

108 CMR 17.00: RULES OF PROCEDURE

Section

- 17.01: Scope of Regulations
- 17.02: Members
- 17.03: Application Process
- 17.04: Review by the Board
- 17.05: Meetings
- 17.06: Final Decision
- 17.07: Severability

17.01: Scope of Regulations

108 CMR 17.00 shall govern all proceedings of the Veterans Equality Review Board created under M.G.L. c. 115, § 16. The Veterans Equality Review Board shall meet to review and act on applications that are submitted to the Executive Office of Veterans Services for those who have received a less than honorable discharge.

17.02: Members

- (1) The Board shall consist of five members who will elect a Chairperson to serve.
- (2) In the event of a vacancy in the membership of the VERB where the term of a former member's appointment has not yet expired, it shall be filled for the balance of the unexpired term in the same manner as the original appointment pursuant to M.G.L. 115, § 16.
- (3) At any meeting of the Board, a quorum shall consist of three members of the Board eligible to participate in and vote upon the appeal. Upon a tied vote, the Board shall send recommendation letter to the Secretary to make a final decision.
- (4) Decisions on all issues put to vote shall be made by a simple majority.

17.03: Application Process

The Executive Office of Veterans Services must provide an application online accessible to the public. All applicants must complete the Application for the Review of Discharge for the Armed Forces of the United States by the Commonwealth of Massachusetts Veterans Equality Review Board, and provide additional documentation such as a Certificate of Discharge of Release from Active Service (Member 4 DD Form 214 with Character of Service), Separation Packet, Medical Documents, Post Service Documents, Investigations, and a statement or cover letter for a completed application. Applications can be submitted electronically *via* the online portal, email or mail. The VERB application, instructions, and email can be found at: <https://www.mass.gov/verb>. All material filed with the Board shall be filed with the Executive Secretary who shall be designated by the Board.

17.04: Review by the Board

- (1) Rule 1 - Right of Appeal. Any veteran receiving a less than honorable discharge under M.G.L. c. 115, § 16, has the right to appeal to the Veterans Equality Review Board. The Board will then review the completed application to make a determination whether the veteran is eligible for veterans state-based benefits.
- (2) Rule 2 - Scope of Review upon Appeal. In an appeal, the Board shall consider only whether ineligibility for state-based veterans benefit was due to the veteran:
 - (a) receiving a less than honorable discharge under 10 U.S.C. 654, also known as the Don't Ask, Don't Tell policy
 - (b) or on the basis of sex, race, color, religious creed, national origin, age, genetic information, ancestry, marital status, or any signs or symptoms of any disability, mental health conditions, military sexual trauma and or traumatic brain injury.

17.04: continued

(3) Rule 3 - Parties to Appeal.

- (a) The parties to an appeal shall consist of the applicant and their representative, if necessary, the Executive Office of Veterans Services, and the Board.
- (b) Any person who is a party to an appeal by virtue of 108 CMR 17.05(3)(a) may withdraw as a party by filing a notice of withdrawal with the Board. Withdrawal shall take effect upon receipt.

17.05: Meetings

The Board will meet regularly to discuss applications and provide a written recommendation letter within the 30-day timeline.

17.06: Final Decision

- (1) The Board shall render a final decision in every appeal within 30 days from a completed application and submit a written recommendation to the Secretary of the Executive Office of Veterans Services no more than 30 days after completion of said review;
- (2) The Board may consult with the Executive Office of Veterans Services to identify prior documents that may have been submitted and pertain to the veterans' application;
- (3) Every decision shall be in writing and shall contain a statement of the reasons therefor, including a determination of each issue of fact or law necessary to such decision;
- (4) The Secretary shall issue a written decision not later than ten days after receipt of the board's recommendation, approving or denying the application;
- (5) If the Secretary approves the application, the veteran shall be eligible for state-based veteran benefits. If the Secretary denies the application, the veteran may file a request for reconsideration, including any additional documentation for the application, no more than 30 days after receipt of the Secretary's decision;
- (6) The date of the final decision is the date on which it is voted on by the Board;
- (7) The Executive Office of Veterans Services will issue a written decision to be sent to the veteran *via* email and *via* mail detailing the decision of their application;
- (8) The Veteran shall be notified that they may further appeal, in writing, to The Division of Administrative Law Appeals (DALA) by filing an appeal to DALA within ten days of receipt of the decision; and
- (9) Judicial review of the DALA decision may be had in Superior Court within 30 days after receipt of notice of the decision, in accordance with the provisions of M.G.L. c. 30A.

17.07: Severability

If any provision of 108 CRM 17.00 or its application is held to be invalid, such invalidity shall not affect other provisions or their applications.

REGULATORY AUTHORITY

M.G.L. c. 115, § 2 and M.G.L. c. 115, § 16.