2
 - in administrative discharge, 1-4.3
 - in administrative discharge in lieu of court-martial, 6-3.7.1
 - administrative separation boards and, 1-4.5.3.3
 - as characterization, 1-7.1.2
 - in conditions not constituting disabilities, 10-3.3
 - in defective enlistment, 6-3.3
 - in discharge in lieu of court-martial, 1-5.2
 - Discharge Review Boards and, 2-3.6
 - Don't Ask Don't Tell and, 12-3.3.2
 - drawbacks of, 1-7.1.2
 - in framing of relief request, 2-2.8
 - in fraudulent enlistment, 15-5
 - as honorable, 1-7.1.1
 - with LGBTQ servicemembers, 12-3.3.2
 - mental health and, 8-1.2
 - in parenthood, 6-3.2.3
 - in rehabilitation failure, 14-4.2.1.1
 - Special Discharge Review Program and, 18-2.2
 - standards for, 6-2.4
 - in substance abuse, 14-4.2
 - terms used for, 2-2.2
 - in unsatisfactory performance, 6-3.4
 - Vietnam veteran upgrade strategy with, 18-4

General Officer Memorandum of Reprimand (GOMOR), 1-4.2.2.1

- G.I. Bill benefits
 - Character of Discharge review and, 19-5.6.1
 - discrimination and, 11-1
 - entry-level separation and, 15-2.2
 - General discharge and, 1-7.1.2
 - racial discrimination and, 11-1
 - timeline and, 3-2.1
- G.I. Bill of Rights, 19-2
- Global Assessment of Functioning (GAF), 8-2.1
- Goldwater-Nichols Act, 1-2.2
- GOMOR. *See* General Officer Memorandum of Reprimand (GOMOR)
- grade, defined, 1-3.1
- GUH. *See* General Discharge (Under Honorable Conditions) (GUH)

H

- Hagel Memorandum, 4-3
 - advisory opinions and, 2-4.2
 - advocacy checklist, 8-3.2.1.1
 - class actions and, 2-7.2
 - clemency and, 5-A
 - liberal consideration standard and, 8-3.2.1, 8-3.2.2, 9-3.1 n.45
 - mental health and, 8-3.2.1
 - overview of, 2-2.6.6
 - post-traumatic stress disorder and, 5-A, 7-2.1.2, 8-3.2.1, 8-4.3.1, 9-3.1.3
 - presumption of regularity and, 5-4.1 n.28
 - reconsideration and, 2-4.8
 - statute of limitations and, 2-4.7, 5-2 n.7, 9-2.1.2.1
 - text of, 2-B.4
- hardship
 - in convenience of government discharge, 6-3.2.1
 - in defective enlistment agreement, 6-3.3.1.2
 - G.I. Bill and, 17-6.1
 - as less stigmatizing, 2-2.8
 - in parenthood discharge, 6-3.2.3
 - health records. *See* medical records

- hearings. *See also* Discharge Review Boards (DRBs); Travel Board hearings
 basic considerations for, 7-6.2
 of Boards for Correction of Military or Naval Records, 2-4.5
 Discharge Review Board, 7-6.1
 evidentiary, 19-5.4
 in-person, 7-6
 location of, 2-2.1, 2-3.5
 logistical considerations with, 7-6.2.1
 procedure, 7-6.2.2
 as rare, 2-2.1
 as "second bite at apple," 2-3.5
- homeless veterans
 bad paper and, 3-2.2
 Character of Discharge review and, 19-6.2
 expedited processing for, 19-4.2
 post-traumatic stress disorder and, 8-2.2
- homosexuality, l-li, 2-2.6.6. *See also* LGBTQ servicemembers
 Stanley Memorandum, 2.2.6.6
- Honorable discharge
 administrative separation and, 1-4.1, 1-7.1.1
 as characterization, 1-7.1.1
 in conditions not constituting disabilities, 10-3.3
 in conscientious objection, 6-3.2.4.1
 convenience of the government
 discharge and, 6-3.2
 in defective enlistment agreement, 6-3.3.1, 15-2.1
 defined, 6-2.4
 in discharge in lieu of court-martial, 1-5.2
 discharge upgrade with, l-li
 disparate treatment and, 11-4.2.4
 in end term of service, 6-3.1
 in entry-level separation, 15-2.1, 15-4, 15-4.2
 in erroneous enlistment, 6-3.3, 15-2.1
 Expiration of Service and, 6-3.1.1
 in expiration term of service, 6-3.1
 in framing of relief request, 2-2.8
 in history of discharge upgrades, xxix
 impropriety and, 5-5.1.1, 6-2.3, 9-3.1.4
 inequity and, 6-2.3
 in Kurta Memorandum, 8-3.2.3
 with LGBTQ servicemembers, 12-3.3.2
 in misconduct, 6-3.6
 as not requiring flawless service, 2-2.6.2
 in parenthood, 6-3.2.3
 in pregnancy, 6-3.2.2
 standards for, 6-2.4
 in substance abuse, 14-4.2
 in unsatisfactory performance, 6-3.4
 in weight control failure, 6-3.5
- I**
- IDES. *See* Integrated Disability Evaluation System (IDES)
- IDP. *See* imminent danger pay (IDP)
- immigration
 administrative separation and, 17-2.1.2.1
 alienage and, 17-2.1.1, 17-3.1.1
 conscientious objection and, 6-3.2.4, 17-2.1.1, 17-3.1.1
 criminal convictions and, 17-2.1.2.2
 discharge upgrades for, 17-3
 effects of discharge on, 17-2.1
 misconduct discharge and, 17-3.1.2
 punitive discharge and, 17-3.1.3
 service-based naturalization policies, 17-2
- Immigration and Nationality Act (INA), 17-1, 17-2, 17-2.1.1, 17-2.1.2.2. *See also* immigration
- imminent danger pay (IDP)
 conditions not constituting disabilities and, 10-3.1, 10-3.2.1
 post-traumatic stress disorder and, 10-3.2.1
- impropriety. *See also* Discharge Review Boards (DRBs)
 brief writing and, 5-4.4.2
 checklist, 6-2.3
 conditions not constituting disabilities and, 10-3.1
 contention crafting, 5-5.1
 contention template, 5-5.2.1
 defined, 2-2.6.1
 discharge upgrade for, 2-2.6.1
 discrimination and, 11-4.2.1
 inequity *vs.*, 6-2

impropriety (*continued*)

- mental health and, 8-4.3.2, 9-3.1.4
- in performance evaluation errors,
 - 6-4.1.1.1
- personality disorder misdiagnosis and,
 - 10-2.2.1
- policy change and, 5-4.4.1
 - as prejudicial, 5-4.4.1, 5-5.1.1
 - regulations and, 6-2.3
 - as standard of review, 5-4.4.1
 - in weight control failure, 6-3.5
- INA. *See* Immigration and Nationality Act (INA)
- incompetent veterans, applications on behalf of, 2-2.5
- inequity. *See also* Discharge Review Boards (DRBs)
 - aberrations in discharge and, 6-5.1.2.3
 - abuses of discretion in discharge and,
 - 6-5.1.2.3
 - brief writing and, 5-4.4.1
 - case examples, 6-5.4
 - checklist, 6-2.3
 - clemency and, 6-5.3
 - common fact patterns, 6-5.4
 - contentions, 6-5
 - defined, 2-2.6.2
 - discharge upgrade for, 2-2.6.2
 - discrimination and, 11-4.2.1, 11-4.2.6
 - in entry-level separation, 15-4.2
 - equitable factors in, 2-2.6.2
 - impropriety *vs.*, 6-2
 - mental health and, 8-4.3.2, 9-3.1.4
 - personal record and, 6-5.1.2.5
 - policy change as, 2-2.6.2, 6-5.1.2.1,
 - 6-5.1.2.2
 - post-service record and, 6-5.2.1.2
 - regulations and, 6-2.3, 6-5.1.2
 - service record and, 6-5.2.1.1
 - standard of proof for, 2-2.6.4
 - standards for, 6-5.1
 - substance abuse and, 14-5.2.1, 14-5.2.2
 - in weight control failure, 6-3.5
 - Wilkie Memorandum and, 2-2.6.2, 6-5.2.1
- Informal Physical Evaluation Board (IPEB),
 - 13-2.1, 13-2.5, 13-2.6

- injustice. *See also* Boards for Correction of Military or Naval Records (BCMR/BCNR)
 - alienage and, 17-3.1.1
 - conscientious objection and, 17-3.1.1
 - discharge upgrade for, 2-2.6.2
 - Don't Ask Don't Tell and, 12-3.3
 - military sexual trauma and, 9-1.2, 9-3.2,
 - 9-3.2.4
 - misdiagnosed adjustment disorder and,
 - 10-2.3.1
 - misdiagnosed personality disorder and,
 - 10-2.2.1
 - policy change as, 2-2.6.2, 9-3.1.4
 - precedent and, 5-4.2
 - racism and, 11-2.1.2.2
 - regulation changes and, 8-4.3.3
 - retaliation and, 9-3.2.4
 - standard of proof for, 2-2.6.4
 - statute of limitations and, 5-2, 7-2.1.2.1
 - Transgender Military Service Ban and,
 - 12-1.2
 - Wilkie Memorandum and, 2-2.6.2, 2-2.6.6,
 - 11-4.1.2
- institutional changes, xxxviii-xliii
- insubordination, mental health and, 8-2.3,
 - 8-2.9. *See also* misconduct
- intake
 - available remedies in, 3-2.1
 - document requests in, 3-2.4
 - explaining upgrade process in, 3-2.1
 - forms collected at, 3-2.4
 - objectives, 3-2.0
 - Official Military Personnel File in, 3-3.1
 - records collection in, 3-3
 - records corrections and, 3-2.1
 - sources for statements in, 3-2.3
 - substance abuse and, 3-2.4
 - topics for initial interview, 3-2.2
- Integrated Disability Evaluation System (IDES)
 - Active Guard/Reserve separation and,
 - 16-5.4
 - appeals, 13-3
 - counsel role in, 13-2.13
 - origin of, 13-2

overview of, 13–2.1
 referral, 13–2.2

intersectionality, 11–1 n.10

interview, initial. *See* intake

in-theater treatment records, 3–3.3.4

investigation files
 civilian police, 1–4.2.1.3
 military criminal, 1–4.2.1.4

investigating officer (IO), 1–4.2.1.2

IO. *See* investigating officer (IO)

IPEB. *See* Informal Physical Evaluation Board (IPEB)

J

JAG. *See* Judge Advocate General (JAG)

JAGMAN. *See* Manual of the Judge Advocate General (JAGMAN)

Judge Advocate General (JAG)
 in administrative separation in lieu of court-martial, 6–3.7.1
 Air Force, xxiii
 in Article 74(b) review, 2–2.10
 in equity-based contentions, 6–5.1.2.4
 life as attorney in, xxv–xxviii
 special victim’s counsel, 9–2.2, 9–3.2.5.2
 statements from, 4–2.2.2, 4–2.2.3
 as statement source in intake, 3–2.3
 volunteering for, xxiv

judicial review. *See also* class actions
 Administrative Procedure Act and, 2–6.1
 Constitution and, 2–6.3.4
 Court of Federal Claims, 13–6.2
 Declaratory Judgment Act and, 1–6.3.2
 deference in, 2–6.1.1
 exhaustion before, 2–6.1.3
 federal court, 2–6.0, 7–7.2.2.5, 13–6.1
 of final decisions, 13–6
 Freedom of Information Act and, 2–6.3.3
 jurisdiction in, 2–6.1.2
 in National Guard cases, 16–6.3
 Privacy Act and, 2–6.3.1
 proper parties in, 2–6.1.2
 relief in, 2–6.1.4
 statute of limitations in, 2–6.1.2
 Tucker Act and, 2–6.2
 venue and, 2–6.1.2

jurisdiction
 in application, 4–2
 area, 1–2.2
 in cover letter, 7–2.1.2.1
 In EAJA claims, 2–8.1.2
 errors, in separation in lieu of courts-martial cases, 6–3.7.1
 federal court, 2–6, 14–6.1
 for Guard veterans’ applications, 16–6.1
 in judicial review, 2–6.1.2
 in National Guard discharge upgrades, 16–6
 state court, in National Guard cases, 16–6.3
 Tucker Act and, 2–6.2.2

juvenile offenses, Character of Discharge review and, 19–C.1

K

Kennedy v. Whitley, 2–7.2, 8–3.2 n.100, 16–6.2 n.27

Korean War, 11–2.1.2.1

Kurta Memorandum, 2–2.6.6, 2–4.2, 2–4.7, 2–7.2, 2–B.6, 4–3, 4–B.1, 4–B.2, 5–A, 6–3.2.3 n.49
 advocacy checklist, 8–3.2.3.1
 building case under, 8–4
 discrimination cases and, 11–4.2.3
 evidence under, 8–4.2, 8–4.2.1
 liberal consideration standard and, 8–3.2.3, 9–3.1
 mental health and, 8–2, 8–3.2.3, 8–4, 9–3.1
 military sexual trauma and, 9–3.1, 9–3.1.2
 mitigating factors in, 8–4.0, 11–4.2.3
 post-traumatic stress disorder and, 8–3.2.3, 8–4.0, 9–3.1.3
 substance abuse and, 14–5.2.2

L

Laird Memorandum, 2–2.6.6, 2–B.2, 14–5.2.2

Lawyers’ Military Defense Committee (LMDC), xxix

LDES. *See* Legacy Disability Evaluation Process (LDES)

Legacy Disability Evaluation Process (LDES), 13–2

- legal permanent resident (LPR), 17–2. *See also* immigration
- Legal Services Corporation (LSC), xxix, xxxiii
- legal standards, 2–2.6. *See also* clemency; inequity; injustice; presumption of regularity; standard of review
- in Administrative Procedure Act, 2–6.1.1
- with Boards for Correction of Military Records, 2–4.1
- in brief writing, 5–4
- for clemency, 2–2.6.3
- with Discharge Review Boards, 2–3.1
- DoD memoranda and, 2–2.6.6
- equitable factors and, 2–2.6.2
- for error, 2–2.6.1
- for impropriety, 2–2.6.1, 5–4.4.1
- for inequity, 2–2.6.2, 5–4.4.2
- for injustice, 2–2.6.2
- in judicial review, 2–6.1.1
- precedent and, 2–2.7, 5–4.2, 5–4.3
- presumption of regularity, 2–6.5, 5–4.1
- with Tucker Act, 2–6.2.1
- less-than-Honorable discharge
- administrative separation and, 1–4.1
- in conscientious objection, 6–3.2.4.1
- in defective enlistment agreement, 6–3.3.1.1
- discrimination and, 11–1.3
- G.I. Bills and, 19–6.1
- harm and stigma of, xlv–xlvi
- in history of discharge upgrades, xxix, xxxi, xliii
- increase in, xlvi
- mental health and, 3–3.3, 8–1
- mental health and, correlations between, 8–1.2
- pregnancy and, 6–3.2.2
- in substance abuse, 14–5
- as term, 1
- VA benefits and, 19–1
- in Vietnam War, 18–1, 19–3.4
- Letter of Reprimand (LOR), 1–4.2.2.1
- letters of concern, 1–4.2.1.1
- LGBTQ servicemembers. *See also* Don't Ask, Don't Tell (DADT); Stanley Memorandum
- aggravating factors with, 12–3.3.2
- broader impacts of discrimination on, 12–4
- Character of Discharge reviews and, 19–2.3, 19–3.2
- contentions with, 12–3.3
- Don't Ask Don't Tell discharge and, 12–3.3.1
- historical policies on, discharges resulting from, 12–2
- Military Equal Opportunity program and, 12–3.2
- military sexual trauma and, 9–1.6
- names changes and, 12–D, 12–5, 12–E
- narrative reasons used with, 12–3.3.1
- policy changes and, 12–3
- reenlistment of, 12–3.5.2
- reentry codes and, 12–3.5.2
- relief normally granted with, 12–3.5.1
- relief requests with, 12–3.5
- in Stanley Memorandum, 2–2.6.6
- liberal consideration standard
- Carson Memorandum and, 8–3.2.2
- defined, 2–2.6.4, 8–3.2.1 n.102
- discrimination and, 11–4.2.6
- Hagel Memorandum and, 8–3.2.1, 8–3.2.1.1, 8–3.2.2, 9–3.1 n.45
- in *Kennedy v. McCarthy*, 2–7.2
- Kurta Memorandum and, 4–3 n.14, 8–2, 8–3.2.3, 9–3.1
- medical experts and, 4–3.2.1, 8–4.1.2
- mental health and, 2–2.6.4, 7–7.2.2.2, 8–3.2, 8–4.1.1, 8–4.3, 9–3.1.3
- military sexual trauma and, 6–3.2.3 n.49, 9–3.1.2
- post-traumatic stress disorder and, 8–3.2.1, 8–3.2.1.1, 13–3.1.1
- preexisting conditions and, 8–4.1.2
- presumption of regularity and, 5–4.1 n.28
- special consideration *vs.*, 4–3.1 n.17
- standard of proof and, 1–2.6.4
- Limited Use Policy, 1–4.2.1 n.60, 14–5.2.1

- LMDC. *See* Lawyers' Military Defense Committee (LMDC)
- LOR. *See* Letter of Reprimand (LOR)
- LPR. *See* legal permanent resident (LPR)
- LSC. *See* Legal Services Corporation (LSC)
- M**
- major depressive disorder (MDD). *See* mental health
- Manual for Courts-Martial (MCM), 1-4.2.2.3, 6-3.7, 14-4.1 n.41, 14-5.2.2 n.210
- Manual of the Judge Advocate General (JAGMAN), 1-4.2.1.2
- Marine Corps. *See also* Board for Correction of Naval Records (BCNR); Naval Discharge Review Board (NDRB)
- acknowledgment documentation in
- administrative separations, 1-4.5.2
 - administrative separation checklist, 6-B.1
 - as branch of service, 1-2.0
 - conditions not constituting disabilities regulations in, 10-A
 - courts-martial transcripts contact, 3-C
 - criminal investigation records, 3-B
 - discrimination in, 11-2.1.2, 11-2.1.2.3
 - discrimination policies and regulations, 11-A
 - fitness report, 6-B.2
 - FOIA office, 3-D
 - fraudulent enlistment in, 6-3.3.2
 - medical separation regulations in, 13-A
 - museums and libraries, 3-A
 - separation in lieu of court-martial in, 1-5.2
- Sexual Assault Prevention and Response regulations, 9-A.1
- sexual harassment regulations, 9-A.2
- standard of proof for nonjudicial punishment in, 1-4.2.2.3
- substance abuse administrative and disciplinary action in, 14-4.2.1.2
- substance abuse treatment and prevention in, 14-4.2.1.2
- unsatisfactory performance discharges in, 1-4.3
- maximum sentence guidelines, 6-2.3
- MCM. *See* Manual for Courts-Martial (MCM)
- MEB. *See* Medical Evaluation Board (MEB)
- medical disability. *See also* medical separations
- adjustment disorders and, 10-2.3.1
 - administrative separations and, 1-4.1
 - exhaustion of remedies and, 2-6.2.3
 - Tucker Act and, 2-6.2.3
- medical evaluation. *See also* deployment health assessments
- Active Guard/Reserve separation without, 16-5.4
 - denial of, 1-6.2.2
 - weight control failure and, 6-3.5
- Medical Evaluation Board (MEB), 13-2.1, 13-2.3, 13-5.4
- findings and determinations of, 13-2.5
 - referral, 13-2.4
- medical evidence. *See also* experts, medical;
- medical records
 - diagnosis in, 4-3.1
 - experts and, 4-3
 - medical statements in, 4-3.2
- medical experts. *See* experts, medical
- medical records
- Diagnostic and Statistical Manual of Mental Disorders and, 8-2.1
 - in-service, in records collection, 3-3.3
 - at intake, 3-2.4
 - in-theater, 3-3.3.4
 - in OMPF, 3-5.2
 - post-service, 3-3.4
 - post-service, non-VA, 3-3.4.3
 - for recently discharged veterans, 3-3.3.2
 - substance abuse and, 8-4.2.1, 14-5.1
- medical separations
- administrative discharge and, 8-4.4.3
 - Concurrent Retirement and Disability Payments and, 13-2.11
 - conditions not constituting disability and, 10-2.1
 - Discharge Review Boards and, 5-2
 - legal framework, 13-2
 - medical statements in, 4-3.2

medical separations (*continued*)

Permanent Disability Retired List and, 13-2.10

regulations on, 13-A

severance *vs.*, 13-2.9

Temporary Disability Retired List and, 13-2.10

medical statements. *See* experts, medical

mental health

absent without leave and, 8-2.9, 9-3.1.1

adjustment disorder

as bad paper, 10-1.2

command-directed mental health

evaluations and, 9-3.2.5.4

conditions not constituting disabilities and, 10-2.1

as conditions not constituting disability, 10-2.3

diagnosis of, 10-2.3

medical experts in, 4-3

medical statements in, 4-3.2

misdiagnosis of, 10-2.3.1

post-traumatic stress disorder

misdiagnoses as, 8-3.1

anxiety disorders, 8-2, 8-2.3

conditions not constituting

disabilities and, 10-1.5

equity arguments and, 15-5.2.2

insanity exception and, 19-2.4

military sexual trauma and, 9-1.6

post-traumatic stress disorder and, 8-3.2.1

in BCMR/BCNRs, experts on, 2-4.2

behavior service requirements and, 8-2.9

bipolar disorder

insanity exception and, 2.4, 19-2.4

as mitigating factor, 8-2

in Brotzman Memorandum, 2-2.6.6

Carson Memorandum and, 2-2.6.6, 8-3.2.2

case theory, 9-3.1

Character of Discharge review and,

19-C.2, 19-2.4, 19-2.5.1.3, 19-3.1,

19-7.1.1.3

combat stress and, 8-2.8

command-directed mental health

evaluations, 9-3.2.5.4

common disorders affecting service, 8-2

conditions not constituting disabilities and, 10-1.5

contentions in, 8-4.3, 9-3.1.4

corroborating statements as, 4-3.2.2

in cover letter, 7-2.1.2.1

deployment-related health screenings

and, 8-4.4.1, 8-4.4.2

diagnosis, 4-3.1

in Diagnostic and Statistical Manual of Mental Disorders, 8-2.1

Disability Evaluation System and, 8-4.4.3

evidence, 8-2.9, 8-4.1.1, 8-4.1.2, 8-4.2,

8-4.2.1, 9-3.1, 9-3.2.3

as excusing factor, 8-4.1.1, 8-4.3.1, 9-3.1.3

failure to diagnose, 13-5.1

General discharge and, 8-1.2

Global Assessment of Functioning in, 8-2.1

Hagel Memorandum and, 2-2.6.6, 8-3.2.1

IDES appeals and, 13-3.1.1

impropriety and, 8-4.3.2, 9-3.1.4

inequity and, 8-4.3.2, 9-3.1.4

insubordination and, 8-2.9

interview considerations, 3-2.2

Kurta Memorandum and, 2-2.6.6, 8-2, 8-3.2.3, 8-4, 9-3.1

less-than-Honorable discharge and, xlvi, 8-1

liberal consideration and, 2-2.6.4,

7-7.2.2.2, 8-3.2, 8-4.1.1, 8-4.3, 9-3.1.3

major depressive disorder (MDD)

administrative separations and, 8-1.2

combat stress and, 8-2.6, 8-2.8

comorbidities, 8-2.9, 8-3.2.1

defined, 8-2.7

in Diagnostic and Statistical Manual of Mental Disorders, 8-2.1, 8-2.7

evidence of, 8-4.1.1, 8-4.1.2, 8-4.2,

9-2.9, 9-3.1.1, 9-3.2.3

insubordination and, 8-2.9

Kurta Memorandum and, 8-2, 8-2.9, 8-4.1.1

- liberal consideration and, 8–2, 8–4.1.1, 8–4.3.1
- military sexual trauma and, 8–1.1, 8–2.6, 9–3.1.1, 9–3.1 n.46
- misconduct and, 8–2.9, 9–3.2.3
- as mitigating factor, 8–1.3, 8–2.9, 8–4.1.1, 8–4.1.3, 8–4.3.1
- OEF, prevalence in, 8–1.1, 8–2 n.21
- OIF, prevalence in, 8–1.1, 8–2 n.21
- sample contentions, 8–4.3
- substance abuse and, 8–2.9, 8–3.2.1
- medical records and, 3–3.3
- military sexual trauma and, 8–1.4, 9–1.6, 19–3.1
- misconduct and, 8–1.2, 8–2.9, 8–4.2.1, 9–3.1
- misdiagnosis of, 13–5.1
- as mitigating factor, 8–4, 9–3.1.3
- National Defense Authorization Act for Fiscal Year 2010 and, 8–3.1.1
- National Defense Authorization Act for Fiscal Year 2013 and, 8–3.1.2
- National Defense Authorization Act for Fiscal Year 2015 and, 8–3.1.3
- National Defense Authorization Act for Fiscal Year 2017 and, 8–3.1.4
- National Defense Authorization Act for Fiscal Year 2020 and, 8–3.1.5
- personality disorder
 - in Brotzman Memorandum, 2–2.6.6, 2–B.1
 - Brotzman Memorandum and, 2–2.6.6
 - as conditions not constituting disability, 10–2.2
 - in Diagnostic and Statistical Manual of Mental Disorders, 10–2.2
 - gender discrimination and, 11–2.2.2 n.95
 - imminent danger pay and, 10–3.2.1
 - insanity exception and, 19–2.4
 - in-service medical records and, 3–3.3
 - misconduct separation and, 10–3.2.2
 - misdiagnosed, contentions based on, 10–2.2.1, 10–2.2.3
 - misdiagnosed, in records, 3, 3.3
 - in narrative reason, 1–2.3
 - negative consequences of, in records, 10–1.2
 - protections for discharges in, 10–3.2
 - regulations, 10–A
 - sample contention with, 5–A
 - supporting statements and, 3–2.3
 - timing of diagnosis, 10–2.2.2
 - unsatisfactory disorder separations and, 10–3.2.2
- policy changes and, 9–3.1.4
- post-traumatic stress disorder
 - administrative separations and, 8–1.2
 - avoidance in, 8–2.9
 - class action with, 2–7.2
 - cognition in, 8–2.9
 - combat stress and, 8–2.8
 - comorbidities, 8–2.2, 8–2.9, 8–3.2.1
 - defined, 8–2.3
 - diagnosis of, 8–2.3.1
 - in Diagnostic and Statistical Manual of Mental Disorders, 8–2.3
 - evidence of, 8–2.9, 8–4.1.2, 9–3.1.1, 9–3.2.3
 - expediting in cases of, 2–3.9
 - Hagel Memorandum and, 8–3.2.1
 - history of, 8–2.2
 - imminent danger pay and, 10–3.2.1
 - insubordination and, 8–2.9
 - interview considerations, 3–2.2
 - Kurta Memorandum and, 8–2, 8–2.9, 8–4
 - less-than-Honorable discharge and, xlvii
 - liberal consideration and, 8–2, 8–2.9, 8–4
 - liberal consideration standard and, 8–3.2.1, 8–3.2.1.1, 13–3.1.1
 - military sexual trauma and, 8–1.1, 19–3.1
 - misconduct and, 8–2.9

- mental health (*continued*)
- post-traumatic stress disorder (*continued*)
 - as mitigating factor, 8-1.3, 8-2.9, 8-4.1.1, 8-4.1.3, 8-4.3.1, 9-3.1.3
 - mood in, 8-2.9
 - numbness in, 8-2.3
 - OEF, prevalence in, 8-1.1, 8-2 n.21
 - OIF, prevalence in, 8-1.1, 8-2 n.21
 - questions for experts to address in cases of, 4-B.2
 - sample contentions, 8-4.3
 - substance abuse and, 8-2.9, 8-3.2.1, 14-3.2, 14-5.2.2
 - success rates in cases of, 2-3.10, 2-4.10
 - upgrade denial, sample, 8-B in Vietnam War, 8-1.1
 - psychosis, 8-2
 - regulations and, 8-4.4
 - sample cover letter in, 7-C.2
 - scope of problem, 8-1.1
 - statute of limitations and, 2-4.7
 - substance abuse and, 8-2.9, 8-3.2, 14-5.2.2
 - temporary emergency mental health care, 19-6.5
 - traumatic brain injury (TBI)
 - administrative separations and, 8-1.2
 - amnesia in, 8-2.9
 - apathy in, 8-2.9
 - appetite in, 8-2.9
 - class action on, 2-7.2
 - combat stress and, 8-2.8
 - diagnosis of, 8-2.5.1
 - in Diagnostic and Statistical Manual of Mental Disorders, 8-2.5
 - equity arguments and, 14-5.2.2
 - evidence of, 8-4.1.1, 8-4.1.2, 8-4.2, 9-3.1.1
 - expediting in cases of, 2-3.9
 - fatigue in, 8-2.9
 - frustration tolerance in, 8-2.9
 - incidence of, 8-2.4
 - as increasingly common, 8-2.4
 - insubordination and, 8-2.9
 - Kurta Memorandum and, 8-2, 8-2.9, 8-4
 - less-than-Honorable discharge and, xlvi
 - liberal consideration and, 8-2, 8-4.1.1, 8-4.3.1
 - misconduct and, 8-2.9
 - OEF, prevalence in, 8-1.1, 8-2 n.21
 - OIF, prevalence in, 8-1.1, 8-2 n.21
 - sample contentions, 8-4.3
 - screening, 8-2.5
 - substance abuse and, 8-2.9, 14-3.2, 14-5.2.2, 15-3.2
 - success rates in cases of, 2-3.10, 2-4.10
 - unauthorized absence and, 8-2.9, 9-3.1.1
- MEPS. *See* Military Entrance Processing Station (MEPS)
- “mess night,” 14-2
- Middendorf v. Henry*, 17-2.1.2.2
- military criminal investigation files, 1-4.2.1.4, 3-3.2.1, 3-3.2.2
- Military Discharge Upgrading, and Introduction to Veterans Administration Law: A Practice Manual, xlvi
- Military Entrance Processing Station (MEPS), 1-3.1
- Military Equal Opportunity (MEO), 11-3.1.1, 12-3.2
- Military Human Resource Records Life Cycle Management, 3-5.4
- Military Justice Act of 1968, xxiv n.9
- Military Occupational Specialty (MOS), 3-5.1
- military pay records, 3-3.2.1
- military records. *See* Official Military Personnel Files (OMPFs)
- Military Rules of Evidence, in nonjudicial punishment, 1-4.2.2.3
- Military Service Obligations, 1-3.1
- military sexual trauma (MST). *See also* Sexual Assault Prevention and Response (SAPR)
- bad paper and, 9-1.2
 - case strategies, 9-3
 - case theory, 9-3.1

- Character of Discharge Review and, 19–3.1
- class action on, 2–7.2
- contention sample, 5–A
- criminal investigations in, 9–2.4
- current servicemembers and, 9–1.5
- defined, 9–1.4
- entry-level separation and, 15–4.2
- evidence in, 9–3.1.1, 9–3.1.2
- incidence of, 9–1.1
- Kurta Memorandum and, 2–2.6.6, 8–3.2.3, 9–3.1
- LGBTQ servicemembers and, 9–1.6
- liberal consideration standard and, 6–3.2.3 n.49, 9–3.1.2
- mental health and, 8–1.4, 9–1.6, 19–3.1
- Military Whistleblower Protection Act and, 9–3.2.2
- misconduct and, 9–1.2, 9–3.1, 9–3.1.1
- National Defense Authorization Act for Fiscal Year 2017 and, 8–3.1.4
- non-disability mental conditions and, 9–1.2
- post-traumatic stress disorder and, 8–3.1.4, 19–3.1
- pregnancy and, 9–1.2
- questions for experts to address in cases of, 4–B.1
- regulations, 9–A
- relationship issues and, 9–3.1.1
- response programs, 9–2
- retaliation and, 9–1.2, 9–3.2
- review of involuntary separations after, 9–3.2.5.3
- scope of problem, 9–1.1
- sexual dysfunction and, 9–3.1.1
- Special Victims' Counsels and, 9–3.2.5.2
- substance abuse in, 9–3.1.1, 14–5.2.2
- success rates in cases of, 2–3.10
- terminology with, 9–1.4
- Uniform Code of Military Justice and, 9–1.4
- weight control failure and, 9–1.2
- military treatment facility (MTF)
 - in-theater treatment records and, 3–3.3.4
 - in records request, 3–3.1
- Military Whistleblower Protection Act (MWPA), 6–3.2.3 n.49, 7–2.1.2, 7–3.2, 7–4, 9–3.2.2, 11–4.2.5
- minor, enlistment of, 6–3.3 n.62, 15–2.1
- minor disciplinary infractions. *See* misconduct
- minority groups, servicemembers in,
 - administrative separation board composition and, 1–4.5.3.1. *See also* discrimination
- misconduct
 - absence without leave (AWOL) (*See also* misconduct, unauthorized absence (UA))
 - in Character of Discharge determinations, 19–2.2
 - Character of Discharge review and, 19–2.2, 19–2.2 n.22, 19–2.2 n.23, 19–3.1
 - compelling circumstances in, 19–3.1
 - discrimination and, 12–4
 - drug testing and, 14:4.2.3
 - Ford Clemency Program and, 18–2.1
 - mental health and, 8–2.9, 9–3.1.1, 9–3.1.3, 19–3.1
 - military sexual trauma and, 9–3.1.1
 - nonjudicial punishment for, 1–4.2.2.3
 - post-traumatic stress disorder and, 8–2.9
 - Special Discharge Review Program and, 18–2.2
 - in Time Lost, 3–5.1
- in Active Guard/Reserve, 16–5.3
- administrative investigations and, 1–4.2.1.2
- administrative reduction for, 1–4.2.2.2
- administrative reprimands for, 1–4.2.2.1
- administrative separation and, 1–4.5.1
- alcohol
 - in military social life, 14–2
 - screening, 14–4.2.1.2
- based administrative discharges, 1–4.2
- charging errors with, 6–3.6.6
- civilian criminal conviction as, 6–3.6.4

misconduct (*continued*)

- civilian police records and, 1-4.2.1.3
- collateral, retaliation and, 9-3.2.5.1
- contentions in, 6-3.6
- counseling statements for, 1-4.2.1.1
- courts-martial for, 1-4.2.2.4, 1-6
- depression and, 8-2.9
- documentation of, 1-4.2.1, 1-4.2.2
- Driving Under Influence (DUI), 1-4.2.2.1, 14-4.2.1.1
- due process errors with, 6-3.6.6
- errors in discharges for, 6-3.6.5, 6-3.6.6
- immigration and discharge for, 17-3.1.2
- insubordination, 8-2.3, 8-2.9
- mental health and, 8-1.2, 8-2.9, 8-4.2.1, 9-3.1
- military criminal investigation files and, 1-4.2.1.4
- military sexual trauma and, 9-1.2, 9-3.1, 9-3.1.1
- minor disciplinary infractions in, 6-3.6.1
- nonjudicial punishment for, 1-4.2.2.3
- pattern of, 6-3.6.2
- personality disorder and, 10-3.2.2
- post-adjudication documentation of, 1-4.2.2
- post-traumatic stress disorder and, 8-2.9
- serious offense as, 6-3.6.3
- substance abuse
 - background on, in military, 14-2
 - building arguments in, 14-5.2
 - case strategies, 14-5
 - constitutional violations with
 - discharges for, 14-5.2.1
 - depression and, 8-2.9, 8-3.2.1
 - diagnosis of, 14-3.1
 - in Diagnostic and Statistical Manual of Mental Disorders, 14-3.1
 - Dishonorable discharge in, 14-2
 - disorders, 14-3
 - documentation of, 1-4.2.1
 - document requests and, 3-2.4
 - evidence, 8-4.2.1, 14-5.1
 - failure to follow regulations in
 - discharge for, 14-5.2.1
 - General discharge in, 14-4.2

- in history of discharge upgrades, xxxviii
- Honorable discharge in, 14-4.2
- inequity framing with, 14-5.2.1, 14-5.2.2
- Kurta Memorandum and, 14-5.2.2
- in Laird Memorandum, 2-2.6.6
- Laird Memorandum and, 14-5.2.2
- legalization and, 14-5
- Limited Use Policy and, 14-5.2.1
- medical experts in, 14-5.1
- mental health and, 14-5.2.2
- in military sexual trauma, 9-3.1.1, 14-5.2.2
- nonjudicial punishment for, 1-4.2.2.3
- policy changes and, 14-5.2.2
- post-service conduct and, 14-5.2.2
- post-traumatic stress disorder and, 8-2.9, 14-3.2, 14-5.2.2
- prescription medications and, 14-3.2
- prevalence of, 14-3.2
- procedural arguments in, 14-5.2.1
- rehabilitation failure, in
 - administrative separation, 1-4.1
- rehabilitation programs, 14-4
- traumatic brain injury and, 8-2.9, 14-3.2, 14-5.2.2
- treatment programs, 14-4
- treatment records, 3-3.3.5
- in Uniform Code of Military Justice, 14-2
- urinalysis, 14-4.1, 14-4.2.1.1
- Wilkie Memorandum and, 14-5.2.2
- traumatic brain injury and, 8-2.9
- unauthorized absence (UA)
 - in Character of Discharge
 - determination, 19-2.2
 - as equitable factor, 1-2.6.2
 - as evidence of mental illness, 8-2.9, 8-3.1.1
 - as evidence of substance abuse, 8-4.2.1
 - mental health and, 8-2.9, 9-3.1.1
 - mitigation of, 3-3.3

- nonjudicial punishment for, 1-4.2.2.3
 - persistent, 19-2.3
 - VA benefits and, 19-2.3
 - willful and persistent, 19-2.3
 - misdemeanors, undisclosed, in fraudulent entry, 6-3.3.2
 - missing records. *See also* records collection
 - denial rates for cases with, 5-4.1
 - National Personnel Records Center fire and, 3-3.3.2, 3-5.4
 - in OMPF, 3-3.2, 3-5.4
 - presumption of regularity and, 2-2.6.5, 3-5.4, 5-4.1, 6-3.2.1, 7-3.2 n.44
 - money-mandating statutes, 13-6.2.2
 - moral turpitude, 19-C.1, 19-2.3
 - MOS. *See* Military Occupational Specialty (MOS)
 - MST. *See* military sexual trauma (MST)
 - MTF. *See* military treatment facility (MTF)
 - MWPA. *See* Military Whistleblower Protection Act (MWPA)
- N**
- name changes, 12-D, 12-5, 12-E
 - narrative reason
 - in defective enlistment, 6-3.3, 6-3.3.1.2
 - defined, 2-2.3
 - Don't Ask, Don't Tell and, 12-3.1, 12-3.3.1
 - in framing of relief request, 2-2.8
 - immigration and, 17-3.1.3
 - in LGBTQ discharge, 12-3.3.1
 - missing, 1-8
 - in propriety contention, 8-4.3.2
 - refusal to change, 7-7.2.1
 - narrative summary (NARSUM), 13-2.5
 - National Archives and Records
 - Administration, 3-3.2.1, 3-5.4
 - National Archives Form 13075, 3-5.4
 - National Cemetery Administration (NCA), 19-1.3
 - National Coalition for Universal and Unconditional Amnesty (NCUUA), xxxviii-xxxix, xl
 - National Defense Act of 2021, 11-1.3
 - National Defense Authorization Act
 - for Fiscal Year 2008, 13-2
 - for Fiscal Year 2010, 8-3.1.1
 - for Fiscal Year 2013, 8-3.1.2
 - for Fiscal Year 2015, 8-3.1.3
 - for Fiscal Year 2017, 8-3.1.4
 - for Fiscal Year 2020, 8-3.1.5
 - National Guard. *See also* Active Guard Reserve (AGR)
 - evidentiary issues with cases in, 16-4
 - identifying veterans from, 16-3
 - judicial review of decisions with, 16-6.3
 - multiple service capacities and terms and, 16-4.2
 - prior service in, and upgrade applications, 16-5.6
 - procedures for discharge upgrade in, 16-6
 - records from, 3-3.1.2, 16-4.1
 - regulations on separation, 16-5.1
 - state law and, 16-5.1
 - Unit Training Assemblies, 16-5.2
 - unsatisfactory participation in, 16-5.2
 - VA benefits and, 16-5.7
 - National Guard Bureau Form 22 (NGB 22), 16-3
 - National Military Discharge Review Project (NMDRP), xxix, xxxii, xxxiv-xxxv
 - National Personnel Records Center (NPRC), 3-3.1, 3-3.3.2, 3-3.3.5, 3-5.4
 - National Veterans Law Center, xxxii
 - National Veterans Legal Services Program (NVLSP), xxix, xxxii, xxxiii, xlii
 - naturalization, service-based, 17-2. *See also* immigration
 - Naval Criminal Investigative Service (NCIS), 1-4.2.1.4, 3-2.2, 9-2.1, 9-2.4
 - Naval History and Heritage Command, 1-2.2
 - Navy
 - Board for Correction of Naval Records (BCNR) (*See also* Boards for Correction of Military or Naval Records (BCMR/BCNR); Discharge Review Boards (DRBs))
 - address for, 7-B
 - advisory opinions and, 13-4.3
 - cover letter sample, 7-C.5

Navy (*continued*)

Board for Correction of Naval Records (BCNR) (*continued*)

- extension request, 7–C.7
- regulations, 7–A
- sample summary sheet, 7–D.3

as branch of service, 1–2.0

Coast Guard and, 1–2.0

conditions not constituting disabilities regulations in, 10–A

courts-martial transcripts contact, 3–C

crew books, 3–3.2.1

criminal investigation records, 3–B

deck logs, 3–3.2.1

discrimination policies and regulations, 11–A

entry-level separation in, 15–A

FOIA office, 3–D

medical separation regulations in, 13–A

museums and libraries, 3–A

Naval Discharge Review Board (NDRB) (*See also* Boards for Correction of Military or Naval Records (BCMR/BCNR); Discharge Review Boards (DRBs))

- address, 7–B
- authority of, 1–2.1
- document requests from, 7–3.3
- expiration end of service decision, 6–3.1.1
- regulations, 7–A
- sample document request, 7–D.2

separation in lieu of court-martial in, 1–5.2

Sexual Assault Prevention and Response regulations, 9–A.1

sexual harassment regulations, 9–A.2

standard of proof for nonjudicial punishment in, 1–4.2.2.3

substance abuse discipline in, 14–4.2.1.1

substance abuse treatment and prevention in, 14–4.2.1.1

unsatisfactory performance separation in, 6–3.4 n.79

NCA. *See* National Cemetery Administration (NCA)

NCDs. *See* neurocognitive disorders (NCDs)

NCIS. *See* Naval Criminal Investigative Service (NCIS)

NCUUA. *See* National Coalition for Universal and Unconditional Amnesty (NCUUA)

NDRB. *See* Naval Discharge Review Board (NDRB)

neurocognitive disorders (NCDs), 8–2.5

NGB 22. *See* National Guard Bureau Form 22 (NGB 22)

NJP. *See* nonjudicial punishment (NJP)

NMDRP. *See* National Military Discharge Review Project (NMDRP)

non-disability mental conditions (NDMCs), military sexual trauma and, 9–1.2.
See also conditions not constituting disabilities (CNDs)-based discharges

nonjudicial punishment (NJP)

- driving under influence and, 14–4.2.4
- for misconduct, 1–4.2.2.3, 6–3.6
- in OMPF, 3–5.2
- racial discrimination and, 11–1.3
- substance abuse and, 9–3.1.1

notice

- of Administrative Discharge Board hearing, 6–4.3.2.1
- of administrative separation, 1–4.5.1, 6–4.2.1
- due process and, 10–3.1

NPRC. *See* National Personnel Records Center (NPRC)

numerosity, in class actions. *See* class actions

NVLSP. *See* National Veterans Legal Services Program (NVLSP)

O

obesity, in administrative separation, 1–4.1.
See also weight control failure

OCS. *See* Officer Candidate School (OCS)

ODEMO. *See* Office of Diversity Management and Equal Opportunity (ODEMO)

OEF. *See* Operation Enduring Freedom (OEF)

- Office of Diversity Management and Equal Opportunity (ODEMO), 9-1.4
- Officer Candidate School (OCS), 1-3.3
- officers. *See also* Dismissal
 - on administrative separation boards, 1-4.5.3.1
 - commissioned, 1-3.3
 - company grade, 1-3.3
 - flag, 1-3.3
 - investigating, 1-4.2.1.2
 - junior grade, 1-3.3
 - mid-grade, 1-3.3
 - noncommissioned officers, 1-3.1, 1-4.2.2.1
 - notice of administrative separation for, 1-4.5.1
 - Resignation for the Good of the Service by, 1-5.1
 - warrant, 1-3.2
- Official Military Personnel Files (OMPFs)
 - administrative reductions in, 1-4.2.2.2
 - administrative separation board proceedings in, 1-4.5.3.2
 - Boards for Correction of Military or Naval Records use of, 2-4.4
 - charges for, 3-3.1
 - contents of, 3-5
 - counseling statements and, 1-4.2.1.1
 - DD 214 in, 3-5.1
 - Discharge Review Board use of, 2-3.4
 - documents excluded from, 3-3.2
 - entire record request for, 3-3.1
 - illegible documents in, 3-3.2
 - at intake, 3-3.1
 - intake and document requests from, 3-2.4
 - medical records in, 3-5.2
 - military sexual trauma evidence in, 9-3.1.1
 - missing documents in, 3-3.2, 3-5.4
 - online access to, 3-3.1.1
 - reprimands in, 1-4.2.2.1
 - service treatment records in, 3-5.3
 - standard documents in, 3-5.2
- OIF. *See* Operation Iraqi Freedom (OIF)
- OMPFs. *See* Official Military Personnel Files (OMPFs)
- OPCON. *See* Operational Control (OPCON)
- Operational Control (OPCON), 1-2.2
- Operation Enduring Freedom (OEF), 8-1.1, 8-2.4, 9-1.1
- Operation Iraqi Freedom (OIF), 8-1.1, 8-2.4, 9-1.1
- Other Than Dishonorable standard
 - benefit of doubt in, 19-2.5.1
 - clemency and, 19-3.4
 - defined, 19-2
 - errors in application of, 19-2.5
 - exceptions to, 19-5.6
 - multiple periods of service and, 19-3.3
 - periods of service and, 19-2.1
 - preponderance of evidence and, 19-2.5.1
 - as VA eligibility standard, 19-2
- Other Than Honorable (OTH) discharge. *See also* less-than-Honorable discharge; Undesirable discharge
 - in administrative discharge, 1-7.1.3
 - in administrative discharge in lieu of court-martial, 6-3.7
 - administrative separation boards and, 1-4.5.3.3
 - Chapter 17 health care and, 19-6.3
 - as characterization, 1-7.1.3
 - in conditions not constituting disabilities, 10-3.3.1
 - conditions not constituting disability and, 10-3.3.1
 - in discharge in lieu of court-martial, 1-5.2
 - in entry-level separation, 15-2.1
 - entry-level separation and, 15-2.1
 - in framing of relief request, 2-2.8
 - in fraudulent enlistment, 6-3.3, 6-3.3.2
 - in fraudulent entry, 6-3.3.2
 - in history of discharge upgrades, xlii
 - immigration and, 17-2.1.2
 - mental health and, 8-1.2
 - military sexual trauma and, 8-3.1.4
 - in misconduct, 6-3.6
 - naturalization eligibility and, 16-2.1
 - old names for, 2-2.2
 - post-traumatic stress disorder and, 2-7.2
 - special and general courts-martial and, 1-4.2.2.4

Other Than Honorable (OTH) discharge

(*continued*)

Special Discharge Review Program and,
18-2.2, 18-4
standards for, 6-2.4
substance abuse and, 14-2.1.2, 14-4.2.1.1,
14-4.2.1.2
terms used for, 2-2.2
unsatisfactory participation and, 16-5.2
VA benefits and, 19-2.3

P

PA. *See* Privacy Act (PA)

paper review. *See* Discharge Review Boards
(DRBs)

parenthood

contentions with, 6-3.2.3
military sexual trauma and, 9-1.2

partial grants, 5-3.3, 7-7.2.1

PDRL. *See* Permanent Disability Retired List
(PDRL)

PEB. *See* Physical Evaluation Board (PEB)

performance-based administrative
discharge. *See* administrative
separation; misconduct

performance evaluation

before and after sexual trauma, 9-3.1.1
challenging, 6-4.1.1
duty limitations and, 13-5.2
errors with, 6-4.1.1.1
as materially defective, 6-4.1.1.1
removal of, 6-4.1.1, 6-4.1.1.1
Wilkie Memorandum and, 6-4.1.1

Permanent Disability Retired List (PDRL),
13-2.10

personal appearance hearings. *See*
Discharge Review Boards (DRBs)

personal statement

affidavits as, 4-3.2.1
best practices with, 4-3.2.1
in discrimination claims, 11-4.1.2
forms of, 4-3.2.1
as supporting statement, 4-3.2.1

physical disability. *See also* medical disability
in administrative separation, 1-4.1
expert opinions and, 13-4.3

failure to diagnose, 13-5.1

misdiagnosis of, 13-5.1
service-connected, 19-2.5.1

Physical Evaluation Board (PEB), 13-2.5

plea deal, xxvii, xxvii n.15

police records, civilian, 1-4.2.1.3

policy changes

discharge review for impropriety and,
5-4.4.1

discharge review for inequity and,
2-2.6.2, 5-5.2.1, 6-5.1.2.1, 6-5.1.2.2

discrimination cases and, 11-4.1.2

LGBTQ individuals and, 12-3

mental health and, 9-3.1.4

substance abuse and, 14-5.2.2

Post-9/11 G.I. Bill, Character of Discharge
review and, 19-5.6.1

post-adjudication documentation of
misconduct, 1-4.2.2, 5-A

post-decision phase, 7-7

Post Deployment Health Reassessment
(PDHRA) Compliance, 8-4.4.1, 8-A.2

post-service life

Character of Discharge Determination
and, 19-5.2, 19-7.1.1.4

in initial interview, 3-2.2

Special Discharge Review Programs and,
18-2.2

substance abuse and, 14-5.2.2

VA benefits and, 19-2.3

Wilkie Memorandum and, 2-6.2, 6-5.2.1.2

post-service medical records, 3-3.4,
19-5.2

post-traumatic stress disorder. *See* mental
health

precedent

Administrative Procedure Act and, 2-2.7

brief writing and, 5-4.2, 5-4.3

general rejection of, 2-2.7

review of, 2-2.7

value of BCOMR, 5-4.2

value of DRB, 5-4.3

pregnancy

in administrative separation, 1-4.1,
6-3.2.1

contentions in, 6-3.2.2

- as dependency discharge, 6-3.2.1
 - military sexual trauma and, 9-1.2
 - pre-initiation errors, 6-4.1
 - preponderance of evidence, 1-4.2.2.1,
 - 1-4.2.2.3, 1-4.5.3.3, 2-2.6.4, 4-3.2.1, 6-4.3.2, 16-5.3. *See also* standard of review
 - pre-service life
 - criminal conduct in, 6-3.3.2
 - entry-level separations and, 15-4.2
 - in initial interview, 3-2.2
 - in personal statement, 3-2.1
 - in separation memo, 6-4.2.2.1
 - Wilkie Memorandum and, 6-5.2.1.2
 - Presidential Clemency Board (PCB), xxxix
 - presumption of regularity, 2-2.6.5, 5-4.1,
 - 6-4.2.1. *See also* Boards for Correction of Military or Naval Records (BCMR/BCNR); Discharge Review Boards (DRBs); standard of review
 - brief writing and, 5-4.1
 - defined, 2-2.6.5
 - liberal consideration and, 5-4.1 n.28
 - missing records and, 2-2.6.5, 3-5.4, 5-4.1,
 - 6-3.2.1, 7-3.2 n.44
 - old versions of, 6-A
 - performance evaluations and, 6-4.1.1.1
 - rebutting, 5-4.1
- Privacy Act (PA)
- administrative separation boards and, 1-4.5.3.2
 - attorney's fees and, 2-8.2
 - civilian police records and, 1-4.2.1.3
 - command-directed investigations and, 1-4.2.1.2
 - congressional assistance and, 4-3.3
 - courts-martial and, 1-6
 - criminal investigation files and, 3-3.2.2, 14-5.1
 - FOIA *vs.*, 3-4.2
 - judicial review and, 2-6.3.1, 7-7.2.2.5
 - military criminal investigations and, 1-4.2.1.4
 - in substance abuse cases, 14-5.1
 - waiver, 16-4.1, 19-5.2
- Private Members Bill, xxx
- Proficiency and Conduct Remarks, 6-B.3, 10-2.2.1, 10-3.1
- Project 100,000, 11-2.1.2.2
- propriety. *See* impropriety
- psychiatric records. *See* medical records
- psychiatrist. *See* experts, medical
- psychological report, 4-A
- psychologist. *See* experts, medical
- punitive discharge
 - Bad Conduct discharge as, 1-7.2.1
 - civilian convictions and, 6-3.6.4
 - clemency and, 2-2.6.3
 - general court-martial and, 1-7.2
 - immigration and, 17-3.1.3
 - impact of, 1-7.2
 - Laird Memorandum and, 14-5.2.2
 - sample contention, 5-A
 - separation in lieu of court-martial and, 6-3.7
 - special court-martial and, 1-7.2
 - VA Character of Discharge Determinations and, 1-7.2
 - Wilkie Memorandum and, 6-5.2.1, 11-4.1.2
- ## R
- race, defined, 11-1.2 n.12
- racism. *See* discrimination
- rank, defined, 1-3.1
- rape. *See* military sexual trauma (MST)
- reconsideration
 - bases for, 2-3.8
 - by Boards for Correction of Military or Naval Records, 2-4.8, 7-7.2.2.3
 - deadline for applying, 2-3.8
 - by Discharge Review Boards, 2-3.8, 7-7.2.2.2
- recorder sheet, 7-D.5
- records collection
 - in Character of Discharge review and, 19-4.2, 19-5.2
 - courts-martial transcripts in, 3-3.2.3
 - criminal investigations in, 3-3.2.2
 - flowchart of, 3-3.1
 - Freedom of Information Act requests in, 3-3.2.1, 3-4.1

- records collection (*continued*)
 - at intake, 3-3
 - in-theater treatment records in, 3-3.3.4
 - medical records in, 3-3.3, 3-3.3.2
 - National Guard, 16-4.1
 - non-OMPF documents in, 3-3.2.1
 - Official Military Personnel Files in, 3-3.1, 3-5
 - post-service medical records in, 3-3.4
 - post-service medical records in, non-VA, 3-3.4.3
 - previous board decisions in, 3-3.2.4
 - psychiatric records in, 3-3.3.5
 - service treatment records in, 3-3.3.1, 3-3.3.2
 - substance abuse treatment records in, 3-3.3.5
 - unit specific documents in, 3-3.2.1
 - Veterans Benefits Administration records in, 3-3.4.2
- Records Corrections Boards. *See* Boards for Correction of Military or Naval Records (BCMR/BCNR); Discharge Review Boards (DRBs)
- Red Cross messages, 3-3.2.1
- reduction, administrative, 1-4.2.2.2
- regularity. *See* presumption of regularity
- regulations
 - branch-specific board of corrections, 7-A canceled, 6-A
 - on conditions not constituting disabilities, 10-3, 10-A
 - contentions and, 6-2.1
 - current, 6-A
 - in DD 214, 6-2.1
 - discrimination, 11-4.1
 - failure to follow, 13-5.2
 - identifying relevant, 6-2.2
 - impropriety and, 6-2.3
 - inequity and, 6-2.3, 6-5.1.2
 - medical separation, 13-A
 - mental health and, 8-4.4
 - military sexual trauma, 9-A
 - military sexual trauma-related separation regulations, 9-A.3
 - National Guard separation, 16-5.1
 - personality disorder, 10-A
 - Reserve Component separation, 16-5.1
 - Sexual Assault Prevention and Response, 9-A.1
 - sexual harassment, 9-A.2
 - in substance abuse discharge, failure to follow, 14-5.2.1
- rehabilitation
 - inadequate, 6-4.1.2
 - requirements, 6-4.1.2
 - substance abuse, 14-4
- remedies. *See also* Boards for Correction of Military or Naval Records (BCMR/BCNR); brief writing; Discharge Review Boards (DRBs)
 - explaining in intake, 3-2.1
 - writing a persuasive brief and, 5-3.2, 5-3.3
- reprimands, administrative, 1-4.2.2.1
- Reserve Components. *See also* Active Guard Reserve (AGR)
 - evidentiary issues with cases in, 16-4
 - identifying veterans from, 16-3
 - multiple service capacities and terms and, 16-4.2
 - prior service in, and upgrade applications, 16-5.6
 - regulations on separation, 16-5.1
 - VA benefits and, 16-5.7
- Reserve Officers Training Corps (ROTC), 1-3.3
- Resignation for the Good of the Service, 1-5.1
- retaliation
 - acts of, 9-3.2.3
 - beyond victim, 9-3.2.3
 - collateral misconduct and, 9-3.2.5.1
 - contention, 9-3.2.4, 9-3.2.5
 - defined, 9-3.2.1
 - evidence, 9-3.2.3
 - mental health examinations as, 9-3.2.5.4
 - in military sexual trauma, 9-1.2, 9-3.2
 - Military Whistleblower Protection Act and, 9-3.2.2
 - and review of involuntary separations after sexual assault report, 9-3.2.5.3
 - Special Victims' Counsels and, 9-3.2.5.2

- retirement, in administrative separation, 1–4.1
- ROTC. *See* Reserve Officers Training Corps (ROTC)
- S**
- SAPR. *See* Sexual Assault Prevention and Response (SAPR)
- SARC. *See* sexual assault response coordinator (SARC)
- SAVA. *See* sexual assault victim advocate (SAVA)
- screenings
 - deployment-related health, 8–4.4.1, 8–A.1
 - pre-administrative separation mental health, 8–4.4.2
- SDRP. *See* Special Discharge Review Program (SDRP)
- secretarial authority, 1–2.1. *See also* Boards for Correction of Military or Naval Records (BCMR/BCNR); Discharge Appeal Review Board (DARB)
- secretarial plenary authority, 1–4.1, 1–4.4
- secretarial review, 2–2.9, 7–7.2.2.1
- Selective Service System, xxiii–xxiv
- separation code, 2–2.3, 2–2.8, 3–5.1. *See also* Department of Defense Form 214 (DD 214)
- separation memo
 - elements of, 6–4.2.2
 - errors in, 6–4.2.2.1
- servicemembers
 - corroborating statements from current, 4.3.2.1
 - current, as target audience, xlix–l
 - Discharge Review Board members as, 2.3.5
 - enlisted, 1.3.1
 - life cycle, 1.3
 - in minority groups, administrative separation board composition and, 1.4.5.3.1
- service reenlistment bonus (SRB), 6–3.2.1
- service treatment records (STRs), 3–3.3, 3–3.3.1. *See also* medical records
 - inpatient, 3–3.3.1
 - in OMPF, 3–5.3
 - outpatient, 3–3.3.2
- Sexual Assault Prevention and Response (SAPR), 9–1.4
 - emergence of program, 9–2.1
 - personnel, 9–2.2
 - regulations, 9–A.1
 - reporting options, 9–2.3
- sexual assault response coordinator (SARC), 9–2.2
- sexual assault victim advocate (SAVA), 9–2.2
- sexual harassment, 9–1.4, 9–A.2. *See also* military sexual trauma (MST)
- sexual orientation. *See* Don't Ask, Don't Tell (DADT); LGBTQ servicemembers
- sexual trauma. *See* military sexual trauma (MST)
- Shepherd v. McHugh*, 2–7.2
- social movements, in history of discharge upgrades, xxxviii–xliii
- Special Discharge Review Program (SDRP), xxxix–xli, 18–2.2, 19–3.4
- Special Victims' Counsels (SVCs), 9–3.2.5.2
- SRB. *See* service reenlistment bonus (SRB)
- Standard Form 180 (SF 180)
 - in intake, 3–2.4
 - in OMPF request, 3–3.1
 - service treatment records and, 3–3.3.1
- standard of proof. *See* standard of review
- standard of review. *See also* Boards for Correction of Military or Naval Records (BCMR/BCNR); Discharge Review Boards (DRBs)
 - “at least as likely as not,” 19–2.5.1, 19–5.3
 - in Character of Discharge determination, 19–2.5.1, 19–5.3, 19–7.1.1
 - for clemency, 2–2.6.4
 - for inequity, 2–2.6.4
 - for injustice, 2–2.6.4
 - liberal consideration and, 1–2.6.4, 2–2.6.4
 - for nonjudicial punishment, 1–4.2.2.3
 - in VA adjudications, 19–2.5.1

Stanley Memorandum, 12–3.3, 12–3.4

Don't Ask Don't Tell and, 12–3.1

overview of, 2–2.6.6

text of, 2–B.3

statute of limitations

in Administrative Procedure Act, xxxv

with Boards for Correction of Military or

Naval Records, 2–4.7

Carson Memorandum and, 2–4.7,

7–2.1.2.1, 8–3.2.2

in cover letter, 7–2.1.2.1

with Discharge Appeal Review Board, 2–9

with Discharge Review Boards, 2–3.7

at “discovery” of error or injustice, 2–4.7

in entry-level separation, 15–2.1, 15–4.1,

15–4.2

with federal courts, 1–6.1.2

Hagel Memorandum and, 2–4.7, 8–3.2.1,

8–3.2.2

in history of discharge upgrades, xli

in judicial review, 2–6.1.2

Kurta Memorandum and, 2–4.7

mental health and, 2–4.7

post-traumatic stress disorder and,

8–3.2.2

Tucker Act and, 2–6.2.2

waiver of, 2–4.7

STRs. *See* service treatment records (STRs)

substance abuse. *See* misconduct

substandard duty performance, 1–4.3,

14–2.4, 14–4.2.1.1, 14–4.2.3. *See*

also misconduct; unsatisfactory

performance

summary court-martial, 1–4.2.2.4,

3–3.2.3 n.38, 17–2.1.2.2

superiors. *See* chain of command

supplementation, of application, 7–2.2.1

supporting statements

character statements as, 4–3.2.2

congressional offices and, 4–3.3

corroborating statements as, 4–3.2.2

as corroboration, 11–5.1.1

in equity-based contentions, 6–5.1.2.4

medical expert statements, 4–3.2

negative experiences in, 4–3.2.4

personal statement in, 4–2.1

positive attributes in, 4–3.2.4

sources for, 4–3.2.3

T

TBI. *See* mental health

TDRL. *See* Temporary Disability Retired List (TDRL)

telephone, appearance of veteran by. *See*

Discharge Review Boards (DRBs)

Temporary Disability Retired List (TDRL),

13–2.8 n.30, 13–2.10

terminal illness, expediting proceedings

and, 2–4.9, 7–4

Theater Medical Data Score (TMDS), 3–3.3.4

time in service

crediting with additional, 2–4.3

in DD 214, 3–1 n.3

Uncharacterized discharge and, 19–3.5

time lost, in DD 214. *See* Department of

Defense Form 214 (DD 214)

TMDS. *See* Theater Medical Data Score

(TMDS)

training

annual, in Guard/Reserve, 16–5.2

basic, 1–3.1, 11–4.1.2

job-specific, 1–3.1

transcripts, courts-martial, 3–C, 3–3.2.1,

3–3.2.3, 3–E

transgender individuals, 11–1.2, 12–1.2, 12–4.

See also LGBTQ servicemembers

traumatic brain injury (TBI). *See* mental

health

Travel Board hearings, 2–3.5. *See also*

Discharge Review Boards (DRBs)

Tucker Act

Court of Federal Claims and, 13–6.2.1

exhaustion and, 2–6.2.3

judicial review and, 2–6.2, 7–7.2.2.5, 16–6.3

jurisdiction and, 2–6.2.2

legal standards with, 2–6.2.1

Military Whistleblower Protection Act

and, 9–3.2.2

relief under, 2–6.2.4

statute of limitations and, 2–6.2.2

venue and, 2–6.2.2

typicality, in class actions. *See* class actions

U

UCMJ. *See* Uniform Code of Military Justice (UCMJ)

unauthorized absence. *See* misconduct

Uncharacterized character of service, 2–2.2. *See also* entry-level separation (ELS)

Undesirable discharge. *See also* Other Than Honorable (OTH) discharge

erroneous enlistment and, 15–5

Ford Clemency Program and, 18–2.1

in history of discharge upgrades, xxv–xxviii, xxxix, xlii

in Laird Memorandum, 2–2.6.6

Special Discharge Review Program and, 18–2.2

in Vietnam War, 18–1, 18–2.1, 18–4

Uniform Code of Military Justice (UCMJ)

1968 changes to, xxiv, xxiv n.9

administrative reductions and, 1–4.2.2.2

discrimination and, 11–1.3

in history of discharge upgrades, xxx–xxxii

LGBTQ individuals and, 12–3.2

military sexual trauma and, 9–1.4

misconduct in, 1–4.2

nonjudicial punishment in, 1–4.2.2.3

sodomy in, 12–2

substance abuse in, 14–2

United States Code 10 Section 1214a, 13–2.14

unit structure, 1–2.2. *See also* chain of command

Unit Training Assemblies (UTAs), 16–5.2

unit victim advocates (UVAs), 9–2.2

unsatisfactory participation, in National Guard / Reserve, 16–5.2

unsatisfactory performance. *See also* misconduct

administrative discharge based on, 1–4.3

contentions in, 6–3.4

criteria, 1–4.3

personality disorder and, 10–3.2.2

weight control failure in, 6–3.5

urinalysis, 14–4.1, 14–4.2.1.1

UTAs. *See* Unit Training Assemblies (UTAs)

UVAs. *See* unit victim advocates (UVAs)

V

VA Schedule for Rating Disabilities (VASRD), 13–2.6, 13–A

VASRD. *See* VA Schedule for Rating Disabilities (VASRD)

VBA. *See* Veterans Benefits Administration (VBA)

venue

judicial review and, 2–6.1.2

Tucker Act and, 2–6.2.2

VEP. *See* Veterans' Education Project (VEP)

Vet Centers, 19–6.6

veterans advocates, as target audience, xlviii–xlix

Veterans Affairs (VA). *See also* Character of Discharge (COD) determination

benefits

administrative separation in lieu of court-martial and, 19–2.3

choice of remedy and, 3–2.1

clemency discharge and, 18–2.1

entry-level separation and, 15–2.2

fraudulent enlistment and, 15–2.2

insanity and, 19–2.4, 19–2.5.1.3

less-than-Honorable discharge and, 19–1

National Guard service and, 16–5.7

Other Than Dishonorable as primary eligibility standard for, 19–2

regulatory bars to, 19–2.3

Reserve service and, 16–5.7

Resignation for the Good of the Service and, 1–5.1

statutory bars to, 19–2.2

conditions not constituting disabilities defined by, 10–2.1

customer service, 19–A

overview of, 19–1.2

pension management centers, 19–A

records management center, 19–A

structure of, 19–1.3

Veterans Affairs (VA) (*continued*)
 Veterans Administration Form 10-5345,
 3-2.4, 3-3.4.1
 Veterans Affairs Form 21-22a, 3-3.4.1,
 3-3.4.2, 3-3.4.2 n.64, 3-E
 Veterans Affairs Form 3288, 3-3.4.1,
 3-3.4.2
 Veterans Benefits Administration (VBA),
 3-3.4.2, 19-1.3, 19-2.5.2.2, 19-4.1,
 19-4.3
 adjudication, 19-1.4
 appeals to, 19-1.4
 Veterans' Education Project (VEP),
 xxxii, xli
 Veterans Health Administration (VHA),
 19-1.3, 19-2.5.2.2, 19-4.1, 19-4.3
 post-service medical records and, 3-3.4
 treatment records requests, 3-3.4.1
 Veterans of Foreign Wars (VFW), xxxi n.32
 Veterans Service Organizations (VSOs), in
 history of discharge upgrades, xxx,
 xxxi
 VFW. *See* Veterans of Foreign Wars (VFW)
 VHA. *See* Veterans Health Administration
 (VHA)
 Vietnam Veterans of America Legal Services,
 xxxii
 Vietnam War, xxiii, xxiv, xxxi, xxxii, 14-5.2.2
 Character of Discharge reviews and,
 19-3.4
 determination of veteran participation in
 review programs for, 18-3
 discharge upgrade practice with veterans
 of, 18-4
 discrimination in, 11-2.1.2.2
 Ford Clemency Program and, 18-2.1
 Hagel Memorandum and, 8-3.2.2
 less-than-Honorable discharge in, 18-1
 mental health and, 8-1.1
 post-traumatic stress disorder in, 2-7.2,
 5-A, 8-3.2

Special Discharge Review Program and,
 18-2.2
 strategy for discharge upgrade with
 veterans of, 18-4
 void enlistment, VA benefits and, 6-3.3, 15-2.2

W

waivers
 conditional, in administrative separation
 boards, 1-4.5.3.4, 6-4.3.2.1
 fee, for Official Military Personnel
 Records, 3-3.1
 Privacy Act, 16-4.1, 19-5.2
 of right to counsel, 6-4.3.1.2
 of statute of limitations, 2-4.7
 time, from BCMRs, 2-4.5
 war, service in period of, 3-5.1
Watson v. United States, 13-2.4
 weight control failure
 contentions in, 6-3.5
 medical conditions in, 6-3.5
 military sexual trauma and, 9-1.2
 as unsatisfactory performance, 6-3.5
 Wilkie Memorandum, 2-2.6.2, 2-2.6.3,
 2-2.6.6, 2-B.7, 6-5.1.2.3
 contentions with, 6-5.2
 discrimination and, 11-4.1.2, 11-4.1.2.1,
 11-4.2.3, 11-4.2.4, 11-5.1
 inequity claims and, 6-5.2.1
 National Guard service and, 16-5.6
 post-service record and, 6-5.2.1.2
 Reserve service and, 16-5.6
 service record and, 6-5.2.1.1
 substance abuse and, 14-5.2.2
 “without honor” discharge, in history of
 discharge upgrades, xxx
 women. *See also* military sexual trauma (MST)
 roles opened to, 11-1.2, 11-2.2.2
 timeline of, in military, 11-2.2.1
 World War II, in history of discharge
 upgrades, xxx