

Staying Abreast of Separation Benefits

Major Joshua J. Smith*

Time is a sort of river of passing events, and strong is its current; no sooner is a thing brought to sight than it is swept by and another takes its place, and this too will be swept away.

—Marcus Aurelius

I. Introduction

Every trial counsel has faced the daunting task of explaining to commanders, chiefs of justice, and staff judge advocates exactly what differentials exist among a separation under honorable, general under honorable, or under other than honorable conditions. Every defense counsel has faced a client who, in preparing for a pending separation action, asks what benefits they will retain upon separation from the Armed Forces.

The great salvation to those in such a predicament rested with the well-valued and long used “Benefits at Separation” document.¹ This document saved hours, days, or weeks of researching and muddling through code, regulations, and instructions so that you could tell your respective client, commander, or Soldier that the Soldier would still be entitled to preference on a farm loan by the Department of Agriculture, even with an under other than honorable conditions characterization of service.

The “Benefits at Separation” document is relied upon by more than young judge advocates seeking a reliable reference document to the myriad of benefits for transitioning Soldiers. Veteran outreach organizations and offender transitioning services, such as Transitioning Offenders Program (TOP), rely on this document to advise their clients of potential services and benefits which may be available during their re-entry into civilian life.²

Unfortunately, as time elapsed, either few thought of the need to update the “Benefits at Separation” document, or as they prodded the surface they quickly became aware of the monstrous web of statutes and regulations that continued to sweep forward like a strong river, growing and morphing. This is not a criticism of those who originally pulled together the information, but a warning to current judge advocates of the consequences of not staying abreast of these changes.

* Judge Advocate, U.S. Army. Currently a student in the 62d Graduate Course, The Judge Advocate General’s School, U.S. Army, Charlottesville, Va.

¹ Benefits at Separation, http://www.knox.army.mil/Garrison/supportof-fices/tds/docs/VA_Benefits_Chart.pdf (last visited Sept. 20, 2013).

² Transition Offender Program based out of Washington recently published in June 2012 an information paper for incarcerated Veterans. Central to this information is the “Benefits at Separation” document. See <http://www.topwa.org/veteransjune2012.pdf> (last visited Sept. 20, 2013).

Fortunately, a massive undertaking in updating our understanding in this area of the law occurred with the publication of *Beyond “T.B.D.”: Understanding VA’s Evaluation of a Former Servicemember’s Benefit Eligibility Following Involuntary or Punitive Discharge from the Armed Forces* (hereinafter known as *Beyond “T.B.D.”*).³ As noted in this article, the “Benefits at Separation” document provides a valuable starting point, though it is long overdue a makeover. This article attempts to place the readers on a path to understanding the current state of transitional benefits, outside the scope of the VA benefits already covered by “*Beyond T.B.D.*”, as it applies to the varied characterizations of service a Soldier may receive.

II. A Review of Sample Separation Benefits⁴

A. Statutory Review

Since benefits inherently involve monetary expenditures, the first step is locating the statutory authorization for the benefit. The statutes provide the benefit’s scope and the class of individuals who qualify for receipt. The importance of consulting the statutes, and then later the regulations, lies with the fact that many of the benefits do not rest solely upon the characterization of service the servicemember receives. While characterization of service certainly plays a significant litmus test and may automatically exclude certain categories of individuals, other criteria may further exclude individuals who, if relying solely upon characterization, may mistakenly believe they qualify for the benefit.

The additional statutory criteria are most often apparent in benefits administered by agencies other than the Department of Defense. Criteria for benefits under other government agencies are generally more involved beyond a simple characterization of service analysis. For example, the Department of Labor administers unemployment compensation. Soldiers separating from the service must meet two criteria to receive unemployment compensation. First, the characterization of service must be honorable or

³ Major John W. Brooker, Major Evan R. Seamone & Ms. Leslie C. Rogall, *Beyond “T.B.D.”: Understanding VA’s Evaluation of a Former Servicemember’s Benefit Eligibility Following Involuntary or Punitive Discharge from the Armed Forces*, 214 MIL. L. REV. 1 (2012).

⁴ A listing of several separation benefits is found in the Appendix to this article.

general under honorable conditions.⁵ Second, the Soldier must have served the entire first full term initially agreed to, or the Soldier must have been discharged under certain limited circumstances. Those circumstances are limited to: (a) discharge under an early release program for the convenience of the Government; (b) discharge due to pregnancy or parenthood; (c) discharge for medical disqualification or service incurred injury or disability; (d) discharge due to personality disorders or inaptitude, and only if service was continuous for 365 days or more; or (e) discharge because of a hardship, such as sole survivorship.⁶ For enlisted Soldiers separating before their enlistment period concludes, only separations pursuant to Army Regulation 635-200, *Active Duty Enlisted Administrative Separations*, Chapters 5, 6, and 8 would qualify the Soldier for unemployment compensation.⁷

In addition to adding criteria within the statutory language itself, agencies providing benefits, such as veteran preferences, tend to selectively cite definitions from Title 10 or Title 38. It is critical to conduct a thorough reading of those definitions to understand the scope of the agency's benefits and any applicable limitations.⁸ For example, the Department of Agriculture administers government farm loans. The statute grants war veterans a preference to those

farm loans.⁹ The authorizing statute, 7 U.S.C. § 1983(5) (2012), cites 38 U.S.C. § 101(12) (2012) to define "a person who is a veteran of any war."¹⁰ The definition is common-sensible including "any veteran who served in the active military, naval, or air service during a period of war."¹¹ However, the term "veteran" is further defined under 38 U.S.C. §§ 101(2) and (18) as "a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable."¹² Therefore, a first glance reading of the farm loan preference may include all war veterans; however, a complete and thorough reading excludes those with a dishonorable discharge.¹³

Finally, outside agencies may redefine honorable service for the purpose of applying their mandates. For example, the U.S. Citizenship and Immigration Service (USCIS) processes alien Soldiers' requests to naturalize. Alien Soldiers must serve honorably or under honorable conditions to qualify for naturalization based upon military service.¹⁴ Within the definition of honorable conditions are the following caveats:

⁵ 5 U.S.C.A. § 8521(a)(1)(A) (2012).

(1) "Federal service" means active service (not including active duty in a reserve status unless for a continuous period of 90 days or more) in the armed forces or the Commissioned Corps of the National Oceanic and Atmospheric Administration if with respect to that service— (A) the individual was discharged or released under honorable conditions (and, if an officer, did not resign for the good of the service); . . .

Id. § 8521(a)(1)(A). However, note that while the Department of Labor utilizes Title 5's base definition of federal service requiring honorable or general under honorable conditions, other departments or agencies may define federal service more broadly. For example, *Beyond T.B.D.*" found that the Department of Veterans Affairs, in some contexts, may consider other than honorable discharges sufficient for certain VA administered benefits.

⁶ *Id.* § 8521(a)(1)(B).

⁷ For purposes of unemployment compensation, AR 635-200, Chapter 5 covers separations for Secretarial Plenary Authority actions, Surviving Sons and Daughters, Parenthood, Medical Disqualification, Personality Disorders, Early Release for Education, and other physical or medical conditions warranting separation. AR 635-200, Chapter 6 covers hardship separations. AR 635-200, Chapter 8 covers pregnancy separations. U.S. DEP'T OF ARMY, REG. 635-200, ACTIVE DUTY ENLISTED ADMINISTRATIVE SEPARATIONS (6 June 2005) (RAR, 6 Sept. 2011).

⁸ As noted above, the Department of Labor and Department of Veterans' Affairs may use differing definitions of what constitutes federal service, which consequently affects whether an honorable or other than honorable characterization of service will even qualify the separated Soldier from any benefits whatsoever. Defining the fundamental terms enables the advocate to properly advise and navigate the veteran through the maze of transitional and VA benefits.

⁹ 7 U.S.C.A. § 1983(5) (2012) ("(5) the application of a person who is a veteran of any war, as defined in section 101(12) of title 38, for a loan under subchapter I or II of this chapter to be given preference over a similar application from a person who is not a veteran of any war, if the applications are on file in a county or area office at the same time.").

¹⁰ *Id.*

¹¹ 38 U.S.C.A. § 101(12) (2012).

¹² *Id.* §§ 101(2), (18).

¹³ See Brooker, Seamone & Rogall, *supra* note 3 (providing a thorough analysis and the statutory effects).

¹⁴

(a) Requirements. A person who has served honorably at any time in the armed forces of the United States for a period or periods aggregating one year, and, who, if separated from such service, was never separated except under honorable conditions, may be naturalized without having resided, continuously immediately preceding the date of filing such person's application, in the United States for at least five years, and in the State or district of the Service in the United States in which the application for naturalization is filed for at least three months, and without having been physically present in the United States for any specified period, if such application is filed while the applicant is still in the service or within six months after the termination of such service.

8 U.S.C. § 1439(a) (2012).

(a) Requirements. Any person who, while an alien or a noncitizen national of the United States, has served honorably as a member of the Selected Reserve of the Ready Reserve or in an active-duty status in the military, air, or naval forces of the United States during either World War I or during a period beginning September 1, 1939, and ending December 31, 1946, or during a period beginning June 25, 1950,

That no person who is or has been separated from such service on account of alienage, or who was a conscientious objector who performed no military, air, or naval duty whatever or refused to wear the uniform, shall be regarded as having served honorably or having been separated under honorable conditions for the purposes of this section.¹⁵

Additionally, and unlike the G.I. Bill's consideration of prior honorable enlistment periods, naturalization requires all discharges be under honorable conditions to qualify the applicant for citizenship.¹⁶ It is noteworthy to mention that Soldiers who obtain citizenship based upon military service and who are subsequently discharged with an other than honorable conditions characterization of service face the prospect of losing their citizenship.¹⁷

B. Regulatory and Administrative Review

The second step is locating the regulatory instruction on implementing the benefit. These instructions are especially important where the statute leaves discretion to the administering agency concerning entitlements. For example, a Soldier who is discharged with anything greater than a dishonorable discharge may be entitled to a death gratuity.¹⁸

and ending July 1, 1955, or during a period beginning February 28, 1961, and ending on a date designated by the President by Executive order as of the date of termination of the Vietnam hostilities, or thereafter during any other period which the President by Executive order shall designate as a period in which Armed Forces of the United States are or were engaged in military operations involving armed conflict with a hostile foreign force, and who, if separated from such service, was separated under honorable conditions, may be naturalized as provided in this section if

(2) at any time subsequent to enlistment or induction such person shall have been lawfully admitted to the United States for permanent residence. The executive department under which such person served shall determine whether persons have served honorably in an active-duty status, and whether separation from such service was under honorable conditions: No period of service in the Armed Forces shall be made the basis of an application for naturalization under this section if the applicant has previously been naturalized on the basis of the same period of service.

8 U.S.C.A. § 1440(a)(2) (2012).

¹⁵ 8 U.S.C.A. § 1440(a)(2).

¹⁶ *Id.* § 1439(b)(3).

¹⁷ *Id.* §§ 1439(f), § 1440(c). *See also* AR 635-200, *supra* note 6, paras. 1-37 through 1-39.

¹⁸

(b) A payment may not be made under section 1476 unless the Secretary of Veterans Affairs determines

This includes those who die within 120 days of discharge from the service and where the death is linked to a service-related injury.¹⁹ However, the Department of Defense Financial Management Regulation 7000.14-R adds that the discharge must be under honorable conditions, which effectively removes other than honorable and bad conduct discharge characterizations of service.²⁰ Again, keep in mind that the definition of the administering agency controls whether one, the veteran's service will be viewed as federal service; and two, if constituting federal service, the characterization of service is sufficient to warrant the receipt of benefits.²¹

that the decedent was discharged or released, as the case may be, under conditions other than dishonorable from the last period of the duty or training that he performed.

10 U.S.C.A. § 1480(b) (2012).

¹⁹

(1) Except as provided in section 1480 of this title, the Secretary concerned shall pay a death gratuity to or for the survivors prescribed in section 1477 of this title of each person who dies within 120 days after discharge or release from—

(A) active duty; . . .

(2) A death gratuity may be paid under paragraph (1) only if the Secretary of Veterans Affairs determines that the death resulted from an injury or disease incurred or aggravated during—

(A) the active duty or inactive-duty training described in paragraph (1); or

(B) travel directly to or from such duty.

Id. § 1476(a).

²⁰

Death gratuity will be paid regardless of whether death occurred in the line of duty or as the result of a member's misconduct to eligible beneficiaries of the following (except a temporary member of the Coast Guard Reserve):

B. A former member who dies during the 120-day period beginning on the day following date of discharge or release, under honorable conditions, from active duty (including retirement for either disability or length of service). In this case, the Secretary of Veterans Affairs must determine that death resulted from disease or injury incurred or aggravated while the member was on active duty or while in authorized travel status to or from such duty.

U.S. DEP'T OF DEF. 7000.14-R, DoD FINANCIAL MANAGEMENT REGULATION, vol. 7A, ch. 36, para. 360101 (Jan. 2012).

²¹ Again, as noted above, some administering departments, such as the Department of Labor, will only view honorable or general under honorable conditions as valid federal service. Other agencies, such as the VA as discussed in *Beyond "T.B.D."*, maintain a more open definition of federal service, enabling it to expand or contrast its definitions on the characterization of service, resulting in more particular calculations as to whether a veteran is entitled to a specific benefit or not.

Another example includes travel and transportation allowances after separation from the service. Generally, Soldiers are entitled to travel and transportation allowances without regard to comparative costs when separating from the service.²² However, and except for a few medical or hardship exceptions, Soldiers separated who have failed to complete at least ninety percent of their initial enlistment or are separated with an other than honorable conditions discharge, may only be covered for the least expensive mode of transportation available.²³

22

Except as provided in subsection (f) and under regulations prescribed by the Secretaries concerned, a member of a uniformed service is entitled to travel and transportation allowances for travel performed or to be performed under orders, without regard to the comparative costs of the various modes of transportation—

(3) upon separation from the service, placement on the temporary disability retired list, release from active duty, or retirement, from his last duty station to his home or the place from which he was called or ordered to active duty, whether or not he is or will be a member of a uniformed service at the time the travel is or will be performed; . . .

37 U.S.C.A. § 474(a)(3) (2012).

23

(f) (1) The travel and transportation allowances authorized under this section for a member who is separated from the service or released from active duty may be paid or provided only for travel actually performed.

(2)

(A) Except as provided in subparagraph (B), a member who is separated from the service or released from active duty and who—

(i) on the date of his separation from the service or release from active duty, has not served on active duty for a period of time equal to at least 90 percent of the period of time for which he initially enlisted or otherwise initially agreed to serve; or

(ii) is separated from the service or released from active duty under other than honorable conditions, as determined by the Secretary concerned;

may be provided travel and transportation under this section only by transportation in kind by the least expensive mode of transportation available or by a monetary allowance that does not exceed the cost to the Government of such transportation in kind.

(B) Subparagraph (A) does not apply to a member—

(i) who is retired, or is placed on the temporary disability retired list, under chapter 61 of title 10;

(ii) who is separated from the service or released from active duty for a medical condition affecting the member, as determined by the Secretary concerned;

(iii) who is separated from the service or released from active duty because the period of time for which the member initially enlisted or otherwise initially agreed to serve has been reduced by the Secretary concerned and is separated or released under honorable conditions;

(iv) who is discharged under section 1173 of title 10; or

(v) who is involuntarily separated from active duty during the period beginning on October 1, 1990, and ending on December 31, 2001.

In addition to conducting statutory and regulatory research, the administering agency may also produce valuable information guides. These guides or pamphlets provide the agencies' interpretation in layman terms, which may provide insight on how to interpret the statutes and regulations. For example, G. I. Bill educational benefits appear strictly limited to those who only receive a fully honorable characterization of service when discharged.²⁴ However, the Veteran Affairs suggests that Soldiers discharged with a general under honorable or even an other than honorable conditions characterization of service may still be entitled to educational benefits so long as they have had a prior honorable discharge, even if it was for the purpose of reenlisting.²⁵ As noted in *Beyond "T.B.D."*, there is the requirement of thirty-six months of honorable service to qualify for this benefit.²⁶

C. Other Considerations

Some categories of beneficiaries either no longer exist or will soon expire. A few examples bear notation. First are commissary and exchange privileges. Normally Soldiers involuntarily separated are no longer entitled to commissary and exchange privileges. However, Soldiers involuntarily separated between 1 October 2007 and 31 December 2012 are entitled to commissary and exchange privileges for up to two years from the date of discharge.²⁷ Unless the statute is

Id. § 474(f).

²⁴ *Id.* § 3011(a)(3)(B) (“(3) who, after completion of the service described in clause (1) of this subsection—

(B) is discharged from active duty with an honorable discharge; . . .”).

²⁵

However, if you have more than one period of service, and receive an other than honorable discharge from one period, you may be able to qualify if you receive an honorable discharge from another period of service. (A period from which you were discharged in order to reenlist may meet the eligibility requirements).

U.S. DEP'T OF VETERANS AFFAIRS, PAM. 22-90-2, THE MONTGOMERY GI BILL—ACTIVE DUTY, SUMMARY OF EDUCATIONAL BENEFITS UNDER THE MONTGOMERY GI BILL—ACTIVE DUTY EDUCATIONAL ASSISTANCE PROGRAM CHAPTER 30 OF TITLE 38, U. S. CODE (rev. Feb. 2011).

²⁶ Brooker, Seamone, & Rogall, *supra* note 3, at 48–49.

²⁷

(a) Members Involuntarily Separated From Active Duty.—The Secretary of Defense shall prescribe regulations to allow a member of the armed forces who is involuntarily separated from active duty during the period beginning on October 1, 2007, and ending on December 31, 2012, to continue to use commissary and exchange stores during the two-year period beginning on the date of the involuntary separation of the member in the same manner as a member on active duty. The Secretary of Transportation shall implement this provision for Coast Guard members involuntarily separated during the same period.

updated, Soldiers involuntarily separated after 31 December 2012 are no longer entitled to commissary and exchange privileges. The entitlement to commissary and exchange privileges does not discriminate on the basis of discharge. However, since most Soldiers separated with an other than honorable conditions characterization generally receive a bar to the installation at the same time, they are effectively barred from the commissary and exchange as well.

The second are military housing entitlements. Under 10 U.S.C. §1147, Soldiers involuntarily separated are authorized to remain in military housing for up to 180 days after the date of separation.²⁸ Those individuals are charged a reasonable rental fee.²⁹ However, the entitlement only applies to Soldiers separated between 1 October 1990 and 31 December 2001.³⁰ Since 180 days has clearly expired since the last possible applicable separation occurred, this statutory authorization bears no applicability to Soldiers today. Furthermore, Army Regulation 210-50, which provided secretarial guidance on the implementation of this entitlement, including possible discrimination based upon characterization of service criteria, has since expired and is no longer a published regulation.³¹

Finally, a third expired category involves preference in applying for National Guard and Reserve vacancies. However, like military housing, the preference only applies to Soldiers involuntarily separated between 1 October 1990 and 31 December 2001.³²

III. Conclusion

Government benefits of any type are subject to changing political conditions and considerations. Servicemembers facing separation, voluntary or involuntary, should understand the scope and nature of their benefits. Our mission as legal advisors to commanders or Soldiers is to provide the most updated and relevant information. This will require more than a generational review of our “Benefits at Separation” document; we must consider a more systematic approach to staying abreast of changing entitlements.

10 U.S.C.A. § 1146(a) (2012). *See also* U.S. DEP’T OF DEF., INSTR. (DODI) 1330.17, ARMED SERVICES COMMISSARY OPERATIONS enclosure 4, para. 1i (8 Oct. 2008).

²⁸

(a) Transition for Involuntarily Separated Members.
(1) The Secretary of a military department may, pursuant to regulations prescribed by the Secretary of Defense, permit individuals who are involuntarily separated during the period beginning on October 1, 1990, and ending on December 31, 2001, to continue for not more than 180 days after the date of such separation to reside (along with other members of the individual’s household) in military family housing provided or leased by the Department of Defense to such individual as a member of the armed forces.

10 U.S.C.A. 1147(a) (2012).

²⁹ *Id.* 1147(b).

³⁰ *Id.* 1147(a).

³¹ Army Regulation 210-50, *Housing Management*, did not make any provisions for Soldiers involuntarily separated from the service. Paragraph 3-19 directed housing terminated upon separation from the service. U.S. DEP’T OF ARMY, REG., 210-50, HOUSING MANAGEMENT para. 3-19 (26 Feb. 1999).

³²

(a) Preference for Certain Persons.—A person who is separated from the armed forces during the period beginning on October 1, 1990, and ending on December 31, 2001, and who applies to become a member of a National Guard or Reserve unit within one year after the date of such separation shall be given preference over other equally qualified applicants for existing or projected vacancies within the unit to which the member applies.

10 U.S.C.A. 1150(a) (2012).

Appendix

Army Transitional Benefits

Benefits	H	G	OTH	BCD	DD	Authorities
Separation Pay	E ¹	E ¹	NE	NE	NE	10 USC § 1174; DoDI 1332.29
Payment of Accrued Leave	E	E	NE	NE	NE	37 USC §§ 501-503; DoD FMR 7000.14-R, Vol. 7A, Ch. 35, para. 350101, A
Death Gratuity (within 120 days of discharge and service related cause)	E	E	NE	NE	NE	10 USC § 1476, 1480; DoD 7000.14-R, Vol. 7A, Ch. 36, para. 360101
Wearing of Military Uniform	E ²	E ²	NE	NE	NE	10 USC § 771a, 772; AR 670-1, para. 30-4
Admission to Retirement Home	E ³	E ³	NE	NE	NE	24 USC § 412
Burial in Army Cemeteries	E ⁴	E ⁴	NE ⁴	NE ⁴	NE	38 USC § 2402; AR 290-5; AR 210-190
Army Board for Correction of Military Records (ABCMR)	E	E	E	E	E	10 USC § 1552; DoDD 1332.41, AR 15-185
Army Discharge Review Board (DRB)	E	E	E	NE ⁵	NE	10 USC § 1553; DoDI 1332.28, AR 15-180
Transportation to Home	E ⁶	E ⁶	E ⁶	E ⁶	E ⁶	37 USC § 474(a)(3); JFTR, Ch. 7, Part T, para. U7465-U7490
Travel/Transportation Allowance for Dependents to Home	E	E	E ⁷	E ⁷	E ⁷	37 USC §§ 453(c)(1), 476; JFTR, Ch. 5, Part C, para. U5225-F, U5240-F
Transportation of HHGs to Home	E	E	E ⁷	E ⁷	E ⁷	JFTR, Ch. 5, Part D, U5370-H
Pre-separation Counseling	E	E	E	E	E	10 USC § 1142
Employment Assistance	E	E	E	E	E	10 USC §§ 1143, 1144
Health Benefits (180 days of Tricare Prime)	E	E	E	E	E	10 USC § 1145(a)(4)
Commissary / Exchange	E ⁸	E ⁸	E ⁸	E ⁸	E ⁸	10 USC § 1146; DoDI 1330.17
Overseas Relocation Assistance	E	E	E	E	E	10 USC § 1148; AR 608-1, Ch. 4, Sect. III
Excess Leave / Permissive TDY	E	E	NE	NE	NE	10 USC § 1149; AR 600-8-10, para. 5-35
G.I. Bill	E	NE ⁹	NE ⁹	NE	NE	38 USC § 3011; VA Pamphlet 22-90-2 (Feb. 2011)

¹ Additional limitations listed out in DoDI 1332.29, paragraph 3.4, and includes, but not limited to, separation at own request, separation during initial term of enlistment (including erroneous enlistments for mental competence or minimum age requirements), retained or retired pay eligible, and unsatisfactory performance or misconduct under DoDI 1332.14 or DoDI 1332.30. *See also* 10 USC §§ 504, 505, 1145, 1170, 12303, and 12686.

² Unless service during a time of war (declared or undeclared), discharged persons may only wear a military uniform while going from place of discharge to home within three months after discharge. 10 USC § 772(c)-(e). Service in a time of war authorizes discharged persons the right to wear the uniform only for ceremonial occasions. AR 670-1, para. 30-4b.

³ Additional limitations include attaining the age of sixty and having twenty or more years of service **or** the inability of earning a livelihood because of a service-connected disability. 24 USC § 412(a). Post-military activity may further limit eligibility, such as felony convictions or drug or alcohol dependency. 24 USC § 412(b).

⁴ Post cemeteries limit burial to retired members or honorably discharged members who have an immediate family member buried there. AR 210-190, paragraph 2-5a.(1), (8). Arlington limits burials to retired members or honorably discharged members who either were awarded certain decorations or have an immediate family member buried there. AR 290-5, para. 2-4b, d, j. At all other Army national cemeteries, honorable or general under honorable discharged members are eligible for burial. AR 290-5, para. 2-9b. Other VA-administered cemeteries may accept servicemembers discharged with an other-than-honorable or bad-conduct discharge. *See* VA-NCA-IS-1, Section III, paragraph 1a(2), Section IV, paragraph 1c. (Jan. 2011). Finally, convictions of certain offenses, including mutiny, aiding the enemy, or spying, prohibits burial at Army cemeteries, regardless of discharge. *See* 38 USC § 6105.

⁵ DRB will accept applications from former servicemembers discharged administratively or by sentence of a court-martial (other than a general court-martial). DoDI 1332.28 (Apr. 4, 2007), enclosure 2, para E2.1.1.

⁶ Limitations of allowances are based upon shortened service or characterization of service. 37 USC § 474(f)(2)(A)(ii); JFTR Ch. 7, Part T, para. U7465.

⁷ Authorized by a Service-designated authority who determines that a reasonable relationship exists between the conditions/circumstances in the specific case and the authorized destination. JFTR, Ch. 5, Part C, para. U5240-F.2, para. U5370-H.2. Limitations of allowances based upon shortened service. 37 USC § 476(a)(2)(A)(ii).

⁸ A Soldier involuntarily separated is not entitled to commissary or exchange privileges unless they were involuntarily separated between 1 October 2007 and 31 December 2012. These particular involuntarily separated Soldiers have commissary and exchange privileges for two (2) years from the date of separation. DoDI 1330.17 (Oct. 8, 2008), enclosure 4, para. 1(i).

⁹ A Soldier with more than one enlistment or period of service may still receive the GI Bill (Montgomery and Post-9/11) if the Soldier was previously separated honorably, even if the current separation is for less than honorable. VA Pamphlet 22-90-2 (Feb. 2011), Part I, page 2.

Other Agency Administered Benefits

Benefits	H	G	OTH	BCD	DD	Authorities
Civil Service Retirement Credit	E	NE	NE	NE	NE	5 USC §§ 8331(13), 8332(c),(d),(j)
Civil Service Preference	E	E	NE	NE	NE	5 USC §§ 2108(a)(1), 3309-3316, 3502, 3504
Unemployment Compensation	E ¹	E ¹	NE	NE	NE	5 USC §§ 8521-8525
Job Preference, Public Works ²	E	E	E	E	NE	42 USC § 6706
Farm Loan Preference	E	E	E	E	NE	7 USC § 1983(5); 38 USC §§ 101(2), (12), (18)
Rural Housing Loan Preference	E	E	E	E	NE	42 USC § 1477
Naturalization Benefits	E ³	E ³	NE	NE	NE	8 USC §§ 1439(a), 1440(a)(2); AR 635-200, para. 1-38
Social Security	E	E	E	E	E	42 USC § 417

¹ In addition to the characterization of service, the Soldier must either have completed the first full term of their initial enlistment or be separated under an early release program, medical issue, hardship, or personality disorder. 5 USC § 8521(a)(1). The State law under which the file is claimed determines the exact amount of benefits, duration, and other eligibility conditions. *Unemployment Compensation for Ex-servicemembers*, UNITED STATES DEPARTMENT OF LABOR (Nov. 19, 2009), <http://workforcesecurity.doleta.gov/unemploy/ucx.asp>.

² Limited to disabled and Vietnam era veterans. 42 USC § 6706(3).

³ Exceptions apply for those separated on account of alienage and those who were conscientious objectors and performed no military duty or refused to wear the uniform. 8 USC § 1440 (a)(2).