

SEPARATION INFORMATION SHEET

This is basic, general information regarding the separations process and your options. After reading, speak with you Trial Defense Service counsel on your specific situation.

Documents You Should Have:

You must have a copy of your notification of separation packet. This is your right under AR 135-178, to include:

- You must also have a signed copy of the notification of separation by the commander. If you do not have a copy, notify TDS personnel immediately
- You must also have completed your mental and physical evaluation (if applicable)

Important Items of General Interest

This separation action is administrative in nature and not a formal disciplinary procedure like a courts-martial or article 15. It your commands way of recommending you leave the service prior to the end of your current enlistment.

There are many reasons for why a Soldier may be involuntarily separated/chaptered. All chapters require factual basis that satisfy the requirements of the regulation. If you have any questions about this, speak to your Trial Defense Service personnel.

If you are separated, you will receive one of three characterizations of service:

Honorable – when quality of Soldiers service has met the standards of acceptable conduct. Soldier is entitled to all VA benefits

General, Under Honorable Conditions – Satisfactory military records. Entitled to all benefits, except GI Bill or education benefits from the VA

Other than Honorable: Only allowed for Misconduct (CH 12: Drugs; Civilian Conviction; Serious Criminal Offense) AWOL; and Fraudulent Entry. Will lose most benefits

A Soldiers entire career will be taken into account before characterization of service is recommended by your commander.

You are Entitled to a Separation Board if:

- You have more six years of active and reserve service at the time you were notified
OR
- An Other than Honorable Discharge is possible

*****Note: if the command wants to separate you and you have less than 6 years of service and the command is not seeking an Other than Honorable, you are NOT entitled to a separation board.**

Whether you are entitled to a board or not:

1. You will be assigned a TDS Judge Advocate to assist you with your case, at no charge.

***Note: you may obtain private, civilian counsel at your own expense.

2. You will need to decide what, if any, evidence you want the chain of command to consider prior to making a recommendation. You can make a personal statement; submit documentation in support of good service i.e. awards; certificates of appreciation; character statements from peers; letters from family and friends, etc. anything that you submit should be consistent with the desires you expressed to the command. For Example, if you want to be separated with the General discharge, you should not have letters expressing your wish to stay in the Army.

Options For Soldiers Entitled To A Board:

Option 1: Waive the board. If you are content with separation from the National Guard and the proposed characterization of service, you may want to waive the board.

Option 2: Conditionally Waive the board. Scenario: if your command wants to separate you with an Other than Honorable discharge, you can conditionally waive your right to a board provided that you receive a General or Honorable conditions discharge.

Option 3: Elect and attend the administration separation board. Trial Defense Service will represent you in a formal proceeding

Speak to your Trial Defense Service personnel before you make a decision.

Board Composition:

The board will contain at least three members. If an Other than Honorable discharge is recommended, all members must be officers. They determine whether a factual basis for the separation exist. If they find a basis, they determine whether or not you should be separated from the army. If they find you should be separated, then they will determine the characterization of service.

Other things to know:

- Get a copy of your packet. Your current copy may not have the Commanders Report and your Battalion and Brigade commander's recommendations. Obtain them if possible.
- Stay in contact with your lawyer.
- If you have "waived" your right in any fashion, you can withdraw that waiver up until the Separation authority orders your separation.
- Sexual assault victim's rights. If you made an unrestricted report, let your TDS attorney know.
- Appeal Rights. You may appeal the decision to the Army Board of Corrections for Military Records. If you think you may want to appeal. Make sure you have your entire separations packet.
- Behave yourself. Any misconduct after notification, may result in UCMJ action or may be submitted as evidence during the separation board.

SPEAK WITH YOUR ATTORNEY ABOUT YOUR SEPARTION ACTION.