

Discharge Upgrade Opportunities



What makes you eligible?

If you can connect your discharge to:

- Symptoms of posttraumatic stress disorder (PTSD) or traumatic brain injury (TBI)
- Discrimination based on minority status (examples: LGBT or racial minority)
- Very serious procedural violations (examples: misapplication of regs, never spoke to an attorney at all)



Why do those factors matter?

There are two ways to get an upgrade: equity and propriety

- 1) Equity = the punishment does not fit the crime
- 2) Propriety = the discharge was not legal, or is not legal anymore
 - Example: DoD did not apply the law correctly, “Don’t Ask Don’t Tell” is repealed



Why apply now?

The DoD is lowering its requirements to prove that PTSD/TBI symptoms are connected to misconduct related to bad discharges:

- You do not need evidence of a diagnosis during service;
- Secretary Shulkin has ordered greater leniency (lowered hurdles) and excused some evidence requirements “in the interest of fairness”

If you have been denied in the past, you should consider reapplying!



Does an upgrade matter?

Absolutely!

- It gives you back the respect you earned and provides more opportunities for benefits.
- Applying for an upgrade can take a long time but it is worth the work!



How do I apply?

Each case is different but here are some general steps to follow and expect:

Step 1: Get your records

- Request all your records from the Department of Veterans Affairs and the Department of Defense
VA Form 3288 and SF 180
- You can send your requests through your congressional representative or senator's office to speed up the process (find your representative by entering your zip code at www.house.gov)

Step 2: Get evaluated by a doctor (if relevant)

If you suspect that the misconduct leading to your discharge was connected to symptoms of a mental health condition, **a diagnosis and regular treatment by a medical professional can significantly increase your chances** of getting a discharge upgrade.

Step 3: Explain what happened

Write a personal statement to submit with your application explaining why you should get an upgrade.

Step 4: Gather evidence

Ask your fellow servicemembers or family to write "buddy statements" in support of your claim.

Step 5: Submit your materials to:

Board for Correction of Military Records

(DD Form 149) if within 3 years after discovery of error or, any time, "in the interest of justice"

Discharge Review Board

(DD Form 293) less than 15 years since discharge

Get more Information:

For an overview of the process: <https://www.vets.gov/discharge-upgrade-instructions/>

For information on a PTSD-related discharge: <http://bit.do/ptsd-upgrade-help>

For more detailed information: <http://bit.do/discharge-upgrade-manual>

Get Help from LASC or SEOLS:

For help preparing your application, call 614-224-8374 or 844-302-1800 or visit columbuslegallaid.org or seols.org.

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