



DEPARTMENT OF THE NAVY
SECRETARY OF THE NAVY COUNCIL OF REVIEW BOARDS
720 KENNON AVENUE SE STE 309
WASHINGTON NAVY YARD DC 20374-5023

[Date]

[Name and Address]

NOTICE OF POTENTIAL RIGHT TO REAPPLY FOR RECONSIDERATION

You are receiving this letter as part of a settlement agreement in a class action lawsuit filed against the Department of the Navy in federal court in Connecticut, *Manker, et.al. v. Del Toro*, Case No.3:18-cv-00372. As part of the settlement, the Department of the Navy has agreed to permit certain applicants, classified in the class action as “Special Cases,” to re-apply and request the Naval Discharge Review Board (NDRB) reconsider their cases. Veterans within the class, who received a General (Under Honorable Conditions) or Other-than-Honorable discharge, and were not upgraded by the NDRB to an “Honorable” discharge, are permitted to reapply to ensure appropriate application of recent Department of Defense and Department of the Navy guidance regarding the effect of Post-Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), Military Sexual Trauma (MST), or other mental health conditions upon service members, and how such effects may have affected conduct leading to an individual’s discharge.

Due to statutory limitations on authority, the NDRB is unable to take action on discharges 15 years or older. To accommodate this limitation, the Department of the Navy has also agreed to permit reapplication for Class member Applicants, whose General (Under Honorable Conditions) or Other than Honorable discharge occurred on or after October 7, 2001, and were not upgraded by the NDRB to an “Honorable” characterization of service, but which exceed 15 years of age at the time of reapplication, to the Board for Correction of Naval Records (BCNR). Applicants can locate many free time and date calculators online using popular internet search engines for assistance in determining if your discharge is 15 years old or older.

Review of the NDRB’s file system indicates that you may qualify as a class member for reapplication to either the NDRB or BCNR. To exercise your right to reconsideration of your case, you must reapply to the correct review board. If you were discharged 15 years ago or less, you may reapply to the NDRB. If the date of your discharge and/or NDRB decision is older than 15 years, you must reapply to the BCNR.

Once you apply for reconsideration, the NDRB will obtain your prior application records from its archives for the reconsideration. You are not required to submit additional evidence to either the NDRB or BCNR, and will receive reconsideration whether you submit additional documentation or not. However, you are entitled to supplement your previous application with new evidence if you choose. More information regarding supporting materials or evidence you may wish to submit with your application can be found in this letter’s enclosure, **“Evidence You May Wish To Submit In Support Of Your Application.”**

To apply to the NDRB for a new review and determination regarding your case, please submit your written request with a new DD Form 293 application to the following address:

Department of the Navy
Secretary of the Navy Council of Review Boards
Attn: NDRB Special Cases
720 Kennon Avenue SE, Ste 309
Washington Navy Yard DC 20374-5023

Your request for reconsideration, with your new DD Form 293 application form, must be submitted and/or postmarked to the NDRB within one year of this notice. If your new DD Form

[Date]

293 is not postmarked within one year of this notice, it will not be considered. You may also submit additional information with your new DD Form 293, and you may continue to supplement your application with additional information up to and until the time your case is presented to the Board. Any supplemental materials submitted after the Board has heard your case will not be considered. It is imperative that you timely submit a new Form DD 293, and any additional information you wish to be considered.

More information about the NDRB, application process, resources, and frequently asked questions can be located on the NDRB's website, or by downloading our mobile APP.

- Web Link: <https://www.secnav.navy.mil/mra/CORB/pages/ndrb/default.aspx>.
- Mobile APP Search: Naval Discharge Review Board
- See also an online version of the DD Form 293 at:
<https://www.esd.whs.mil/Portals/54/Documents/DD/forms/dd/dd0293.pdf>.

To apply to the BCNR for a new review and determination regarding your case, you must submit your written request and application, and any supporting materials, to the BCNR by email at BCNR_Application@navy.mil, by fax at (703) 604-3437, or by mail to:

Board for Correction of Naval Records
701 S. Courthouse Rd
Suite 1001
Arlington, VA 22204-2490

Application submissions may include whatever supporting unclassified documentary evidence the applicant wishes to submit, however, **all applications for reconsideration submitted to the BCNR must include a completed DD Form 149 application**, available online at <https://www.esd.whs.mil/Portals/54/Documents/DD/forms/dd/dd0149.pdf>.

More information about the BCNR, application and review process, resources, and frequently asked questions can be located on the BCNR's website, available online at the following location: <https://www.secnav.navy.mil/mra/bcncr/Pages/default.aspx>.

You may additionally review Department of Defense and Department of the Navy guidance documents, on the NDRB's website. The guidance documents most applicable to the reapplication reconsiderations include the September 3, 2014 Department of Defense memorandum signed by Secretary Chuck Hagel (often referred to as the "Hagel Memo"), and the August 25, 2017 Department of Defense memorandum signed by Under Secretary A.M. Kurta (often referred to as the "Kurta Memo").

If you have any questions regarding this notice, please feel free to reach out to NDRB Administrative Staff, available via email at ndrb@navy.mil, or by telephone at 202-685-6600, for additional information.

Sincerely,

R. C. POWERS
President, Naval Discharge Review Board

Enclosure: Evidence You May Wish To Submit In Support Of Your Application



DEPARTMENT OF THE NAVY
SECRETARY OF THE NAVY COUNCIL OF REVIEW BOARDS
720 KENNON AVENUE SE STE 309
WASHINGTON NAVY YARD DC 20374-5023

[Date]

[Address]

EVIDENCE YOU MAY WISH TO SUBMIT IN SUPPORT OF YOUR APPLICATION

The Naval Discharge Review Board (NDRB) is required to give liberal or special consideration to applicants seeking discharge status upgrades or changes when their application is based on matters relating to mental-health conditions, including Post-Traumatic Stress Disorder (PTSD); Traumatic Brain Injury (TBI); or Military Sexual Trauma (MST), which includes sexual harassment and intimate partner violence as well as sexual assault. Below is some information that may assist you when determining what materials you would like to submit to the board to support your application.

I. Evidence of PTSD, TBI, MST, or Related Mental-Health Conditions:

If you believe you have one or more of PTSD, TBI, MST, or any other mental health condition, you can provide evidence to support your claim to the board. Evidence can include documentation of a diagnosis. Evidence also includes documentation of or testimony about symptoms or signs of any of these conditions or experiences, even without a diagnosis. In addition to medical records or other similar documentation, you may also submit signed, sworn statements from many different sources, such as family, peers, doctors, counselors, other service members you served with, who can testify or assert that you experienced signs or symptoms of these conditions during your period of service.

In some instances, misconduct, including any misconduct underlying your discharge, may also be evidence of a mental health condition that would receive liberal consideration. Misconduct, including misconduct that underlies your discharge, may also be subject to review for mitigation due to any then-existing mental-health conditions. Some misconduct, however, may outweigh any mitigation from mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment.

It is to your benefit to provide this type of evidence, however, all evidence must be received before your case is presented to the board for consideration. Evidence received after the board has met and considered your case will not be considered, and a new board will not be reconvened. It is recommended that you submit your evidence as soon as possible to ensure its timely consideration. You should contact the board if you have questions or concerns about when your case is scheduled for consideration, or regarding submission deadlines for your supporting materials.

II. Mental-Health Treatment at VA Facilities.

Certain veterans are eligible to receive mental-health treatment and evaluation from the Department of Veterans Affairs, even with a less-than-honorable discharge characterization. If you qualify, this means you may be able to access certain mental-health treatment and evaluation even while your application is pending with the NDRB and regardless of the outcome. To access this type of care, you can contact your nearest VA facility or Vet Center or call 866-222-8387. If you have hearing loss, you can call TTY: 800-877-8339.

III. Finding VA facilities

To find a VA facility, in-network community care provider, or a Vet Center near you, visit <https://www.va.gov/find-locations/>.

IV. Right to Retain Counsel

The NDRB is committed to reviewing all applications for relief fairly and impartially, but data reflects that applicants represented by attorneys before the NDRB tend to have a higher rate of receiving requested relief, including discharge upgrade determinations, than those not represented by an attorney. An attorney may be able to assist you in identifying additional areas of evidence available for your case, to obtain statements in support of your case, and to present your claims and support for relief in a clear and comprehensive manner.

Numerous state and volunteer legal aid organizations exist and may be available to you based on each program's eligibility guidelines and resource availability. One resource, Stateside Legal, provides a database of legal service organizations that serve members of the military, veterans, and their families as well as other online resources. Their website is <https://www.statesidelegal.org>. Additionally, visit <https://www.va.gov/vso/> for a directory of Veterans Service Organizations (VSOs), many of which provide representation or assistance to former service members in discharge upgrade cases.

Please be advised that the NDRB cannot endorse any particular legal aid, veteran, or referral organizations. Many organizations provide free or low-cost legal assistance to veterans.

Sincerely,

R. C. POWERS
President, Naval Discharge Review Board