

Military

Hancock Estabrook, LLP is proud to support the men and women in our armed services, including representing active duty, active reserve and veterans in military law matters. We thank each of you for your service, and the sacrifices that you and your families make.



Our Firm recognizes and is helping to meet the need for attorneys in Central and Upstate New York who focus on military law and its related administrative proceedings. We believe that military members should have access to the skill and resources of the more than 100 attorneys, paralegals and support staff employed by our firm. We offer flat fee discounted pricing to active duty military, active reserve and veterans.

The attorneys who are members of our Military Law Practice have more than 50 years of combined enlisted and commissioned military active and reserve service. Their service areas include infantry, security, aviation, legal and other military occupational specialties. The practice is led by Robert C. Whitaker Jr., who began his military career by enlisting to active duty in 1995, and who continues to serve in the U.S. Navy reserves as a JAG officer.

Our Military Law Practice attorneys have walked in your shoes and understand the gauntlet of military justice and administrative proceedings you face. Hancock Estabrook, LLP is not restrained by a chain of command. We will passionately advocate for you to achieve the very best result.

Our Firm has a particular expertise in representing military members in administrative proceedings such as enlisted administrative separation boards, boards of inquiry, discharge upgrades, appealing unfavorable military record information to the Department of the Army Suitability Evaluation Board (DASEB), advocating for retention to the Qualitative Management Program (QMP), petitions to the Board of Correction for Naval Records (BCNR), Army Board for Correction of Military Records (ABCMR) and the Air Force and Coast Guard Boards for the Correction of Military Records (BCMR).

Representative Matters

Members of our Firm have obtained numerous findings of no misconduct and recommendations for retention at military administrative separation boards and boards of inquiry. The following is a small sample of past results our attorneys have obtained for clients. Remember, each case is different and past results cannot and do not predict or guarantee similar outcomes with respect to any future matter, including yours, in which any lawyer or law firm may be retained.

- E-7 faced involuntary discharge by QMP after receiving a GOMOR. We successfully petitioned the Army's QMP who recommended retention, resulting in the Soldier being retained.
- E-7 with over 12 years of service faced administrative separation for commission of a serious offense after testing positive for an illegal substance. Despite no chain-of custody or lab errors and

the client's prior confession, he was retained by a vote of 3-0.

- O-3 faced administrative separation for alleged sexual harassment of subordinate. The command sought an Other-than-Honorable discharge. We were able to secure a more favorable General (Under Honorable Conditions) discharge for the member.
- E-7 was charged with child abuse, and administrative separation was initiated seeking an Other-than-Honorable discharge. With our assistance, the board unanimously found that the misconduct did not occur and recommended retention.
- E-5 with over 7 years of service faced administrative separation for commission of a serious offense and pattern of misconduct for alleged possession and distribution of a controlled substance, false official statements, disobeying a lawful order (multiple violations of MPOs) and adultery. With our representation, the board found no misconduct by a vote of 3-0 for five of six supporting charges and recommended retention by a vote of 3-0.
- E-5 with 12 years of service faced administrative separation for commission of a serious offense after being found guilty at NJP for conspiring with another service member to steal a classified rating exam and subsequently cheat on that exam. Despite the government's use of two prosecutors (officially called "recorders"), a supporting Report of Investigation by the Naval Criminal Investigative Service (NCIS) and two purported written confessions admitting to all misconduct, we were able to secure a board finding of no misconduct by a vote of 3-0.
- E-7 was issued a General Officer Memorandum of Reprimand (GOMOR) following issuance of an Army CID report that contained numerous inaccuracies and alleged UCMJ violations. We successfully petitioned DASEB and the GOMOR was removed from the member's performance portion of the Army Military Human Resource Records (AMRR) and transferred to the member's restricted file.
- E-6 with over 14 years of service faced administrative separation for pattern of misconduct and commission of a serious offense. The client was an E-4 when the board convened because of two recent NJPs for allegedly assaulting a junior sailor, disobeying a lawful order and disrespecting an E-8. Despite letters from the entire Chief's Mess recommending an Other-than-Honorable Discharge, we secured a board finding of no misconduct by a vote of 3-0, and the board verbally reprimanded the command for its failures.
- E-6 with 18 years faced administrative separation for pattern of misconduct and commission of a serious offense. The client recently received two NJPs where he was ultimately reduced in rank from E-6 to E-4 prior to the board. The charges supporting separation included a past NJP for sexual harassment and dereliction of duty coupled with a recent NJP for sexual harassment. With our representation, the client was retained by a vote of 3-0.
- E-4 with three years of service faced administrative separation with an OTH for involuntary manslaughter and reckless driving. The client was facing felony charges in civilian courts. By a vote of 3-0, the board gave the client a general discharge under honorable conditions.
- E-4 faced second NJP (aka: Article 15), for violation of a lawful order that would have resulted in administrative separation. Through early intervention on our part, the client's Executive Officer determined that NJP was inappropriate and the pending charges were dismissed.
- E-6 with over 13 years of service faced administrative separation for commission of a serious offense and pattern of misconduct. The supporting charges included a recent DUI and multiple past

NJPs for assault, DUI and violating a lawful order. The command sought an Other-than-Honorable discharge and was represented by an O-6 who has practiced law for over 20 years. Despite testimony and video from the arresting police officer, who was an E-8 in the Navy Reserves, we were able to secure an Honorable discharge for the client.

- E-5 with almost 18 years of service faced high-year tenure after consecutive NJPs for violating a lawful order. The Commanding Officer made a negative recommendation that would have cost the service member over \$45,000 in severance pay. After multiple unsuccessful negotiations with the Commanding Officer, the case was escalated to the Region Commander. As a result, the CO changed his recommendation and the client received over \$45,000 in severance pay.
- E-5 faced administrative separation for Physical Fitness Assessment (PFA) failures. Although the service member could pass the Physical Readiness Test (PRT), he was consistently beyond the body fat standards. We were able to obtain a waiver allowing the member to remain on active duty.
- Reserve E-5 with 18 years faced administrative separation after testing positive for multiple prescription drugs. The client maintained that he accidentally took his wife's prescription, believing it was ibuprofen. After multiple discussions with command representatives, including the Commanding Officer, it was determined that the client was not guilty of knowingly ingesting the drugs and administrative separation proceedings were terminated.
- A military spouse sought assistance following her husband's recent death. The client's husband was a retired E-6, but did not elect survivor benefits when he retired over a decade earlier. As a result, the client was not entitled to receive any income from his retirement. We petitioned BCNR, resulting in reinstatement of full benefits including over five years of back pay. The client will now receive her husband's retirement pay for the remainder of her life.
- Successfully filed a petition with BCNR, resulting in an award of over \$102,000 in back pay to a surviving spouse and reinstatement of full retirement benefits following her husband's death. The client will now receive a portion of her husband's retirement pay for the remainder of her life.

Areas of Service for Military Personnel and Veterans

- Administrative Separation Boards and Boards of Inquiry (BOI).
- Non-Judicial Punishment (NJP) / Captain's Mast / Article 15 representation
- Victim Legal Counsel / Special Victim Counsel for victims of sexual assault
- Appeals of court-martial determinations including verdicts and sentencing
- Correction of Military Records and Discharge Upgrades including request for upgrades based on repeal of the Don't Ask Don't Tell (DADT) policy
- Rebuttal statements and applications to remove or transfer unfavorable data from a military service record including a General Officer Memorandum of Reprimand (GOMOR)
- Applications to the Department of the Army Suitability Evaluation (DASEB)
- Challenges to Punitive Letters of Reprimand (LOR) and Detachment for Cause notices
- Applications to have survivor benefits for retirement pay of a surviving spouse reinstated Advice on military transgender policies
- Applications for continued service and exceptions to the Army's Qualitative Management Program

(QMP)

- Correcting security clearance issues for military personnel, government employees and contractors including hearings and appeals to the Defense Office of Hearings and Appeals (DOHA)
- False Claims Act
- Whistleblower claims for federal employees Inspector General investigations
- JAGMAN investigations
- Freedom of Information Act (FOIA) requests and appeals
- Establishing a veteran owned business
- VA disability rating appeals
- Government contract disputes