





VETERAN DISCHARGE UPGRADES





Your discharge may affect your ability to access veterans benefits, including VA healthcare, education benefits and disability compensation.

DISCHARGE REQUIREMENTS

Benefits	Honorable	General	OTH	BCD	DD
VA Medical and Dental	✓	✓	TBD	TBD	Not Eligible
Hospitalization and Domiciliary Care	✓	✓	TBD	TBD	Not Eligible
G.I. Bill and Voc Rehab	✓	G.I. Bill-NE Voc Rehab-Yes	NE	NE	Not Eligible
Home Loans	✓	✓	TBD	TBD	Not Eligible
Disability Compensation/Benefits	✓	✓	TBD	TBD	Not Eligible

REASON FOR REQUESTING

- Military Discharge Upgrade
- Military Discharge Review
- VA Character of Discharge Determination

DON'T DO IT ALONE! SEEK ASSISTANCE

- Discharge Upgrade Advocate
 - Veterans Legal Institute www.vetslegal.com
 - National Veterans Legal Service Program www.nvlsp.org
 - The Veterans Consortium www.vetsprobono.org
- Veteran Service Officer, Claims Agent or Attorney
 - Nevada Department of Veteran Service
 - Nation's Finest

MILITARY DISCHARGE UPGRADES/REVIEW

- Upgrading Character of Service
- Changing Narrative Reason for Separation
- Name Change (LGBTQ)

WHAT IS A DISCHARGE UPGRADE/DISCHARGE REVIEW?

- A discharge upgrade changes the “character of service” shown on a veteran’s DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Simultaneously, a veteran may request their “narrative reason for separation” and “re-entry code” be changed.
- This results in the actual military record being changed.

WHAT IS A VA CHARACTER OF DISCHARGE DETERMINATION?

- Process should be initiated when you apply for any VA benefit including access to VA healthcare.
- It is an administrative decision made by the Veterans Benefit Administration.
- Determination of “Honorable for VA Benefits” or “Dishonorable for VA Benefits”.
- Does not change the military record or generate a new DD Form 214.
- Generally quicker than a discharge upgrade.
- Can apply for both at the same time.
- VA follow a different set of rules in making an administrative decision.

VA CHARACTER OF DISCHARGE DETERMINATION

Military Discharge	VA Character of Discharge Determination
Honorable	Honorable
General/Under Honorable Conditions	Honorable
Uncharacterized	Honorable
Other than Honorable/Undesirable	The VA gets to decide
Bad Conduct	The VA gets to decide
Dishonorable	Dishonorable

LIBERAL CONSIDERATION

Due to changes in the law and guidance which now requires **liberal consideration** of the effects of posttraumatic stress disorder (PTSD), traumatic brain injury (TBI) and military sexual trauma (MST). Veterans separated for misconduct are eligible for upgrades of their discharge.

MILITARY DISCHARGE REVIEW

- Two Venues:
 - Discharge Review Board (DRB)
 - Board for Corrections of Military/Naval Records (BCMR/BCNR)

DISCHARGE REVIEW BOARD (DRB)

- Discharge within 15 years
- Standard of review:
 - Equity
 - Propriety
 - Clemency (if court martialed)
- Limited Authority
- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- Types of review:
 - Record Review
 - In-Person Hearing

BOARD FOR CORRECTIONS OF MILITARY RECORDS (BCMR/BCNR)

- Three years from the date the veteran “discovers the error or injustice” but waivable in the “interest of justice”
- Standard of review:
 - Injustice
 - Error
 - Clemency (if court martialled)
- Broader Authority
- DD Form 149; Correction of Military Records
- Types of review:
 - Document Review
 - Personal Appearance Hearing (very rare-no right to a hearing)

DISCHARGE UPGRADE APPLICATION

- Applicable Application form (DD Form 293 or DD Form 149)
- Copy of DD Form 214, all relevant military records, and all relevant medical records
- Personal Statement
- Proof of mental health diagnosis (if applicable)
- A timeline of major events
- Evidence of positive character (since discharge)
- Corroborating evidence/statements

CONSIDERATIONS

- Slim (but not impossible) chance of success without an advocate
- 1-2 year wait for a decision
- VA Character of Determination may be an option and may serve as evidence in requesting a Discharge Upgrade/Review.
- Corrections under DADT & Transgender Veterans
- PTSD, TBI, MST or discrimination

ADDITIONAL CONSIDERATION

	DRB	BCMR/BCNR
Application Form	DD Form 293 (DRB)	DD Form 149 (BCMR/BCNR)
Members	5 Officers (usually active duty)	3 Civilian Employees
Deadline	15 years from date of discharge	3 years from discovery
General Court Martial Discharge (GCM)	Cannot change discharge by GCM	Can change discharge by GCM
Authority	Limited	Broader
Hearing	Right to a personal hearing	No right to a hearing, my request

PERSONAL STATEMENT

- Faithful service of the applicant prior to the events(s) resulting in disciplinary separation
- Fact/events excusing or mitigating the conduct that resulted in separation
- Errors or injustice by the military that resulted in the separation
- Diagnoses supporting the applicants contentions
- Post-service positive character and struggles due to the discharge

LIBERAL CONSIDERATION

- Hagel Memo dated 3 September 2014
- Kurta Memo dated 25 August 2017
- If the circumstances of your discharge were the result of a mental health condition (including PTSD, TBI, MST) you may be able to strengthen your application by submitting evidence correlating your condition with your discharge.
 - Did the veteran have a condition or experience that may excuse or mitigate the discharge?
 - Did the condition or experience occur during military service?
 - Does the condition or experience actually excuse or mitigate the discharge?
 - Does the condition or experience outweigh the discharge?

STEPS TO REQUEST A DISCHARGE UPGRADE OR REVIEW

- Step One: Do you want or can you get help with your application
- Step Two: Figure out where you need to apply to get an upgrade
- Step Three: Explain why you should get an upgrade
- Step Four: Considerations under the Hagel Memo and Kurta Memo
- Step Five: Decide whether it makes sense to request a hearing
- Step Six: Put together your application forms and supporting materials

LEARN MORE

- VA Discharge Upgrade Tool
www.va.gov/discharge-upgrade-instructions/
- Swords to Plowshares Self-Help Guides
www.swords-to-plowshares.org/resources/self-help-guides

QUESTIONS

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<https://veterans.nv.gov/ask-a-vso/>