CRS Webinar - Understanding Constituent Problems with the Military

Lawrence Kapp, Specialist in Military Manpower Policy
Chuck Mason, Legislative Attorney

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Joining the Military (Recruiting)

• Key Qualifications
  • Age
  • Citizenship
  • Education
  • Aptitude
  • Medical
  • Physical Fitness
  • Dependency
  • Character/Conduct
  • Drugs/Alcohol

See Department of Defense Instruction 1304.26, Qualification Standards for Enlistment, Appointment and Induction
Joining the Military (Recruiting)

- Waivers - those not meeting certain standards may still qualify if they receive a waiver.
  - Medical waiver
  - Dependent waiver
  - Conduct waiver
  - Drug waiver
- Waivers are more common when recruiting is difficult; less common when recruiting is strong.
- Many qualifications standards cannot be waived

See Department of Defense Instruction 1304.26, Qualification Standards for Enlistment, Appointment and Induction
Administrative Separation - Reasons

- Military personnel can be administratively separated for a variety of reasons, including:
  - Changes in Service Obligations
  - Convenience of the Government
  - Disability
  - Unsatisfactory Performance
  - Misconduct
  - Unsatisfactory Participations (Reserves)
- Some of these separations are at the request of the individual; others are involuntary
- Involuntary separation of officers are more complicated than enlisted separations

Administrative Separation - Characterization

Characterization of Service

- Honorable
- General
- Other than Honorable
Adverse Actions – Non-Judicial Punishment

• Commanding Officers Non-Judicial Punishment (NJP) - Article 15, UCMJ
  • Disciplinary punishments for minor offenses without the intervention of a court-martial
  • Officers and enlisted servicemembers
  • except for servicemembers attached to or embarked in a vessel, NJP may be refused by the servicemember – commanding officers may elect courts-martial
Adverse Action – Courts-Martial

• **Summary Courts-Martial – Article 20, UCMJ**
  • Minor offenses allegedly committed by enlisted servicemembers
  • Maximum punishments:
    o 30 days confinement
    o Hard labor without confinement for 45 days
    o Restriction to specified limits for 45 days
    o Forfeiture of two-thirds pay per month for one month
    o Reduction to the lowest pay grade
  • Composed of one commissioned officer who need not be a lawyer
Adverse Action – Courts-Martial

• Special Courts-Martial – Article 19, UCMJ
  • Any noncapital offense; generally considered misdemeanor offenses
  • Maximum punishments:
    o Confinement for one year
    o Hard labor without confinement for up to three months
    o Forfeiture of two-thirds pay per month for up to one year
    o Reduction in pay grade
    o Punitive discharge (bad-conduct discharge)
  • Composed of a military judge alone; a jury of at least three servicemembers; or a military judge and not less than three servicemembers
Adverse Action – Courts-Martial

• **General Courts-Martial – Article 18, UCMJ**
  • Serious offenses, including capital crimes
  • Maximum punishments:
    o Reprimand
    o Restriction
    o Fines
    o Forfeitures of up to all pay and allowances
    o Reduction to the lowest enlisted pay grade
    o Confinement
    o Punitive discharge (bad conduct discharge, dishonorable discharge, or dismissal)
    o For capital offenses, death
  • Composed of military judge alone; or a jury of at least five servicemembers and a military judge
Post-Service Matters

- **Discharge Review Board (DRB)**
  - Change, correct, modify discharges and dismissals not issued by a sentence of a general courts-martial
  - If error or injustice is more than 15 years in past, the proper avenue is Board of Correction of Military Records
  - 10 USC § 1553
  - DoD Directive 1332.31, “Boards for Correction of Military Records (BCMRs) and Discharge Review Boards (DRBs),” March 8, 2004
Post-Service Matters

• Board of Correction of Military Records
  • Change any military record when necessary to correct an error or remove an injustice
  • 10 USC § 1552
  • DoD Instruction 1332.41, “Boards for Correction of Military Records (BCMRs) and Discharge Review Boards (DRBs),” March 8, 2004
QUESTIONS?
CONTACT INFORMATION

Lawrence Kapp, Ph.D.
Specialist in Military Manpower Policy
lkapp@crs.loc.gov, 202.707.7609

Chuck Mason
Legislative Attorney
rcmason@crs.loc.gov, 202.707.9294