§ 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) 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.

(4) Except when procured by fraud, a correction under this section is final and conclusive on all officers of the United States.

(b) No correction may be made under subsection (a)(1) unless the claimant or his heir or legal representative files a request for the correction within three years after he discovers the error or injustice. However, 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 concerned, unless the Secretary determines that the payment of interest is inappropriate under the circumstances. If the payment of the claim is to include interest, the interest shall be calculated on an annual basis, and compounded, using the amount of the lost pay, allowances, compensation, emoluments, or other
pecuniary benefits involved, and the amount of any fine or forfeiture paid, beginning from the date of the conviction through the date on which the payment is made.

(d) Applicable current appropriations are available to continue the pay, allowances, compensation, emoluments, and other pecuniary benefits of any person who was paid under subsection (c), and who, because of the correction of his military record, is entitled to those benefits, but for not longer than one year after the date when his record is corrected under this section if he is not reenlisted in, or appointed or reappointed to, the grade to which those payments relate. Without regard to qualifications for reenlistment, or appointment or reappointment, the Secretary concerned may reenlist a person in, or appoint or reappoint him to, the grade to which payments under this section relate.

(e) No payment may be made under this section for a benefit to which the claimant might later become entitled under the laws and regulations administered by the Secretary of Veterans Affairs.

(f) With respect to records of courts-martial and related administrative records pertaining to court-martial cases tried or reviewed under chapter 47 of this title (or under the Uniform Code of Military Justice (Public Law 506 of the 81st Congress)), action under subsection (a) may extend only to—

1. correction of a record to reflect actions taken by reviewing authorities under chapter 47 of this title (or under the Uniform Code of Military Justice (Public Law 506 of the 81st Congress)); or
2. action on the sentence of a court-martial for purposes of clemency.

(g) In this section, the term “military record” means a document or other record that pertains to

1. an individual member or former member of the armed forces, or
2. at the discretion of the Secretary of the military department concerned, any other military matter affecting a member or former member of the armed forces, an employee or former employee of that military department, or a dependent or current or former spouse of any such person. Such term does not include records pertaining to civilian employment matters (such as matters covered by title 5 and chapters 81, 83, 87, 108, 373, 605, 607, 643, and 873 of this title).


### Historical and Revision Notes

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<td>1552(a)</td>
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In subsection (a), the words “and approved by the Secretary of Defense” are substituted for 5:191a(a) (1st proviso). The words “when he considers it” are substituted for the words “where in their judgment such action is”, in 5:191a and 275. The words “officers or employees” and “means of”, in 5:191a and 275, are omitted as surplusage. The word “naval”, in 5:191a and 275, is omitted as covered by the word “military”.

In subsection (b), the words “before October 26, 1961” are substituted for the words “or within ten years after the date of enactment of this section”, in 5:191a and 275. The last sentence of the revised subsection is substituted for 5:191a(a) (last proviso) and 275(a) (last proviso).

In subsection (c), the words “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” are substituted for the words “which are found to be due on account of military or naval service as a result of the action * * * hereafter taken pursuant to subsection (a) of this section”, in 5:191a and 275. The words “heretofore taken pursuant to this section”, in 5:191a and 275, are omitted as executed. The words “of any persons, their heirs at law or legal representative as hereinafter provided”, “(including retired or retirement pay)”, “as the case may be”, “duly appointed”, “otherwise due hereunder”, “decedent’s”, “precedence or succession”, and “of precedence”, in 5:191a and 275, are omitted as surplusage. The last sentence is substituted for 5:191a(c) and 275(c).

In subsection (d), the word “but” is substituted for the words “That, continuing payments are authorized to be made to such personnel”, in 5:191a and 275. The words “if he is not reenlisted in, or appointed or reappointed to, the grade to which those payments relate” are substituted for the words “without the necessity for reenlistment, appointment, or reappointment to the grade, rank, or office to which such pay (including retired or retirement pay), allowances, compensation, emoluments, and other monetary benefits are attached”, in 5:191a and 275. The words “or one year following the date of enactment of this section”, in 5:191a and 275, are omitted as executed. The words “for payment of such sums as may be due for”, in 5:191a and 275, are omitted as surplusage. The words “(including retired or retirement pay)”, in 5:191a and 275, are omitted as covered by the definition of “pay” in section 101 (27) of this title.

In subsection (e), the words “No payment may be made under this section” are substituted for the words “Nothing in this section shall be construed to authorize the payment of any amount as compensation”, in 5:191a and 275.

References in Text

The Uniform Code of Military Justice (Public Law 506 of the 81st Congress), referred to in subsec. (f), is act May 5, 1950, ch. 169, § 1, 64 Stat. 107, which was classified to chapter 22 (§ 551 et seq.) of Title 50, War and National Defense, and was repealed and reenacted as chapter 47 (§ 801 et seq.) of this title by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641, the first section of which enacted this title.

Amendments

2008—Subsec. (c). Pub. L. 110–417 designated existing provisions as pars. (1) to (3), redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, of par. (2), and added par. (4).


1998—Subsec. (c). Pub. L. 105–261, § 545(a), inserted “, or on account of his or another’s service as a civilian employee” before period at end of first sentence.

Subsec. (g). Pub. L. 105–261, § 545(b), added subsec. (g).

1992—Subsec. (a)(2). Pub. L. 102–484 substituted “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” for “announcing a decision not to promote an enlisted member to a higher grade”.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2012 (see http://www.law.cornell.edu/uscode/uscprint.html).
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NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2012 (see http://www.law.cornell.edu/uscode/uscprint.html).

1989—Subsec. (a). Pub. L. 101–189, § 514(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “The Secretary of a military department, under procedures established by him and approved by the Secretary of Defense, and acting through boards of civilians of the executive part of that military department, may correct any military record of that department when he considers it necessary to correct an error or remove an injustice. Under procedures prescribed by him, the Secretary of Transportation may in the same manner correct any military record of the Coast Guard. Except when procured by fraud, a correction under this section is final and conclusive on all officers of the United States.”

Subsec. (b). Pub. L. 101–189, § 514(b), substituted “subsection (a)(1)” for “subsection (a)” in two places.

Subsec. (e). Pub. L. 101–189, § 1621(a)(2), substituted “Secretary of Veterans Affairs” for “Administrator of Veterans’ Affairs”.

1988—Subsec. (b). Pub. L. 100–456, § 1233(a)(1), substituted “for the correction within three years after he discovers the error or injustice” for “therefor before October 26, 1961, or within three years after he discovers the error or injustice, whichever is later”.

Subsec. (c). Pub. L. 100–456, § 1233(a)(2), substituted “The Secretary concerned” for “The department concerned”.


1980—Subsec. (a). Pub. L. 96–513 substituted “Secretary of Transportation” for “Secretary of the Treasury”.

1960—Subsec. (f). Pub. L. 86–533 repealed subsec. (f) which required reports to the Congress every six months with respect to claims paid under this section.

Effective Date of 2008 Amendment

Pub. L. 110–417, [div. A], title V, § 592(c), Oct. 14, 2008, 122 Stat. 4475, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to any sentence of a court-martial set aside by a Corrections Board on or after October 1, 2007, when the Corrections Board includes an order or recommendation for the payment of a claim for the loss of pay, allowances, compensation, emoluments, or other pecuniary benefits, or for the repayment of a fine or forfeiture, that arose as a result of the conviction. In this subsection, the term ‘Corrections Board’ has the meaning given that term in section 1557 of title 10, United States Code.”

Effective Date of 2002 Amendment

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

Effective Date of 1980 Amendment


Board for Correction of Military Records

Pub. L. 101–225, title II, § 212, Dec. 12, 1989, 103 Stat. 1914, provided that: “Not later than 6 months after the date of the enactment of this Act [Dec. 12, 1989], the Secretary of Transportation shall—

“(1) amend part 52 of title 33, Code of Federal Regulations, governing the proceedings of the board established by the Secretary under section 1552 of title 10, United States Code, to ensure that a complete application for correction of military records is processed expeditiously and that final action on the application is taken within 10 months of its receipt; and

“(2) appoint and maintain a permanent staff, and a panel of civilian officers or employees to serve as members of the board, which are adequate to ensure compliance with paragraph (1) of this subsection.”