# **Appendix D – COD Determination Template**

**DEPARTMENT OF VETERANS AFFAIRS**
**[Designation of VA Office]                                                        [File Number]**
**[Location of VA Office]                           [Former Service Member’s Name]**

**ADMINISTRATIVE DECISION**

**ISSUE**:

Character of discharge (COD) for the period of service **[add service dates for the period(s) at issue]**.

**EVIDENCE**:

**[Use bullets to list all documents and information reviewed in making the decision. Identify the evidence using the standards in**[**M21-1 (V.iv.1.A.4.a.) - Overview of the Evidence Section of a Rating Decision**](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000180523/M21-1-Part-V-Subpart-iv-Chapter-1-Section-A-Completing-the-Rating-Decision-Narrative)**]** For example:

* [*VA Form 21-527EZ Application for Pension*](https://www.vba.va.gov/pubs/forms/VBA-21P-527EZ-ARE.pdf)*,* received September 6, 2023.
* Response to advance notice that VA will be making a COD determination, received November 9, 2023.
* Service treatment records received on November 25, 2023, for the period March 2002 to November 2004.
* Service personnel records received on November 25, 2023, for the period March 2002 to November 2004.

**PERTINENT LAWS AND REGULATIONS:**

**[List laws and regulations applicable to the decided issue(s). Copy and paste applicable text from the relevant law(s) and/or regulation(s) that are required to determine the issue and include in all decisions.]**

According to [38 CFR § 3.12(a) - Character of Discharge](https://www.ecfr.gov/on/2023-09-27/title-38/part-3/section-3.12#p-3.12(a)), if the former service member (FSM) did not die in service, then pension, compensation, or Dependency and Indemnity Compensation 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) - Definitions](https://www.law.cornell.edu/uscode/text/38/101)).

**[Copy and paste the text of only the applicable 38 CFR paragraph(s)/ subparagraphs that are being considered]**

* [38 CFR § 3.12(c)(x) - Character of Discharge](https://www.ecfr.gov/on/2023-09-27/title-38/part-3/section-3.12#p-3.12(c)) **for a statutory bar to benefits**
* [38 CFR § 3.12(d)(x) - Character of Discharge](https://www.ecfr.gov/on/2023-09-27/title-38/part-3/section-3.12#p-3.12(d)) **for a regulatory bar to benefits, and/or**
* [38 CFR § 3.13(c) - Discharge to Change Status](https://www.ecfr.gov/on/2023-09-27/title-38/part-3/section-3.13#p-3.13(c)) **for conditional discharges.]**

**[It may be necessary to include applicable portions of other regulations such as** [**38 CFR § 3.14 - Validity of Enlistments**](https://www.ecfr.gov/on/2023-09-27/title-38/chapter-I/part-3/subpart-A/subject-group-ECFRf5fe31f49d4f511/section-3.14)**,**  [**38 CFR § 3.105(c) - Revision of Decisions (Character of Discharge)**](https://www.ecfr.gov/current/title-38/part-3/section-3.105#p-3.105(c))**, or** [**38 CFR § 3.354 - Determinations of Insanity**](https://www.ecfr.gov/current/title-38/chapter-I/part-3/subpart-A/subject-group-ECFR6477ad08d327384/section-3.354) **depending on the facts; however, do not copy and paste the regulations into decisions when they are not applicable.]**

**[Include the following only in decisions where a bar to benefits applies under** [**38 CFR § 3.12(c) or (d) - Character of Discharge**](https://www.ecfr.gov/on/2023-09-27/title-38/part-3/section-3.12#p-3.12(c))**, and therefore the FSM is not eligible to most VA benefits requiring Veteran status, but further consideration was given to eligibility to health care only for former service members under** [**38 CFR § 3.360 - Service-connected Health-care Eligibility of Certain Persons Administratively Discharged Under Other Than Honorable Condition**](https://www.ecfr.gov/current/title-38/chapter-I/part-3/subpart-A/subject-group-ECFR6477ad08d327384/section-3.360)**]**

As stated in [38 CFR § 3.360(a) and (b) -- Service-connected Health-care Eligibility of Certain Persons Administratively Discharged Under Other Than Honorable Condition](https://www.ecfr.gov/current/title-38/part-3/section-3.360#p-3.360(a)), 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) - Character of Discharge](https://www.ecfr.gov/on/2023-09-27/title-38/part-3/section-3.12#p-3.12(c)) applies.

**DECISION**:

**[Clearly and briefly state the decision here, but not the reasons for it.]** For example:

Your discharge from [**name of branch of service**] for the period of service from [**EOD date to RAD date**] is [**other than dishonorable/not other than dishonorable**]. You [**have/do not have**] eligibility to VA benefits.

**[Only include a second decision with respect to a period of service when the individual filed a claim, and the first decision above finds no eligibility.]** You **[meet/do not meet]**the eligibility criteria in [38 CFR § 3.360 - Service-connected Health-care Eligibility of Certain Persons Administratively Discharged Under Other Than Honorable Condition](https://www.ecfr.gov/current/title-38/chapter-I/part-3/subpart-A/subject-group-ECFR6477ad08d327384/section-3.360) for health care benefits under [38 U.S. Code Chapter 17](https://www.law.cornell.edu/uscode/text/38/part-II/chapter-17).

**REASONS AND BASES**:

**[This section must be prepared in accordance with the guidelines found in** [**M21-1(X.v.1.C.2.e.) - Providing Adequate Reasons and Bases for Administrative Decisions**](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000177999/M21-1-Part-X-Subpart-v-Chapter-1-Section-C-Administrative-Decisions)**, and included on *all* administrative decisions, including favorable ones.]**

**[Always address that insanity was considered. Include the following statement.]** Insanity **[is/is not]**an issue. **[Provide a brief explanation of the contention or facts putting insanity at issue.]**

**[When insanity is at issue, discuss the determination made. Select one of the following statements as applicable.]**

* Based on the facts showing **[summarize the facts bearing on the** [**38 CFR § 3.354(a) - Determinations of Insanity**](https://www.ecfr.gov/on/2023-09-27/title-38/part-3/section-3.354#p-3.354(a))**]** we have determined that you met the VA definition of insanity at the time of the conduct resulting in your discharge and its characterization, we find that you were not at fault, and you are not precluded from VA benefits.
* Based on the facts showing **[summarize the facts bearing on the** [**38 CFR § 3.354(a) - Determinations of Insanity**](https://dvagov.sharepoint.com/sites/AQ95CharacterofDischargeCOD/Shared%20Documents/General/Policy%20Letter/Final%20For%20AD%20Review%206.17.24/508%20Compliant%20Docs)**]** we have determined that you did not meet the VA definition of insanity at the time of the conduct resulting in your discharge and its characterization.

**[When the type of court-martial is relevant to the regulatory finding – for example, see the criteria in** [**38 CFR § 3.12(c)(2) - Character of Discharge**](https://www.ecfr.gov/on/2023-09-27/title-38/part-3/section-3.12#p-3.12(c)(2))**,** [**38 CFR § 3.12(c)(6)(ii) - Character of Discharge**](https://www.ecfr.gov/on/2023-09-27/title-38/part-3/section-3.12#p-3.12(c)(6)(ii))**,** [**38 CFR § 3.12(d)(1) or (2) - Character of Discharge**](https://www.ecfr.gov/on/2023-09-27/title-38/part-3/section-3.12#p-3.12(d)(1)) **– include an applicable sentence from the following options.]**

* Your **[list service branch discharge characterization]** discharge was part of a sentence of a general court-martial.
* Your **[list service branch discharge characterization]** discharge was part of a sentence of a **[summary or special]** court-martial.
* You accepted an **[OTH or BCD]** to escape trial by a general court-martial.
* The maximum sentence imposable pursuant to the Manual for Courts-Martial United States for the misconduct at issue, if tried by general court-martial, would not include a dishonorable discharge or confinement for longer than one year.

**[When a bar for prolonged AWOL under** [**38 CFR § 3.12(c)(6) - Character of Discharge**](https://www.ecfr.gov/on/2023-09-27/title-38/part-3/section-3.12#p-3.12(c)(6))**, willful and persistent misconduct under 38 CFR 3.12(d)(2)(ii), or moral turpitude under 38 CFR (d)(2)(i) is at issue, include one of the following statements about the compelling circumstances exception in** [**38 CFR § 3.12(e) - Character of Discharge**](https://www.ecfr.gov/on/2023-09-27/title-38/part-3/section-3.12#p-3.12(e))**.]**

* Facts show the criteria for **[describe applicable bar under** [**38 CFR § 3.12(c)(6)**](https://www.ecfr.gov/on/2023-09-27/title-38/part-3/section-3.12#p-3.12(c)(6))**, 3.12(d)(2)(i) or 3.12(d)(2)(ii)]** apply; however, compelling circumstances mitigate the conduct. **[Discuss the facts and the factors that they persuasively demonstrate in 38 CFR 3.1(e).]**
* Facts show the criteria for **[describe applicable bar under** [**38 CFR § 3.12(c)(6)**](https://www.ecfr.gov/on/2023-09-27/title-38/part-3/section-3.12#p-3.12(c)(6))**, 3.12(d)(2)(i) or 3.12(d)(2)(ii)]** apply. The evidence did not persuasively establish that compelling circumstances existed to mitigate the conduct. **[Discuss the criteria in** [**38 CFR § 3.12(e) - Character of Discharge**](https://www.ecfr.gov/on/2023-09-27/title-38/part-3/section-3.12#p-3.12(e)) **and the facts.]**

**[Always sum up the decision.]**For example: Based on the evidence listed and discussed above, we conclude that the conduct for which you were discharged from service, and upon which your service characterization was based, **[is/is not]** a bar to benefits under 38 CFR 3.12(x)(x) **[When finding a bar, fill in the** [**38 CFR § 3.12 - Character of Discharge**](https://www.ecfr.gov/on/2023-09-27/title-38/chapter-I/part-3/subpart-A/subject-group-ECFRf5fe31f49d4f511/section-3.12) **paragraph. When finding that a bar is not met, simply refer to** [**38 CFR § 3.12 - Character of Discharge**](https://www.ecfr.gov/on/2023-09-27/title-38/chapter-I/part-3/subpart-A/subject-group-ECFRf5fe31f49d4f511/section-3.12)**]**. Therefore, eligibility to all VA benefits **[is/is not]** established.

**[When the decision is that there is a bar under** [**38 CFR § 3.12 - Character of Discharge**](https://www.ecfr.gov/on/2023-09-27/title-38/chapter-I/part-3/subpart-A/subject-group-ECFRf5fe31f49d4f511/section-3.12) **to VA benefits requiring Veteran status, and the individual filed a claim for benefits for a disability, address eligibility to health care for a former service member under** [**38 CFR § 3.360 - Service-connected Health-care Eligibility of Certain Persons Administratively Discharged Under Other Than Honorable Condition**](https://www.ecfr.gov/current/title-38/chapter-I/part-3/subpart-A/subject-group-ECFR6477ad08d327384/section-3.360)**.**

***Note***: **There should be no decision, and no reasons and bases on this secondary determination where eligibility to all benefits is established.]**

**FAVORABLE FINDINGS:**

**[When this heading is applicable, list any favorable findings that are made. See** [**Favorable Findings in a COD Determination**](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000177986/M21-1-Part-X-Subpart-iv-Chapter-1-Section-A-Character-of-Discharge-COD-and-Bars-to-Benefits)**, for more information on when the heading is required.]**