

by the Secretary concerned that, at the time of death of the member, the member was qualified for appointment to that higher grade.

(Aug. 10, 1956, ch. 1041, 70A Stat. 116; Pub. L. 110-417, [div. A], title V, § 502(b), Oct. 14, 2008, 122 Stat. 4433.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1522(a)	10:612 (words before semicolon). 34:285e (words before semicolon).	July 28, 1942, ch. 528, § 4, 56 Stat. 723; July 17, 1953, ch. 220, § 1 (a)-(d), 67 Stat. 176.
1522(b)	10:612 (words after semicolon). 34:285e (words after semicolon).	

In subsection (a), the words “a member of” are substituted for the words “any person who, while in”, in 10:612 and 34:285e. The words “armed forces” are substituted for the words “the military service of the United States”, in 10:612; and “the naval service of the United States”, in 34:285e (which did not appear in the source statute for the revised section, as amended by the act of July 17, 1953, ch. 220, § 1(b), 67 Stat. 177). The words “other than a commissioned grade” are substituted for the words “noncommissioned grade” to make it clear that the revised section covers warrant officers. The words “receive or” are omitted as surplusage.

In subsection (b), the words “appointment or promotion”, “and branch of the service”, “official”, and “by such warrant” are omitted as surplusage.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-417, § 502(b)(1), struck out “in line of duty” before period at end.

Subsec. (c). Pub. L. 110-417, § 502(b)(2), added subsec. (c).

§ 1523. Posthumous commissions and warrants: effect on pay and allowances

No person is entitled to any bonus, gratuity, pay, or allowance because of a posthumous commission or warrant.

(Aug. 10, 1956, ch. 1041, 70A Stat. 116.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1523	10:491d. 34:285f.	July 28, 1942, ch. 528, § 6, 56 Stat. 723; July 17, 1953, ch. 220, § 1(e) (1st 7 words), 67 Stat. 177.

The word “receive” is omitted as surplusage. The words “because of a posthumous commission or warrant” are substituted for the words “by virtue of any provision of sections 491a-491d [285b-285d] and 612 [285e] of this title”, in 10:491d and 34:285f.

§ 1524. Posthumous commissions and warrants: determination of date of death

For the purposes of sections 1521 and 1522 of this title, in any case where the date of death is established or determined under section 551-558 of title 37, the date of death is the date the Secretary concerned receives evidence that the person is dead, or the date the finding of death is made under section 555 of title 37.

(Added Pub. L. 89-718, § 12(a)(1), Nov. 2, 1966, 80 Stat. 1117.)

CHAPTER 79—CORRECTION OF MILITARY RECORDS

- Sec.
- 1551. Correction of name after separation from service under an assumed name.
- 1552. Correction of military records: claims incident thereto.
- 1553. Review of discharge or dismissal.
- 1553a. Review of a request for upgrade of discharge or dismissal.
- 1554. Review of retirement or separation without pay for physical disability.
- 1554a. Review of separation with disability rating of 20 percent disabled or less.
- 1554b. Confidential review of characterization of terms of discharge of members of the armed forces who are victims of sex-related offenses.
- 1555. Professional staff.
- 1556. Ex parte communications prohibited.
- 1557. Timeliness standards for disposition of applications before Corrections Boards.
- 1558. Review of actions of selection boards: correction of military records by special boards; judicial review.
- 1559. Personnel limitation.

AMENDMENTS

2019—Pub. L. 116-92, div. A, title V, § 523(b)(1), Dec. 20, 2019, 133 Stat. 1354, added item 1553a.

2017—Pub. L. 115-91, div. A, title V, § 522(a)(2), Dec. 12, 2017, 131 Stat. 1380, added item 1554b.

2008—Pub. L. 110-181, div. A, title XVI, § 1643(a)(2), Jan. 28, 2008, 122 Stat. 467, added item 1554a.

2002—Pub. L. 107-314, div. A, title V, § 552(b), Dec. 2, 2002, 116 Stat. 2552, added item 1559.

2001—Pub. L. 107-107, div. A, title V, § 503(a)(2), Dec. 28, 2001, 115 Stat. 1083, added item 1558.

1998—Pub. L. 105-261, div. A, title V, §§ 542(a)(2), 543(a)(2), 544(b), Oct. 17, 1998, 112 Stat. 2020-2022, added items 1555 to 1557.

1962—Pub. L. 87-651, title I, § 110(b), Sept. 7, 1962, 76 Stat. 510, substituted “discharge or dismissal” for “discharges or dismissals” in item 1553, and “retirement or separation without pay for physical disability” for “decisions of retiring boards and similar boards” in item 1554.

1958—Pub. L. 85-857, § 13(v)(3), Sept. 2, 1958, 72 Stat. 1268, added items 1553 and 1554.

§ 1551. Correction of name after separation from service under an assumed name

The Secretary of the military department concerned shall issue a certificate of discharge or an order of acceptance of resignation in the true name of any person who was separated from the Army, Navy, Air Force, or Marine Corps honorably or under honorable conditions after serving under an assumed name during a war with another nation or people, upon application by, or on behalf of, that person, and upon proof of his identity. However, a certificate or order may not be issued under this section if the name was assumed to conceal a crime or to avoid its consequences.

(Aug. 10, 1956, ch. 1041, 70A Stat. 116.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1551	5:200. 34:597.	Apr. 14, 1890, ch. 80; re-stated June 25, 1910, ch. 393, 36 Stat. 824. Aug. 22, 1912, ch. 329, 37 Stat. 324.

The word “shall” is substituted for the words “is authorized and required”. The word “separated” is substituted for the word “discharged”, since the revised section covers acceptances of resignations as well as certificates of discharge. The words “enlisted or” and “while minors or otherwise” are omitted as surplusage. The words “the War of the Rebellion” are omitted as obsolete. The word “with” is substituted for the words “between the United States and”. The words “honorably or under honorable conditions” are substituted for the word “honorably”.

PERSONNEL FREEZE FOR SERVICE REVIEW AGENCIES

Pub. L. 105-261, div. A, title V, §541, Oct. 17, 1998, 112 Stat. 2019, provided that, during fiscal years 1999, 2000, and 2001, the Secretary of a military department could not carry out any reduction in the number of military and civilian personnel assigned to duty with the service review agency for that military department below the baseline number for that agency until: (1) the Secretary had submitted to Congress a report that described the reduction to be made and the rationale for that reduction, and specified the number of such personnel that would be assigned to duty with that agency after the reduction; and (2) a period of 90 days had elapsed after the date on which such report had been submitted.

§ 1552. Correction of military records: claims incident thereto

(a)(1) The Secretary of a military department may correct any military record of the Secretary's department when the Secretary considers it necessary to correct an error or remove an injustice. Except as provided in paragraph (2), such corrections shall be made by the Secretary acting through boards of civilians of the executive part of that military department. The Secretary of Homeland Security may in the same manner correct any military record of the Coast Guard.

(2) The Secretary concerned is not required to act through a board in the case of the correction of a military record announcing a decision that a person is not eligible to enlist (or reenlist) or is not accepted for enlistment (or reenlistment) or announcing the promotion and appointment of an enlisted member to an initial or higher grade or the decision not to promote an enlisted member to a higher grade. Such a correction may be made only if the correction is favorable to the person concerned.

(3)(A) Corrections under this section shall be made under procedures established by the Secretary concerned. In the case of the Secretary of a military department, those procedures must be approved by the Secretary of Defense.

(B) If a board makes a preliminary determination that a claim under this section lacks sufficient information or documents to support the claim, the board shall notify the claimant, in writing, indicating the specific information or documents necessary to make the claim complete and reviewable by the board.

(C) If a claimant is unable to provide military personnel or medical records applicable to a claim under this section, the board shall make reasonable efforts to obtain the records. A claimant shall provide the board with documentary evidence of the efforts of the claimant to obtain such records. The board shall inform the claimant of the results of the board's efforts, and shall provide the claimant copies of any

records so obtained upon request of the claimant.

(D) Any request for reconsideration of a determination of a board under this section, no matter when filed, shall be reconsidered by a board under this section if supported by materials not previously presented to or considered by the board in making such determination.

(4)(A) Subject to subparagraph (B), a correction under this section is final and conclusive on all officers of the United States except when procured by fraud.

(B) If a board established under this section does not grant a request for an upgrade to the characterization of a discharge or dismissal, that declination may be considered under section 1553a of this title.

(5) Each final decision of a board under this subsection shall be made available to the public in electronic form on a centralized Internet website. In any decision so made available to the public there shall be redacted all personally identifiable information.

(b) No correction may be made under subsection (a)(1) unless the claimant (or the claimant's heir or legal representative) or the Secretary concerned files a request for the correction within three years after discovering the error or injustice. The Secretary concerned may file a request for correction of a military record only if the request is made on behalf of a group of members or former members of the armed forces who were similarly harmed by the same error or injustice. A board established under subsection (a)(1) may excuse a failure to file within three years after discovery if it finds it to be in the interest of justice.

(c)(1) The Secretary concerned may pay, from applicable current appropriations, a claim for the loss of pay, allowances, compensation, emoluments, or other pecuniary benefits, or for the repayment of a fine or forfeiture, if, as a result of correcting a record under this section, the amount is found to be due the claimant on account of his or another's service in the Army, Navy, Air Force, Marine Corps, or Coast Guard, as the case may be, or on account of his or another's service as a civilian employee.

(2) If the claimant is dead, the money shall be paid, upon demand, to his legal representative. However, if no demand for payment is made by a legal representative, the money shall be paid—

(A) to the surviving spouse, heir, or beneficiaries, in the order prescribed by the law applicable to that kind of payment;

(B) if there is no such law covering order of payment, in the order set forth in section 2771 of this title; or

(C) as otherwise prescribed by the law applicable to that kind of payment.

(3) A claimant's acceptance of a settlement under this section fully satisfies the claim concerned. This section does not authorize the payment of any claim compensated by private law before October 25, 1951.

(4) If the correction of military records under this section involves setting aside a conviction by court-martial, the payment of a claim under this subsection in connection with the correction of the records shall include interest at a rate to be determined by the Secretary con-