

NOTICE OF POTENTIAL RIGHT TO APPLY FOR RECONSIDERATION

You are receiving this notice as part of a settlement agreement in a class-action lawsuit filed against the Department of the Air Force in federal court in Connecticut, *Johnson et al. v. Kendall*, Case No. 3:21-cv-01214. As part of the settlement, the Department of the Air Force has agreed to permit certain applicants to the Air Force Discharge Review Board (AFDRB) to apply and request reconsideration of their cases to ensure appropriate application of Department of Defense and Department of the Air Force guidance regarding the potential effects of Post-Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), other mental health conditions, and sexual assault or sexual harassment on conduct leading to an individual's discharge characterization. Review of the AFDRB's file system indicates that you may qualify as a class member with the right to apply for reconsideration.

Class members with the right to apply for reconsideration are former airmen and guardians who received Under Honorable Conditions (General) or Under Other Than Honorable Conditions (UOTHC) discharge service characterizations, who applied to the AFDRB between September 13, 2006 and September 12, 2015, and who have not received an upgrade to an Honorable service characterization.

To exercise your right to reconsideration of your case, you must apply for reconsideration to the correct review board. If you were discharged 15 years ago or less as of the day you apply for reconsideration, you may apply to the AFDRB. If the date of your discharge is older than 15 years as of the day you apply for reconsideration, you must apply to the Air Force Board for Correction of Military Records (AFBCMR).

Once you apply for reconsideration, the AFDRB will obtain your prior application records from its archives for the reconsideration. You are not required to submit additional evidence to either the AFDRB or AFBCMR. If you apply for reconsideration, you 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 notice's enclosure, **"Additional Information for AFDRB Applicants."**

To apply to the AFDRB for a new review and determination regarding your case, please submit your online request at <https://afrba-portal.cce.af.mil/#board-info/drb/navbar> or written request with a new DD Form 293 application to the following address:

Department of the Air Force
Air Force Discharge Review Board
SAF/MRB
3351 Celmers Lane
Joint Base Andrews, MD 20762-6435

Your application for reconsideration, with your new DD Form 293 and any evidence you wish to provide, must be submitted and/or postmarked to the AFDRB within one (1) year of this notice. If your new DD Form 293 is not postmarked within one (1) year of this notice, it will not be considered. It is imperative that you submit a new Form DD 293 and any additional information or new evidence you wish to be considered together.

More information about the AFDRB, application process, resources, and frequently asked questions can be located on the AFDRB's website.

- Web Link: <https://afrba-portal.cce.af.mil/#board-info/drb/navbar>
- 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 AFBCMR for a new review and determination regarding your case, you must submit your written request and application, and any supporting materials, to the AFBCMR online at <https://afrba-portal.cce.af.mil/#board-info/bcmr/navbar>, by e-mail at SAF.MRBC.workflow@us.af.mil, or by mail to:

Air Force Board for Correction of Military Records
3351 Celmers Lane
Joint Base Andrews, MD 20762

Application submissions may include whatever supporting unclassified documentary evidence the applicant wishes to submit. However, all applications for reconsideration submitted to the AFBCMR 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 AFBCMR, application and review process, resources, and frequently asked questions can be located on the AFBCMR website, available online at the following location: <https://www.afpc.af.mil/Career-Management/Military-Personnel-Records/>.

You may additionally review Department of Defense and Department of the Air Force guidance documents, on the AFDRB's website. The guidance documents most applicable to the application for reconsiderations include: (1) the September 3, 2014 Department of Defense memorandum signed by Secretary Chuck Hagel (often referred to as the "Hagel Memo"); (2) the August 25, 2017 Department of Defense memorandum signed by Under Secretary A.M. Kurta (often referred to as the "Kurta Memo"); and (3) the July 25, 2018 Department of Defense memorandum signed by Secretary Robert K. Wilkie (often referred to as the "Wilkie Memo").

If you have any questions regarding this notice, please feel free to reach out to the AFDRB Administrative Staff, available via e-mail at SAF.MR.DRB.workflow@us.af.mil, or by telephone at 1-240-612-5458, for additional information.

Sincerely,

Air Force Discharge Review Board

ADDITIONAL INFORMATION FOR AFDRB APPLICANTS

Below is information you may find useful as you decide what materials to submit to the Air Force Discharge Review Board (AFDRB) in support of your application, as well as additional information regarding resources and your option to retain counsel.

I. Evidence of PTSD, TBI, Other Mental Health Conditions, or Sexual Assault or Sexual Harassment

The AFDRB is required to give “liberal” 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); and experiences of sexual harassment and/or sexual assault.

If you have one of these conditions or experiences, you can—and are encouraged to—submit evidence to the AFDRB to support your claim. Evidence can include documentation of a diagnosis, or documentation of or testimony about symptoms or signs of any of these conditions or experiences while in military service, even without a diagnosis. You may include medical records from the Department of Veterans Affairs (VA) or from private medical professionals, such as physicians, clinical psychologists, or psychiatrists who have examined or treated you during or after service. You may also submit signed statements from other people, such as family, peers, doctors, counselors, or service members who served with you, that explain how they know that you had a mental health condition or one or more traumatic experiences in military service, including experiences of sexual assault or sexual harassment, or intimate partner violence that led to PTSD or TBI. 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.

It is to your benefit to provide this type of evidence. All evidence must be received before your Records Review or Personal Appearance Hearing. If you need more time to submit evidence, you may contact the Board to ask for a reasonable extension.

II. Mental Health Treatment at Department of Veterans Affairs Facilities

Some veterans can receive mental-health treatment and evaluation from the VA, even if they do not have an Honorable service characterization. If you qualify, you may be able to access certain mental-health treatment and evaluation even while your application is pending with the AFDRB, and regardless of the outcome of your application. To access this type of care, you can contact your nearest VA Medical Center or Vet Center or call 866-222-8387. If you have hearing difficulties, please 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

An attorney may be able to assist you in identifying additional areas of evidence relevant to your case, to obtain statements in support of your case, and to present your claims and support for relief to the AFDRB 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 resources. The 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.

The AFDRB does not endorse any particular legal aid, veteran, or referral organizations and will not be held liable for actions of any third-party organizations in this Notice.

V. Accommodations

You may request reasonable accommodations, including but not limited to accommodations of a physical or mental health disability, from the AFDRB in the application and adjudication process. An example of a reasonable accommodation is an extension of time. You also may request reasonable accommodations during your personal appearance hearing, such as taking short breaks, etc.

VI. Contact Information

If you have questions, you may contact the AFDRB at SAF.MR.DRB.workflow@us.af.mil or 1-240-612-5458. If you would like to receive a phone response from the AFDRB instead of a written response, please state such preference to the AFDRB when you contact them.