

# Office of Administrative Review (OAR)

## Quality Call Bulletin

### March 2022

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#### HIGHER-LEVEL REVIEW (HLR) INFORMAL CONFERENCE PROCESS

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**Target Audience:** Decision Review Operations Center (DROC) Management, Quality Review Teams (QRT), Decision Review Officers (DRO), Rating Veterans Service Representatives (RVSR), Veterans Service Representatives (VSR), and Claims Assistants (CA)

**Presenter:** Christina Ngom, Management and Program Analyst, OAR Program Administration (PA)

#### References:

- M21-5 5.3.a, *Definition: Informal Conferences*
- M21-5 5.3.b, *Overview of Informal Conferences*
- M21-5 5.3.c, *Initial Actions*
- M21-5 5.3.e, *Unsuccessful Initial Attempts to Contact the Requesters*
- M21-5 5.3.f, *Unsuccessful Second Attempts to Contact the Requesters*
- M21-5 5.3.g, *Actions to Take After Successful Contact*

An informal conference is contact, typically by telephone, but also using other means that VA determines appropriate, for the sole purpose of allowing a claimant and/or representative the opportunity to identify any errors of law or fact in the prior decision. When requested by the claimant or representative, on block 16A of VA Form 20-0996, *Decision Review Request: Higher-Level Review*, VA will conduct one informal conference during a higher-level review. The presence of the claimant is not required if the authorized representative is able to attend instead.

When attempting to schedule an informal conference, follow the specific steps outlined in M21-5 5.3c.

- Make a total two attempts to contact the claimant or his/her representative to schedule
- The reviewer will hold the informal conference within seven calendar days of the successful contact.

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Schedule and/or conduct the informal conference, preferably within 7 calendar days of initial contact with the Veteran and/or representative. Only conduct the conference when successful contact is first made, if the claimant or representative feels comfortable to hold the conference at that time; the decision maker must advise that the informal conference may be scheduled for a later date and does not need to be conducted during initial contact if the claimant is not prepared.

The reviewer or Informal Conference Coordinator will make a total two attempts to contact the claimant or his/her representative to schedule. Upon establishment of the EP, employees must add an *Informal Conference* special issue to retain the EP during scheduling to at least one of the pending contentions if the claimant has requested an informal conference. Once the informal conference process has been completed (the conference conducted, cancelled or the claimant/representative missed the conference without requesting to reschedule), the special issue must be removed. The reviewer will hold the informal conference within seven calendar days of the successful contact.

Prior to the informal conference, the decision maker should conduct a cursory review of the decision under review so that they are familiar with all issues and the applicable evidentiary record.

Follow the instructions on the [HLR Informal Conference Worksheet](#) by reading to the claimant or representative the script on the purpose of the conference. Complete an [HLR Informal Conference Worksheet](#), describing the specific error(s) of fact or law identified. After the IC is completed, close the associated tracked item and complete a new decision for all HLR issues.

**Note:** While the addition of an [HLR Informal Conference Worksheet](#) does not technically constitute "new evidence considered," list it nevertheless as evidence in the decision document. (M21-5 Chapter 5.4)

If the reviewer or Informal Conference Coordinator cannot contact the claimant or representative on the first attempt, VA will:

- if possible, leave a general voicemail message requesting a return call at the specified telephone line within the DROC
- add the date of the first attempt to the existing informal conference tracked item under Follow Up 1 (not the closure date)
- document the unsuccessful contact on [VA Form 27-0820, Report of General Information](#) and upload to the eFolder
- add a permanent note in VBMS, and
- ensure that the suspense date will expire in three business days.

For the permanent note in VBMS, indicate whether a voicemail was left, using the following suggested text:

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*I called the requester [or the representative] regarding an informal conference for the pending higher-level review. When he [or she] returns my call, please complete a VA Form 27-0820 to capture a telephone number and a date and time over the next week when the requester or representative will be available during regular business hours for the informal conference.*

The reviewer or Informal Conference Coordinator will routinely follow up in VBMS for the status of any replies. If VA receives no response by the third business day, make a second and last attempt to schedule the informal conference. If the second attempt fails, the reviewer or Informal Conference Coordinator will:

- document the unsuccessful contact on [VA Form 27-0820](#)
- close the associated tracked item
- add a permanent note of the unsuccessful attempt in VBMS annotating the attempted contact and that neither the claimant nor representative (if applicable) could be reached.
- if applicable, provide a copy of [VA Form 27-0820](#) to the requester's accredited representative and associate it with the eFolder, and
- the higher-level reviewer with authority over the issues can then render a final decision on the HLR.

#### **JANUARY 2022 AUTHORIZATION QUALITY REVIEW SPECIALIST (AQRS) Quality ASSURANCE PRACTICUM (QAP) RESULTS**

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**Target Audience:** DROC Management and QRT

**Presenter:** James Fogg, Program Analyst, OAR PA

OAR launched the QAP Project for AQRS in March 2021 at VBA's three DROCs. OAR designed these practicums to evaluate the employee's knowledge of proper quality review techniques and ensure consistent completion of the Veterans Service Representative (VSR) Task Based Quality Review Checklist. Each QAP is a topic-specific assessment that allows AQRS to demonstrate their abilities to process a realistic, simulated, electronic Veteran claim using a testing interface that mirrors the specific quality review checklists used by the employees in their daily work. OAR selected QAP topics based on error trend data and/or Office of Inspector General findings.

The Practicums are designed to achieve accuracy and consistency in the quality review process by creating a standardized assessment environment that corresponds to Individual Quality Reviews (IQRs) conducted by OAR QRS.

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#### **QAP Results:**

Between January 11, 2022, and January 14, 2022, OAR administered an AQRS QAP. The findings from this QAP include:

#### **Compliance:**

- OAR assigned this QAP to 34 AQRS.
- 27 completed this QAP.
- Compliance rate was 79%
- Compliance across the DROCs ranged from 64% to 100%
- The 79% overall compliance rate was higher than the FY 2021 OAR AQRS practicum compliance rate of 72%

#### **Overall Percentage of Perfect Scores:**

- 11 of the 27 AQRS that completed the QAP made no errors in conducting the quality review.
- Perfect score rate was 41%

#### **DROC Percentage of Perfect Scores:**

- DROC DC: 71%
- St. Petersburg DROQ: 33%
- Seattle DROC: 25%

#### **January 2022 AQRS QAP Common Errors:**

OAR identified the following as the main causes of errors among the 16 AQRS who did not achieve a perfect score:

- Determining if all systems were accurately updated.
  - 10 AQRS provided an incorrect response
  - Rate of this error: 37%
- Noting an error regarding whether all pertinent Federal records (other than STRs) were obtained/requested or determined to be of record.
  - 7 AQRS provided an incorrect response
  - Rate of this error: 26%
- Citing an incorrect error regarding whether all necessary examinations/medical opinions were requested and correct.
  - 6 AQRS provided an incorrect response
  - Rate of this error: 22%

As these QAPs assist in training and assessment of DROC personnel, OAR will continue requiring completion of the QAP for the foreseeable future. OAR will release the results of the January 2022 AQRS QAP for DROC review on an upcoming date.

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#### **CHARACTER OF DISCHARGE (COD) MANUAL UPDATES AND FORMAL FINDINGS**

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**Target Audience:** DROC Management, QRTs, and VSRs

**Presenter:** Suzanne Ribish, Management and Program Analyst, OAR PA

**References:**

- 38 CFR §3.12, *Character of Discharge*
- 38 CFR §3.103(f), *Notification of decisions*
- 38 CFR §3.104(c), *Favorable findings*
- M21-1 X.iv.1.A, *Character of Discharge (COD) and Bars to Benefits*
- M21-1 X.v.1.C, *Administrative Decisions*

**Homosexual Conduct and COD:**

M21-1 Part X, Subpart iv, 1.A has been updated to clarify existing regulatory guidance on COD determinations specific to regulatory bars under 38 CFR 3.12(d)(5).

Specifically, the manual was updated to clarify the following:

- M21-1 X.iv.1.A.3.c – Discharges for general homosexual conduct, gender/sexual identify, and/or positive human immunodeficiency virus (HIV) status are not appropriately considered or barred as “moral turpitude” under 38 CFR 3.12(d)(3).
- M21-1 X.iv.1.A.3.d – Discharges for the same variables identified above are also not appropriately considered or barred as “willful misconduct” under 38 CFR 3.12(d)(4).

M21-1 X.iv.1.A.3.e, *Aggravated Homosexual Conduct*, explains specifics surrounding the VA Secretarial proclamation.

- Homosexual conduct is only barred under 38 CFR 3.12(d)(5) if it involves *aggravating circumstances* or other factors *affecting performance of duty*.
- Regulatory bars on this basis are to be read and applied *narrowly* in alignment with the plain language of 38 CFR 3.12(d)(5).
- Biologically nonconforming gender identity; lesbian, gay, bisexual, non-binary, or other sexual identity or orientation; and positive HIV status *are not* independently disqualifying for VA purposes.
- Resolve reasonable doubt in favor of the claimant, where possible, in view of the entire evidentiary record, including the claimant’s credible statements/testimony.

**COD Determination Template and Favorable Findings:**

38 CFR §3.104(c) says that any favorable finding (a conclusion on a question of fact or application of law to facts concerning the issue under review) made by an adjudicator as described in 3.103(f)(4) is binding on all subsequent adjudicators unless there was a CUE in the favorable finding.

If favorable findings are relevant to the COD administrative decision, adjudicators should



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include the following sentence to the document and account for that fact in administrative decisions - "All elements required to decide the issue of [issue] were met and all findings were favorable to the claimant." (M21-1 X.v.1.C.3.d)

If the decision for the COD is unfavorable the decision would not need to include favorable findings. (M21-1 X.iv.1.A.1)

*NOTE:* There may be rare instances in which discharge circumstances involve more than one bar, and while we're able to argue that the evidence overcomes one such bar, another separate bar still ultimately prohibits us from conferring Veteran status. In such instances, document the favorable findings for the potential bars not held against the service member so that future decision makers are bound by them, absent clear and unmistakable evidence to the contrary.

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#### COMPOSING COD DECISIONS USING THE TEMPLATE IN M21-1

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**Target Audience:** DROC Management, QRTs, and VSRs

**Presenter:** Suzanne Ribish, Management and Program Analyst, OAR PA

**References:**

- 38 CFR §3.12, *Character of Discharge*
- 38 CFR §3.103(f), *Notification of decisions*
- 38 CFR §3.104(c), *Favorable findings*
- M21-1 X.iv.1.A, *Character of Discharge (COD) and Bars to Benefits*
- M21-1 X.iv.1.B, *Special Topics Involving Character of Discharge*
- M21-1 X.v.1.C, *Administrative Decisions*

The COD template found in M21-1 X.iv.1.A.1.i is used to document COD determinations. The template contains all possible paragraphs and language that may be included in the decision, depending on the facts of the specific case.

Additional information regarding COD decisions can be found in:

- M21-1 X.iv.1.A, *Character of Discharge (COD) and Bars to Benefits*
- M21-1 X.iv.1.B, *Special Topics Involving Character of Discharge*

Additional information regarding administrative decisions can be found in:

- M21-1 X.v.1.C, *Administrative Decisions*

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#### Heading:

The Heading section is populated with the information from the office completing the decision and the information about the claimant. The Heading section must include the following required information:

- Designation of VA Office
- Location of VA office
- File Number
- Former Service Member's Name

DEPARTMENT OF VETERANS AFFAIRS	
[Designation of VA Office]	[File Number]
[Location of VA Office]	[Former Service Member's Name]
ADMINISTRATIVE DECISION	
ISSUE: [State the issue.] For example: Statutory Bar Determination, if the reason for discharge is under 38 CFR 3.12(c), or Character of Discharge Determination, if the reason for the discharge is under 38 CFR 3.12(d).	
EVIDENCE: [Use bullets to list all documents and information reviewed in making the decision. Give specific data about each to distinguish it from other evidence, and identify it using the evidentiary labeling conventions discussed in M21-1, Part V, Subpart iv, 1.A.4.] For example:	
<ul style="list-style-type: none"><li>• VA Form 21-526EZ, Application for Disability Compensation and Related Compensation Benefits, received September 6, 2015.</li><li>• Response to notice of proposed adverse action, received November 9, 2015.</li><li>• STRs received from the National Personnel Records Center (NPRC) on November 25, 2015, for the period March 2002 to November 2004.</li><li>• Complete active duty personnel records received from NPRC on November 25, 2015, for the period March 2002 to November 2004.</li></ul>	

#### Issue:

When drafting a COD administrative decision, the Issue section must include one of the following inputs based on the applicable bar(s):

- Statutory Bar Determination (*If discharge is under 3.12(c)*)
- Character of Discharge Determination (*if discharge is under 3.12(d)*)
- Statutory Bar Under 38 U.S.C.5303(a) (*if discharge is under 3.12(c)(6) \*X.iv.1.A.2.d, Discharges for UA or AWOL*)

DEPARTMENT OF VETERANS AFFAIRS	
[Designation of VA Office]	[File Number]
[Location of VA Office]	[Former Service Member's Name]
ADMINISTRATIVE DECISION	
<b>ISSUE: [State the issue.]</b> For example: Statutory Bar Determination, if the reason for discharge is under 38 CFR 3.12(c), or Character of Discharge Determination, if the reason for the discharge is under 38 CFR 3.12(d).	
EVIDENCE: [Use bullets to list all documents and information reviewed in making the decision. Give specific data about each to distinguish it from other evidence, and identify it using the evidentiary labeling conventions discussed in M21-1, Part V, Subpart iv, 1.A.4.] For example:	
<ul style="list-style-type: none"><li>• VA Form 21-526EZ, Application for Disability Compensation and Related Compensation Benefits, received September 6, 2015.</li><li>• Response to notice of proposed adverse action, received November 9, 2015.</li><li>• STRs received from the National Personnel Records Center (NPRC) on November 25, 2015, for the period March 2002 to November 2004.</li><li>• Complete active duty personnel records received from NPRC on November 25, 2015, for the period March 2002 to November 2004.</li></ul>	

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#### **Evidence:**

The Evidence section provides a summary of the evidence considered. When composing the Evidence section, decision makers are required to include a bulleted list of all documents and information reviewed in making the decision and follow the evidentiary labeling conventions in M21-1 V.iv.1.A.4.c.

Example of how evidence should be listed:

*VA Form 20-0986, Eligibility Determination for Character of Discharge (COD) Request Form, received October 14, 2021.*

Items of no evidentiary value that were not considered, should not be included in the evidence list.

Example of evidence that should not be included (no evidentiary value):  
PIES follow-up email sent on October 25, 2021.

DEPARTMENT OF VETERANS AFFAIRS	
[Designation of VA Office]	[File Number]
[Location of VA Office]	[Former Service Member's Name]
ADMINISTRATIVE DECISION	
ISSUE: [State the issue.] For example: Statutory Bar Determination, if the reason for discharge is under 38 CFR 3.12(c), or Character of Discharge Determination, if the reason for the discharge is under 38 CFR 3.12(d).	
<b>EVIDENCE:</b> [Use bullets to list all documents and information reviewed in making the decision. Give specific data about each to distinguish it from other evidence, and identify it using the evidentiary labeling conventions discussed in M21-1, Part V, Subpart iv, 1.A.4.] For example:	
<ul style="list-style-type: none"><li>• VA Form 21-526EZ, Application for Disability Compensation and Related Compensation Benefits, received September 6, 2015.</li><li>• Response to notice of proposed adverse action, received November 9, 2015.</li><li>• STRs received from the National Personnel Records Center (NPRC) on November 25, 2015, for the period March 2002 to November 2004.</li><li>• Complete active duty personnel records received from NPRC on November 25, 2015, for the period March 2002 to November 2004.</li></ul>	

#### **Decision:**

The Decision section states the outcome of the COD determination, including entitlement to health care under Chapter 17 for any disability determined to be service connected for active service during the period(s) of service.

It is required that decision makers clearly and briefly state the decision. Only the decision needs to be provided here, no explanation.

Example language (not a conditional discharge):

Your Marine Corps service from January 3, 2001, through May 3, 2002, is under dishonorable conditions and is a bar to VA benefits under the provisions of 38 CFR 3.12(d)(4).



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You are entitled to health care benefits under Chapter 17, Title 38, U.S.C. and 39 CFR 3.360(a) for any disability determined to be service connected for active service from January 3, 2001, through May 3, 2002.

\*If conditional discharge is at issue, the Decision section should contain the language specified in M21-1 X.iv.1.B.2.i.

**DECISION:** [Clearly and briefly state the decision. Only the decision need be provided here, no explanation.] For example:

Your [name of branch of service] service from [EOD date to RAD date] is under [honorable/dishonorable] conditions and [is/is not] a bar to VA benefits under the provisions of [38 CFR 3.12(x)(x)].

You [are/are not] entitled to health care benefits under Chapter 17, Title 38 U.S.C. and 38 CFR 3.360(a) for any disability determined to be service-connected for active service from [EOD date to RAD date].

[Always include, in all decisions, whichever of the statements below applies.]

- This discharge was a bad conduct discharge issued by sentence of a general court-martial.
- This discharge was a bad conduct discharge issued by sentence of a special court-martial.
- This discharge was not the result of a general or special court-martial's finding of bad conduct.

The applicable statement from the template regarding bad conduct discharge must be included in all decisions.

One of the following statements must be included:

- This discharge was a bad conduct discharge issued by a sentence of a general court-martial.
- This discharge was a bad conduct discharge issued by a sentence of a special court-martial.
- This discharge was not result of a general or special court-martial's finding of bad conduct.

**DECISION:** [Clearly and briefly state the decision. Only the decision need be provided here, no explanation.] For example:

Your [name of branch of service] service from [EOD date to RAD date] is under [honorable/dishonorable] conditions and [is/is not] a bar to VA benefits under the provisions of [38 CFR 3.12(x)(x)].

You [are/are not] entitled to health care benefits under Chapter 17, Title 38 U.S.C. and 38 CFR 3.360(a) for any disability determined to be service-connected for active service from [EOD date to RAD date].

[Always include, in all decisions, whichever of the statements below applies.]

- This discharge was a bad conduct discharge issued by sentence of a general court-martial.
- This discharge was a bad conduct discharge issued by sentence of a special court-martial.
- This discharge was not the result of a general or special court-martial's finding of bad conduct.

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#### Reasons and Bases:

The first two paragraphs shown in the Reasons and Bases section of the template must be included in all decisions.

**REASONS AND BASES:** [The reasons and bases section must be included on all administrative decisions, including favorable ones. Include the regulations used in the determination. Include passages from the relevant law or regulation(s) that pertain(s) to the issue at hand. See example text below.]

[Include in all decisions.] According to 38 CFR 3.12(a), if the former service member did not die in service, then pension, compensation, or Dependency and Indemnity Compensation (DIC) is not payable unless the period of service on which the claim is based was terminated by discharge or release under conditions other than dishonorable (38 U.S.C. 101(2)).

As stated in 38 CFR 3.360(a) and (b), the health care and related benefits authorized by Chapter 17 of Title 38 U.S.C. shall be provided to certain former service members with administrative discharges under other than honorable conditions for any disability incurred or aggravated during active military, naval, or air service in line of duty. With certain exceptions such benefits shall be furnished for any disability incurred or aggravated during period of service terminated by a discharge under other than honorable conditions. Specifically, they may not be furnished for any disability incurred or aggravated during a period of service terminated by a bad conduct discharge or when one of the bars listed in 38 CFR 3.12(c) applies.

The relevant passages from 38 CFR 3.12(c), 3.12(d), and/or 3.13(c) must be quoted directly in the decision. These passages should not be paraphrased.

[Quote directly from relevant passages of 38 CFR

- [3.12\(c\)](#) if/when the discharge potentially poses a statutory bar to benefits
- [3.12\(d\)](#) if/when the discharge potentially poses a regulatory bar to benefits, and/or
- [3.13\(c\)](#) for conditional discharges.]

[Follow this with a statement of the reasons and bases for the decision, prepared in accordance with the guidelines found in [M21-1, Part X, Subpart v, 1.C.3.d](#). Note that, by their very nature, most unfavorable COD decisions will not involve any findings favorable to the claimant.]

[Always include the following statement.] Sanity [is/is not] an issue.

According to 38 CFR 3.12(d), a discharge or release because of one of the offenses specified in this paragraph is considered to have been issued under dishonorable conditions.

- (1) Acceptance of an undesirable discharge to escape trial by general court-martial.
- (2) Mutiny or spying.
- (3) An offense involving moral turpitude. This includes, generally, conviction of a felony.
- (4) Willful and persistent misconduct. This includes a discharge under other than honorable conditions, if it is determined that it was issued because of willful and persistent misconduct. A discharge because of a minor offense will not, however, be considered willful and persistent misconduct if service was otherwise honest, faithful and meritorious.
- (5) Homosexual acts involving aggravating circumstances or other factors affecting the performance of duty. Examples of homosexual acts involving aggravating circumstances or other factors affecting the performance of duty include child molestation, homosexual prostitution, homosexual acts or conduct accompanied by assault or coercion, and homosexual acts or conduct taking place between service members of disparate rank, grade, or status when a service member has taken advantage of his or her superior rank, grade, or status.

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The decision maker will compose the Reasons and Bases section in accordance with M21-1 X.v.1.C.3.d, *Providing Adequate Reasons and Bases for Administrative Decisions*.

“Sanity [is/is not] an issue.” must always be included.

Additional information discussed in the Reasons and Bases section of the decision will vary depending on the unique circumstances of each case. The level of discussion will vary depending on the evidence of the case. Generally, there may be more discussion required if the claimant provided a response. Most unfavorable COD decisions will not involve any findings favorable to the claimant.

[Quote directly from relevant passages of 38 CFR

- 3.12(c) If/when the discharge potentially poses a statutory bar to benefits
- 3.12(d) If/when the discharge potentially poses a regulatory bar to benefits, and/or
- 3.13(c) for conditional discharges.]

[Follow this with a statement of the reasons and bases for the decision, prepared in accordance with the guidelines found in [M21-1, Part X, Subpart v, 1.C.3.d](#). Note that, by their very nature, most unfavorable COD decisions will not involve any findings favorable to the claimant.]

[Always include the following statement.] Sanity [is/is not] an issue.

If conditional discharge applies, the Reasons and Bases section of the administrative decision must include an explanation as to how the dates of service were determined. An example is found in M21-1 X.iv.1.B.2.i, *Sample Language for a Conditional Discharge Determination*.

X.iv.1.B.2.i.	<b>Example:</b> A review of the evidence of record shows the claimant originally enlisted on December 29, 1980, for four years with an obligated period of service until
Sample	December 28, 1984. On April 4, 1984, he reenlisted for another six years with a
Language for a	new obligated period of service until December 28, 1990. On October 31, 1988, he
Conditional	reenlisted again for another six years, with a new obligated period of service until
Discharge	December 28, 1996. He was given an OTH discharge on December 23, 1991.
Determination	

As a reminder, detail that are not necessary to support the decision do not need to be included in the administrative decision.

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The image on the left is a concise listing of the violations of the UCMJ. The image on the right provides details that are not necessary.

The Military Personnel Records show violation the following Articles of the Uniform Code of Military Justice (UCMJ) during service:

- Article 86:
  - Specification 1: On or about 1300 January 30, 2002, you did, without authority, absent yourself from your appointed place of duty at which you were required to be, and did remain so absent until on or about 1600 January 30, 2002.
  - Specification 2: On or about 0600, January 31, 2002, you did, without authority, absent yourself from your appointed place of duty at which you were required to be, and did remain so absent until on or about 0725, January 31, 2002.
- Article 92:
  - Specification: On or about March 18, 2002, you did, willfully disobey a lawful order by the Commanding Officer by refusing to train at the Correctional Custody Unit as part of your punishment awarded at your NJP on or about March 1, 2002.

You violated the following Articles of the Uniform Code of Military Justice (UCMJ):

On or about July 27, 2001, you were counseled concerning the following deficiencies: Involvement in an alcohol related incident at 2359 on July 2, 2001. You received a citation from the N.C. Highway Patrol for being less than 21 possessing a malt beverage. You were required to pay a fine of \$25.00 and court costs in the amount of \$90.00 by July 31, 2001. The record shows you chose not to make a statement.

- Article 86:
  - Specification 1: On or about 1300 January 30, 2002, you did, without authority, absent yourself from your appointed place of duty at which you were required to be, and did remain so absent until on or about 1600 January 30, 2002.
  - Specification 2: On or about 0600, January 31, 2002, you did, without authority, absent yourself from your appointed place of duty at which you were required to be, and did remain so absent until on or about 0725, January 31, 2002.

On or about February 28, 2002, you were counseled concerning your violations of Article 86, which resulted in an NJP. The following corrective action was recommended: obey all orders and regulations set forth in the UCMJ. The record shows you chose not to make a statement.

On or about March 1, 2002, you received the following non-judicial punishment (NJP) for the above violations of Article 86: Correctional Custody for 30 days, to which you did not appeal.

- Article 92:
  - Specification: On or about March 18, 2002, you did, willfully disobey a lawful order by the Commanding Officer by refusing to train at the Correctional Custody Unit as part of your punishment awarded at your NJP on or about March 1, 2002.

On or about April 9, 2002, you were given the opportunity to consult with a lawyer in regard to the following NJP for the above violation of Article 92. You were also made aware of your right to refuse that NJP, to which you chose not to exercise that right. You received the following NJP for the above violation of Article 92: reduction to Private First Class, forfeiture of one half pay per month for two months, restriction for 45 days, and extra duties for 45 days to run concurrently, to which you did not appeal.

The Reasons and Bases section is concluded with the summary of the decision. An example is found in the template.

Decision makers should ensure to:

- Compose a summary of the decision as shown in the template.
- If the claimant responded, explain why they failed to show or did not show sufficient reason to set aside any bar to benefits imposed under 38 CFR 3.12.
- Include the final sentence about eligibility for Chapter 17 health care benefits.

[Always sum up the decision.] For example:  
You were sent a notice of proposed adverse action on [date of the notice], to which you [failed to respond/responded on [date of response]]. [If claimant responded, explain why he/she failed to show or did show sufficient reason to set aside any bar to benefits imposed under 38 CFR 3.12.] You [failed to show/showed] sufficient reason why the bars to benefits imposed under 38 CFR 3.12 should be set aside in your favor. In the absence of any additional evidence, it is therefore determined that your discharge from the period of service from [dates of service that the decision addresses], was under [honorable/dishonorable] conditions for the purpose of eligibility for VA benefits and is therefore [considered/not considered] a bar to benefits under 38 CFR 3.12(x)(x) [part of 38 CFR 3.12 being used to support the decision].  
You [are/are not] eligible for health care benefits only for medical conditions found to be service-connected under the provisions of Chapter 17, Title 38 U.S.C. for this period of service.