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Chair
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Committee on Armed Services
United States Senate

The Honorable Mike Rogers
Chairman
The Honorable Adam Smith
Ranking Member
Committee on Armed Services
House of Representatives

Administrative Separation Boards: Air Force Should Clarify Member Qualifications

Being separated from the armed forces for misconduct, unsatisfactory performance, or other reasons can have lifelong implications.¹ Service members who face separation and meet certain conditions may request that an administrative separation board for enlisted personnel or a board of inquiry for officers—referred to collectively in this report as administrative separation boards—be convened to determine whether to uphold the recommended separation action. If a board recommends separation and the decision is upheld, the service member may receive one of three types of discharge: honorable, general (under honorable conditions), or under other than honorable conditions.² The type of discharge a service member receives may affect eligibility for veteran’s benefits and future employment opportunities.

Section 529B of the National Defense Authorization Act for Fiscal Year 2022 includes a provision for us to review the use of administrative separation boards within the armed forces.³ This report assesses the extent to which the armed forces have: (1) established policies and processes for convening administrative separation boards and selecting the board president, recorder, legal advisor, and others members of these boards; and (2) processes to review cases and outcomes of administrative separation boards.

To address these objectives, we reviewed and analyzed relevant laws as well as Department of Defense (DOD) and armed forces policies on active duty enlisted and officer administrative

¹The armed forces include the Army, the Navy, the Marine Corps, the Air Force, the Space Force, and the Coast Guard.

²When a board recommends separating a service member, the case is forwarded to the official responsible for making the separation decision.

³Pub. L. No. 117-81, § 529B (2021).

separation boards.⁴ We compared the armed forces policies with relevant laws and DOD policies, as appropriate, to determine similarities and if any military service (Army, Navy, Marine Corps, Air Force, and Space Force) policy or provision of policy conflicted with law or DOD policy.⁵ We also reviewed these policies to determine requirements for administrative separation board review processes. We conducted interviews with armed forces officials to gather information about these policies and processes for convening administrative separation boards, selecting board members, and reviewing board cases and outcomes.⁶

We conducted this performance audit from April 2022 to January 2023 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Administrative separation boards gather and review evidence to make recommendations regarding whether an armed force should separate (that is, discharge from service) or retain a service member. Service members who meet certain requirements are eligible for administrative separation boards, as shown in table 1.

Table 1: Service Member Eligibility Requirements for Convening an Active Duty Administrative Separation Board

DOD Military Services ^a		Coast Guard ^b	
Enlisted	Officer	Enlisted	Officer
Six or more years of service (active and reserve) or those recommended for separation under other than honorable conditions ^c	Six or more years of active commissioned service or those recommended for separation under other than honorable conditions	Eight or more years of service (active and reserve) or those recommended for separation under other than honorable conditions	Five or more years of commissioned service or those recommended for separation under other than honorable conditions

Source: GAO analysis of Department of Defense (DOD) and Coast Guard policies. | GAO-23-105780

^aThe Army, Navy, Marine Corps, Air Force, and Space Force follow Department of Defense (DOD) guidelines for administrative separation board eligibility.

⁴We reviewed and analyzed the following laws and Department of Defense (DOD) and armed forces policies: 10 U.S.C. §§ 1181-1187; 14 U.S.C. §§ 2158-2164; DOD Instruction 1332.14, *Enlisted Administrative Separations* (Jan. 27, 2014) (incorporating change 7, effective June 23, 2022); DOD Instruction 1332.30, *Commissioned Officer Administrative Separations* (May 11, 2018) (incorporating change 3, effective Sep. 9, 2021); Army Regulation 635-200, *Active Duty Enlisted Administrative Separations* (June 28, 2021); Army Regulation 600-8-24, *Officer Transfers and Discharges* (Feb. 8, 2020); Army Regulation 15-6, *Procedures for Administrative Investigations and Boards of Officers* (Apr. 1, 2016); Naval Military Personnel Manual, Article 1910 (series) *Enlisted Administrative Separations*; Secretary of the Navy Instruction 1920.6D, *Administrative Separation of Officers* (July 24, 2019); Marine Corps Order 1900.16, *Separation and Retirement Manual* (Change 2, Feb. 15, 2019); Marine Corps Order 5800.16, *Legal Support and Administration Manual*, vol.11, *Administrative Separations and Investigations* (Aug. 8, 2018) and vol.15, *Officer Misconduct and Substandard Performance of Duty* (Aug. 8, 2018); Department of the Air Force Instruction 36-3211, *Military Separations* (June 24, 2022); Department of the Air Force Manual 51-507, *Enlisted Discharge Boards and Boards of Officers* (Jan. 24, 2019) (Incorporating Department of the Air Force Guidance Memorandum 2022-01, May 19, 2022); U.S. Coast Guard Personnel Service Center Instruction M1910.1, *Enlisted Personnel Administrative Boards Manual* (change 1, July 13, 2018); and U.S. Coast Guard Commandant Instruction M1000.4, *Military Separations* (change 6, Aug. 21, 2018). The Space Force follows Air Force policies regarding military separations.

⁵We analyzed Coast Guard policy and law as appropriate. The Department of Homeland Security does not have an overarching policy related to administrative separations and DOD's administrative separations policy is not applicable to the Coast Guard, so we did not include the Coast Guard in the DOD analysis. Sections 2158-2164 of title 14, United States Code are applicable to the Coast Guard policy.

⁶We did not meet with the Space Force because, according to Air Force officials, the Air Force processes all Space Force separations.

^bThe Coast Guard is a service in the Department of Homeland Security. It follows administrative separation policy and procedure established by the Coast Guard pursuant to delegated authority from the Secretary of Homeland Security.
^cAir Force and Space Force noncommissioned officers are entitled to an enlisted administrative separation board regardless of characterization of discharge or number of years in service.

Administrative separation boards recommend one of three types of discharge: honorable, general (under honorable conditions), and under other than honorable conditions. The characterization of service associated with a discharge is based on a service member's behavior and performance during a specific period of service. The types of discharge are defined below.

- **Honorable.** This is used when the service member's service has generally met the standards of acceptable conduct and performance of duty.
- **General (Under Honorable Conditions).** This is used when the positive aspects of a service member's conduct or performance outweigh the negative aspects of the service member's record.
- **Under Other than Honorable Conditions.** This may be issued when the reason for separation is based on behavior that constitutes a significant departure from the conduct expected of the service member.

The Assistant Secretary of Defense for Manpower and Reserve Affairs is responsible for developing guidance for administrative separation boards. The Secretaries of the military departments are responsible for developing and implementing board policies in accordance with DOD guidance. The Coast Guard is a service in the Department of Homeland Security.⁷ It follows administrative separation policy and procedure established by the Coast Guard pursuant to delegated authority from the Secretary of Homeland Security.

Policies and Processes for Convening Boards and Selecting Members Are Similar and Generally Align

The armed forces have similar policies and processes for convening administrative separation boards and selecting the members of these boards. The military services' policies and processes generally align with DOD policies and relevant laws. However, provisions in the enlisted Air Force policy regarding the required qualifications for noncommissioned officer board members contain conflicting requirements, and one of these provisions is inconsistent with DOD policy.

Policies and Processes for Convening Administrative Separation Boards

Each of the armed forces has established policies that specify similar processes for convening administrative separation boards. According to these policies, the process for convening boards begins when a service member receives notice in writing of a proposed separation action. The notice includes, (1) the reason(s) for the proposed separation action, (2) the least favorable discharge the service member may receive if separated, and (3) the rights of the service member.⁸ Service members who are eligible for an administrative separation board may request to have a hearing before the board or can waive that right (see table 1 above for eligibility). If a service member requests a hearing, board members must be selected to serve on the board.

⁷The Coast Guard may also operate as a service in the Department of the Navy, when the President so directs or upon declaration of war if Congress so directs. See, 14 U.S.C. § 103(a)-(b).

⁸Service member rights include the right to be represented by counsel, the right to obtain documents relevant to the proposed separation, and the right to appear in person before an administrative separation board (when applicable).

Policies and Processes for Selecting Administrative Separation Board Members

Each of the armed forces has established policies that specify similar processes for selecting members to serve on administrative separation boards. According to armed forces policies, administrative separation boards are required to have at least three voting board members (a President and two members) and a nonvoting recorder. Additionally, Army (unless operationally unfeasible), Marine Corps, and Air Force policies require a nonvoting legal advisor be appointed to enlisted administrative separation boards. However, Navy and Coast Guard policies do not require a legal advisor for enlisted administrative separation boards; nor does Navy policy require a legal advisor for officer boards of inquiry. Most of the armed forces policies specify the required duties and qualifications each board member must have to serve on these boards (see table 2).

Table 2: Armed Forces Active Duty Administrative Separation Boards: Member Duties and Qualifications

Board member	Primary duties of board member ^a	Member qualifications for enlisted administrative separation boards	Member qualifications for officer boards of inquiry ^d
President	<ul style="list-style-type: none"> • Presides over hearing (except in Air Force/Space Force enlisted administrative separation boards) • Rules on procedural matters and evidence (except in Air Force/Space Force and Marine Corps enlisted administrative separation boards and boards of inquiry) • Votes on whether to recommend retention or separation of service member • If vote result is to separate service member, votes on what characterization of service to recommend^b 	<ul style="list-style-type: none"> • Army/Navy/Marine Corps/Air Force/Space Force/Coast Guard: O-4 or higher 	<ul style="list-style-type: none"> • Army/Navy/Marine Corps/Air Force/Space Force: O-6 or higher • Coast Guard: O-5 or higher
Member	<ul style="list-style-type: none"> • Votes on whether to recommend retention or separation of service member • If vote result is to separate service member, votes on what characterization of service to recommend^b 	<ul style="list-style-type: none"> • Army/Navy/Marine Corps: commissioned, warrant, or noncommissioned officer. If noncommissioned officer, must be an E-7 or higher and senior in grade to the service member who may be separated. • Air Force/Space Force:^c commissioned or noncommissioned officer. If noncommissioned officer, must outrank the service member who may be separated. 	<ul style="list-style-type: none"> • Army/Navy/Marine Corps/Air Force/Space Force/Coast Guard: O-5 or higher

		<ul style="list-style-type: none"> Coast Guard: one commissioned or warrant officer, and one noncommissioned officer, E-7 or higher and in the same or senior grade to the service member who may be separated 	
Recorder	<ul style="list-style-type: none"> Presents evidence Examines and cross-examines witnesses Chronicles events of hearing for board's final report 	<ul style="list-style-type: none"> Army: should be a judge advocate, if reasonably available Navy: should be a judge advocate for child and/or spouse abuse cases Marine Corps: experienced warrant or commissioned officer, or noncommissioned officer with staff judge advocate approval. In cases of child abuse, domestic, intimate partner, and immediate family abuse, and incidents of sexual misconduct, must be a judge advocate. Air Force/Space Force: a judge advocate Coast Guard: need not be a judge advocate or other Coast Guard counsel 	<ul style="list-style-type: none"> Army: a judge advocate or a Department of the Army civilian attorney Navy: no guidance in policy Marine Corps: a judge advocate, O-3 or higher Air Force/Space Force: a judge advocate, O-2 or higher Coast Guard: no guidance in policy
Legal advisor	<ul style="list-style-type: none"> Rules on evidence and board procedures, or provides advice to President of the board about same Presides over hearing (Air Force/Space Force only) 	<ul style="list-style-type: none"> Army: a judge advocate or a Department of the Army civilian attorney Navy: may be appointed. No guidance in policy. Marine Corps: a judge advocate Air Force/Space Force: a judge advocate Coast Guard: may be appointed. If appointed, a judge advocate or other Coast Guard counsel. 	<ul style="list-style-type: none"> Army: a judge advocate or a Department of the Army civilian attorney Navy: may be appointed. If appointed, a judge advocate. Marine Corps: a judge advocate, O-4 or higher Air Force/Space Force: a company grade judge advocate (O-2 to O-3) certified as a military judge or a field grade judge advocate (O-4 to O-6) Coast Guard: a judge advocate

Source: GAO analysis of armed forces policies. | GAO-23-105780

^aThese responsibilities pertain to board members of all armed forces, except as otherwise noted.

^bCoast Guard boards of inquiry do not make recommendations on characterization of service.

^cThe Department of the Air Force policy on military separations is applicable to both the Air Force and the Space Force.

^dThe board president and voting members must be senior in grade and in the same armed force of the service member who may be separated.

While the armed forces policies provide a general framework for the number and types of individuals who can serve on these boards, officials we interviewed from each of the armed forces stated that the selection of the members can vary. According to these officials, some board members are selected on a case-by-case basis, while others serve on a standing board

for a given period of time. Officials from the following armed forces provided examples of their respective processes:⁹

Army

- Many installations have standing administrative separation boards. Primary and alternate board members are selected to serve, as needed, for approximately 3 to 6 months, but the composition changes so that the same members are not on the same boards every time.

Navy

- Enlisted administrative separation boards are routinely conducted at sea because carriers have a large number of officers and senior enlisted personnel onboard that are selected to serve as board members.
- Except for child and/or spouse abuse cases, the recorder selected to serve on enlisted administrative separation boards does not have to be a judge advocate. Though the position is often filled by a judge advocate, a civilian trained in law, a legal officer who went to legal officer school, a paralegal, or a legal intern can also fill the position. However, officials stated that the recorder for boards of inquiry must be a judge advocate.
- The legal advisor, who is a judge advocate, is usually appointed to an enlisted administrative separation board. Legal advisors often do not attend the board hearing and generally only become involved if there is a dispute on the rules of the board, evidence, or challenges to board members.
- A Navy region is conducting a pilot program for officer boards of inquiry in which standing members are appointed to serve, as needed, for approximately 3 months.

Marine Corps

- Board members for administrative separation boards are appointed by commanders on a case-by-case basis.

Air Force

- Voting board members (President and two members) at installations are generally selected from a list of qualified individuals developed by their legal office. The staff judge advocate at the installation recommends the nonvoting board members (recorder and legal advisor) who are required to be judge advocates.

Coast Guard

- For enlisted administrative separations conducted at the Coast Guard's Personnel Service Center, Coast Guard leaders nominate officers and senior enlisted members to serve on these boards. The nominated members complete a questionnaire and the responses are used to select the board members. However, field commands conducting

⁹We did not include examples from the Space Force because, according to officials, the Air Force processes all Space Force separations.

enlisted administrative separation boards may use a different process for selecting board members.

- All officer boards of inquiry convene at the Coast Guard's Personnel Service Center. An official at the Center identifies the three voting board members (President and two members) and contacts them to check their qualifications and availability for a certain date.

Air Force Policy for Noncommissioned Officer Board Member Qualifications Conflict and One Provision Is Inconsistent with DOD Policy

While the policies of the military services generally align with DOD policies and relevant laws, provisions in the Air Force's policy pertaining to qualifications of noncommissioned officer board members for enlisted separation boards contain conflicting requirements. Additionally, one of these requirements is inconsistent with DOD policy.

DOD policy requires that a noncommissioned officer who is appointed to serve as a voting member on an enlisted administrative separation board be an E-7 or higher.¹⁰ However, Air Force policy in a Department of the Air Force instruction includes conflicting information about the grade requirements for voting members on these boards.¹¹ Specifically, one provision of the policy specifies that noncommissioned officers (which would include E-5 and above) may serve in this capacity, while another states that only senior noncommissioned officers (E-7 and above) may serve. In describing the composition of the board, the instruction states that on the written request of the [service member], "noncommissioned officers" may serve as board members, but they must outrank the service member. In the same instruction, the table describing the qualifications of the board members states that "[o]nly senior noncommissioned officers" who are senior in rank to the service member can serve on the board. The Secretaries of the military departments are responsible for developing and maintaining policies, standards, and procedures in accordance with DOD policy to provide clear guidance and to ensure the uniform implementation of enlisted administrative separation board policy.¹²

Air Force officials told us that the two provisions taken together identify the requirements of voting members to be senior noncommissioned officers (E-7 or higher) and that this is consistent with DOD policy. Officials suggested that the current disconnect in the instruction may have been an oversight made when trying to further clarify this information during the instruction's most recent revision. Air Force officials acknowledged that the conflicting provisions are confusing. Officials stated that there is a possibility that practitioners might follow the incorrect provision that seemingly allows noncommissioned officers below the rank of E-7 to be appointed to enlisted boards. Officials also stated that appointing noncommissioned officers below the rank of E-7 could lead to a board decision being overturned. However, they added that they believe there are sufficient checks and balances to prevent this from happening.

Air Force officials told us that they are discussing potential changes to their policy to clarify the conflicting provision. However, officials stated that they are unsure when these changes will be completed. Until the Air Force clarifies the conflicting grade requirements for voting members on enlisted separation boards throughout the policy, the Air Force risks having board results

¹⁰DOD Instruction 1332.14, *Enlisted Administrative Separations* (Jan. 27, 2014) (incorporating change 7, effective June 23, 2022).

¹¹Department of the Air Force Instruction 36-3211, *Military Separations* (June 24, 2022).

¹²DOD Instruction 1332.14.

overturned if voting members are not appointed in a manner that is consistent with the grade requirements specified in DOD policy.

The Armed Forces Review Board Cases Before and After Separation

The armed forces have processes to review administrative separation board cases and outcomes.¹³ Specifically, armed forces policies that govern administrative separation boards outline requirements for legal reviews. All of the armed forces officials we interviewed told us they conduct legal reviews of administrative separation board cases to ensure these comply with due process requirements and applicable policies, and are free from errors. According to these officials, they also examine issues raised by the service member's counsel as part of their legal review. As an example, Army officials told us a service member's counsel may identify deficiencies in the board's process. If reviewing officials identify a deficiency, they review the case files for errors, among other things. If they find a substantial error, Army officials stated that they would reject the board's decision and redo the administrative separation board process.

After a service member has been discharged, the service member can also request a review of the decision. There are three types of post-separation review boards. Among other things, these boards provide service members opportunities to request a change to their discharge or characterization of service (see table 3). According to DOD officials, these boards provide another layer of due diligence in the administrative separations process.

¹³Officials told us that the armed forces do not evaluate the effectiveness of the operations of administrative separations boards. Accordingly, we assessed the extent to which the armed forces have processes to review the cases and outcomes of these boards.

Table 3: Armed Force/Department of Defense (DOD) Post-Separation Review Boards

	Armed Forces ^a		DOD
Board type	Discharge Review Boards	Boards for Correction of Military/Naval Records	Discharge Appeal Review Board
Purpose	Examine an applicant's discharge and consider changing the characterization of service and/or reason for discharge, based on standards of propriety or equity.	Correct an alleged error or injustice to service member military records.	Conducts final administrative review of a request for an upgrade in the characterization of a current or former service member's discharge or dismissal.
Service member information for review/correction	Discharge (except for discharge/review of general courts-martial).	Review personnel records regarding discharges, dates of services, benefits (among other things).	Provides recommendation to the Secretary of the military department to upgrade the characterization of a discharge or dismissal not granted by service Discharge Review Board or Board for Correction of Military/Naval Records.
Eligibility	Within 15 years of separation.	Within 3 years of discovering error or injustice (time limit may be waived in the interest of justice).	Must first exhaust remedies available before the service Discharge Review Board and Board for Correction of Military or Naval Records.

Source: GAO analysis of Department of Defense (DOD) and Coast Guard information. | GAO-23-105780

^aArmed forces includes the Army, the Navy, the Marine Corps, the Air Force, the Space Force and the Coast Guard.

Conclusions

Being separated from the armed forces may affect a service member's eligibility for veteran's benefits and future employment opportunities. DOD policy requires the military departments to develop and maintain service policies to provide clear guidance that ensures uniform implementation of enlisted administrative separation board policy. However, provisions in the Air Force's policy for noncommissioned officer board member qualifications conflict and one is inconsistent with DOD policy, which may lead to differing implementation of board processes. Until it clarifies its policy, the Air Force cannot reasonably ensure that it is complying with DOD policy. Additionally, the Air Force risks having the result of boards overturned if board members do not meet the required qualifications.

Recommendation for Executive Action

The Secretary of the Air Force should issue clarifying guidance for the Department of the Air Force's enlisted administrative separation board policy to make it clear that the required qualifications of enlisted voting members are E-7 or higher, consistent with those specified in the Department of Defense's enlisted administrative separation board policy. (Recommendation 1)

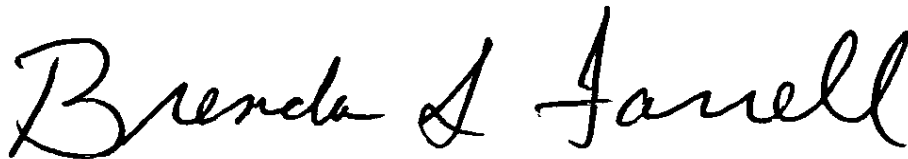
Agency Comments

We provided a draft of this report to DOD and the Department of Homeland (DHS) for review and comment. DOD did not provide comments. DOD and DHS provided technical comments, which we incorporated as appropriate.

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We are sending copies of this report to the appropriate congressional committees, the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, and the Secretary of the Department of Homeland Security. In addition, this report will be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions regarding this report, please contact me at (202) 512-3604 or farrellb@gao.gov. Contact points for our offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are Kimberly Mayo (Assistant Director), Nicole Collier (Analyst in Charge), John Bornmann, Vincent Buquicchio, Damian Chavez, David Jones, Mary Jo LaCasse, Michael Silver, and Lillian Moyano Yob.

A handwritten signature in black ink that reads "Brenda S. Farrell". The signature is written in a cursive, flowing style.

Brenda S. Farrell
Director, Defense Capabilities and Management

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