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Military Discharges: Character of Service and Eligibility for Department of Veterans Affairs (VA) Benefits

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Character of service refers to the Armed Forces' evaluation of servicemembers' conduct during their service. Generally, there are five statuses under which servicemembers can be discharged: honorable, general (under honorable conditions), other than honorable (OTH), bad conduct, or dishonorable discharge. A servicemember's branch determines which discharge status he or she should be given. If a former servicemember believes there is an error in his or her service records or disagrees with the discharge status assigned, he or she may seek a discharge status upgrade by submitting an application to the appropriate Discharge Review Board (DRB) or Board for Correction of Military Records (BCMR).

On occasion, Congress has enacted laws affecting review conducted by these military correction boards. In 2010, Congress enacted the Don't Ask, Don't Tell (DADT) Repeal Act (P.L. 111-321), which initiated the removal of restrictions on gay servicemembers. Pursuant to the DADT repeal, the Department of Defense issued guidance instructing the military review boards to grant approval of requests to change narrative reasons for discharge, characterizations of discharge, and reenry codes for former servicemembers if (1) the original discharge was based solely on DADT and (2) there are no aggravating factors in the record, such as misconduct. Further, federal law provides that military correction boards shall give liberal consideration to discharge reviews in which mental health conditions typically associated with combat operations may have been factors in the original discharge decisions. This liberal consideration equally applies when sexual assault or harassment caused the applicable mental health conditions.

A servicemember's discharge status affects his or her eligibility for Department of Veterans Affairs (VA) benefits, including disability compensation, certain pension programs, and medical care. For most VA benefits, former servicemembers must meet the statutory definition of *veteran*, which includes basic eligibility requirements. As relevant to this report, to achieve veteran status under the statute, a former servicemember must have performed active service in the Armed Forces and be "discharged or released therefrom under conditions other than dishonorable."

Because the phrase "other than dishonorable" does not match any of the discharge statuses issued by the Armed Forces, VA may perform its own evaluation of a servicemember's character of service to determine basic eligibility for VA benefits. This process is called a *character of discharge review*. While an honorable discharge and a general discharge (under honorable conditions) are binding on VA and make former servicemembers eligible for most VA benefits, a dishonorable discharge is disqualifying for most VA programs. For discharge statuses that fall outside these categories (i.e., OTH and bad conduct discharges), VA evaluates the circumstances surrounding the discharge from service to determine servicemembers' eligibility. Federal statutes and VA regulations bar individuals who engaged in certain conduct from receiving VA benefits. Therefore, VA evaluates former servicemembers' service records to determine whether a statute or regulation (referred to as "statutory bars" and "regulatory bars" to benefits) precludes a servicemember from receiving VA benefits. If a servicemember is not barred from receiving benefits by statute or regulation, VA may determine that the discharge is "honorable" for the purposes of VA benefits. Any claimant who disagrees with a VA determination concerning his or her character of discharge may appeal VA's decision through the agency's appeal process.

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Introduction

A servicemember's discharge status affects their eligibility for U.S. Department of Veterans Affairs (VA) benefits, including disability compensation, certain pension programs, and medical care.¹ The discharge status is determined based on the Armed Forces' (Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard) evaluation of servicemembers' conduct during their service. There are five discharge statuses under which servicemembers can be discharged. A servicemember's service branch² determines whether the servicemember should be given an honorable, general (under honorable conditions), other than honorable (OTH), bad conduct, or dishonorable discharge.³

Federal statutes (establishing "statutory bars" to benefits) and VA regulations (establishing "regulatory bars" to benefits) may preclude a former servicemember from receiving certain VA benefits based on his or her discharge status.⁴ Although statutory bars require legislative action from Congress to amend, VA—to the extent it acts within its statutory authority—may amend the regulatory bars to eligibility.⁵ For example, on April 26, 2024, VA published a final rule (1) removing the regulatory bar to benefits for those discharged under "other than honorable conditions" due to homosexual acts and (2) creating a compelling circumstances exception for certain former servicemembers discharged for "willful and persistent misconduct" or an "offense involving moral turpitude."⁶ The second change expanded the number of former servicemembers eligible for many VA benefits. The final rule took effect on June 25, 2024, and the change is reflected in Title 38, Section 3.12, of the *Code of Federal Regulations*.⁷

This report examines how the Armed Forces' character-of-service determination for discharged servicemembers may affect their eligibility for certain VA benefits and how servicemembers may challenge the determination with the Armed Forces or VA to become eligible for benefits. First, the report explains how the Armed Forces determine a servicemember's character of service and describes the five discharge statuses that the Armed Forces may assign. Next, it discusses how a discharged servicemember may contest a discharge status with the Armed Forces. The report then provides an overview of how VA determines whether a former servicemember qualifies as a

¹ The Department of Defense (DOD) tends to write "servicemember" as a single word, while VA tends to write "service member." This report uses "servicemember" except when quoting directly from material that uses "service member."

Pursuant to Executive Order 14347, DOD is "using a secondary Department of War designation," and the Secretary of Defense is using "Secretary of War" as a "secondary title." Executive Order 14347, "Restoring the United States Department of War," September 5, 2025.

² 20 C.F.R. §1002.136.

³ Several other types of military discharges exist, including dismissal of officers by a general court-martial (equivalent to a dishonorable discharge) and entry-level separations. This report focuses on the types of discharge most relevant to VA benefits claims. "Types of Military Discharges and What they Mean for Veterans," *Law for Veterans*, last updated June 28, 2024, <https://lawforveterans.org/benefits/497-military-discharge>.

⁴ 38 C.F.R. §3.12(c), (d).

⁵ 38 U.S.C. §501(a).

⁶ U.S. Department of Veterans Affairs (VA), "Update and Clarify Regulatory Bars to Benefits Based on Character of Discharge," 38 C.F.R. Part 3, 89 *Federal Register* 32361, April 26, 2024, <https://www.federalregister.gov/documents/2024/04/26/2024-09012/update-and-clarify-regulatory-bars-to-benefits-based-on-character-of-discharge>; U.S. Department of Veterans Affairs, "VA expands access to benefits for some former service members who did not receive an honorable or general discharge," press release, April 25, 2024, <https://www.va.gov/wilmington-health-care/news-releases/va-expands-access-to-care-and-benefits-for-some-former-service-members-who-did-not-receive-an-honorable-or/>.

⁷ VA, "Update and Clarify Regulatory Bars to Benefits Based on Character of Discharge," 89 *Federal Register* 32361.

“veteran” for the purposes of receiving VA benefits and health care. It also discusses the basic eligibility requirements for VA benefits and how VA makes its own determination on whether a former servicemember’s character of service qualifies the individual for specific benefits and health care programs. Finally, the report concludes with an overview of the appeal process at VA for disputing a VA character of discharge determination.

The Armed Forces’ Character of Service Determination

The Armed Forces provide discharged servicemembers with official documentation of their service as required by Title 10, Section 1168, of the *U.S. Code*. The DD Form 214 (DD214) is the primary discharge certificate or certificate of release from all active-duty service.⁸ The DD214 is typically used to verify eligibility for veteran benefits,⁹ and it includes the character of service, a separation code, and a narrative reason for separation. Military department officials determine the character of service based upon a number of factors, including length of service, performance, conduct, medical conditions, and other special circumstances.¹⁰ Military servicemembers may be separated voluntarily or involuntarily.

Separation Policies for the Armed Forces

The following DOD issuances provide policies with respect to enlisted and officer separations and include guidance on discharge characterization:

- DOD Instruction 1332.14, Enlisted Administrative Separations
- DOD Instruction 1332.30, Commissioned Officer Administrative Separations
- Commandant Instruction 1000.4B (U.S. Coast Guard), Military Separations

The military services also promulgate their own separation policies.

Character of Service Categories

The Armed Forces generally define five military discharge statuses:

1. **Honorable Discharge.** Servicemembers who receive ratings from good to excellent for their service and meet or exceed their required standards of duty performance and personal conduct.
2. **General (Under Honorable Conditions) Discharge.** Servicemembers whose performance is satisfactory but may have several incidents contrary to the performance and expected conduct of military servicemembers.
3. **Other Than Honorable (OTH) Discharge.** Servicemembers whose conduct and actions are a serious departure from the proper conduct of military members.

⁸ There is also a DD Form 214-1, “Certificate of Uniformed Service, Reserve Component Addendum”; and a DD Form 215, “Correction to DD Form 214, Certificate of Uniformed Service.” See DOD Instruction 1336.1, Certificate of Uniformed Service (DD Form 214/5 Series), at <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/133601p.pdf#page=8>.

⁹ For example, Title 38, Section 3.203, of the *Code of Federal Regulations* provides that a claimant for VA benefits may submit a DD214 as “evidence of service and character of discharge.” Courts have established that “service department findings as to the fact of service in the U.S. Armed Forces are made binding upon VA for purposes of establishing entitlement to benefits.” *Duro v. Derwinski*, 2 Vet. App. 530, 532 (1992).

¹⁰ For example, see DOD Instruction 1332.14, Enlisted Administrative Separations, p. 34–38, at <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/133214p.pdf>.

Typically, this characterization may be given to servicemembers following military nonjudicial punishment actions or those convicted in civilian courts.¹¹

4. **Bad Conduct Discharge.** Servicemembers who receive punishment from courts-martial.¹² This is a disciplinary discharge roughly equal to a civilian misdemeanor.
5. **Dishonorable Discharge.** Servicemembers who receive disciplinary discharge for actions and behaviors seen as severe and reprehensible to the proper conduct of the military. Offenses that can result in a sentence of dishonorable discharge are roughly equivalent to civilian felonies.

A servicemember’s discharge status may affect his or her eligibility for VA benefits. **Table 1** shows the implications for each discharge status on selected VA benefits. A discussion of each benefit program is beyond the scope of this report, but **Appendix B** provides links to additional CRS reports on these benefits.

Table 1. Character of Discharge Eligibility Criteria for Selected Department of Veterans Affairs (VA) Benefits

E = Eligible, NE = Not Eligible, TBD = to be determined by VA on a case-by-case basis

VA Benefit	Honorable Discharge	General (Under Honorable Conditions) Discharge	Other Than Honorable Discharge	Bad Conduct Discharge (Special Court-Martial)	Bad Conduct Discharge (General Court-Martial)	Dishonorable Discharge
Disability Compensation	E	E	TBD	TBD	NE	NE
Dependency and Indemnity Compensation	E	E	TBD	TBD	NE	NE
Veterans Pension	E	E	TBD	TBD	NE	NE
Veteran Readiness and Employment	E	E	TBD	TBD	NE	NE
Educational Assistance (Post-9/11 G.I. Bill)	E	NE	NE	NE	NE	NE
Home Loans	E	E	TBD	TBD	NE	NE
Housing (HUD-VASH, SSVF, GPD Program)	E	E	E	E	NE	NE
Hospitalization & Domiciliary Care ^b	E	E	TBD	TBD	NE	NE
Health Care and Medical Services	E	E	TBD	TBD	NE	NE
Emergent Suicide Care	E	E	E	TBD	NE	NE
Health Care for Military Sexual Trauma	E	E	E	TBD	NE	NE
Vet Centers (Readjustment Counseling)	E	E	TBD	TBD	NE	NE
Special Housing for Disabled Veterans	E	E	TBD	TBD	NE	NE

¹¹ Nonjudicial punishment is authorized under 10 U.S.C. §815 and commonly referred to as an *Article 15*. This section of the Uniform Code of Military Justice gives commanders the ability to handle minor disciplinary infractions at the unit level without proceeding to courts-martial, and can result in administrative separation of a servicemember.

¹² A bad conduct discharge may be issued by a special court-martial or a general court-martial. Federal law provides that discharge from service by a general court-martial serves as a statutory bar to VA benefits. 38 U.S.C. §5303.

VA Benefit	Honorable Discharge	General (Under Honorable Conditions) Discharge	Other Than Honorable Discharge	Bad Conduct Discharge (Special Court-Martial)	Bad Conduct Discharge (General Court-Martial)	Dishonorable Discharge
Automobiles for Disabled Veterans	E	E	TBD	TBD	NE	NE
Funeral and Burial Expenses	E	E	TBD	TBD	NE	NE
Burial in National Cemeteries	E	E	TBD	TBD	NE	NE

Source: CRS, adapted from charts publicly accessible on the following sites: Department of Veterans Affairs, “Other Than Honorable (OTH) Discharge Policy Update Meeting,” June 21, 2024, <https://www.tn.gov/content/dam/tn/veteranservices/learning/vso-tools/job-aids/discharge-upgrades/OTH%20Policy%20Update%20Presentation%2006.21.2024.pdf>, and RAND Corporation, “The Veterans Left Behind: Eligibility for Department of Veterans Affairs Benefits and Other Than Honorable Discharges,” September 2024, page 7, Table 2: Character-of-Discharge Determination Eligibility for Selected Benefits, https://www.rand.org/content/dam/rand/pubs/perspectives/PEA1300/PEA1363-13/RAND_PEA1363-13.pdf.

Notes: HUD-VASH = U.S. Department of Housing and Urban Development’s Veterans Affairs Supportive Housing; SSVF = Supportive Services for Veteran Families; GPD = Grant and Per Diem.

The statutory and regulatory bars summarized in this table are codified at 38 U.S.C. §5303(a) and 38 C.F.R. §3.12(d), respectively. These statutory and regulatory bars are listed in **Table 2** of this report.

- a. “Any person guilty of mutiny, spying, or desertion, or who, because of conscientious objections, refuses to perform service in the Armed Forces ... or refuses to wear the uniform ... shall forfeit all rights to Servicemember’s Group Life Insurance and Veterans’ Group Life Insurance” (38 U.S.C. §1973).
- b. Title 38 U.S.C §§1720I and 1720J authorize VA to provide specified mental health care and emergent suicide care to former servicemembers discharged under other-than-dishonorable conditions. In addition, the VA Secretary has used broad authority under 38 U.S.C. §1784 to provide emergent mental health care to former servicemembers regardless of character of discharge. These exceptions are described in detail in the “Emergent Suicide Care” section of this report.

Disputing an Armed Forces Discharge Characterization

If a former servicemember believes a discharge characterization incorrectly or unfairly limits or prevents access to VA benefits, the servicemember may request an upgrade of his or her discharge. Each military department and the Department of Homeland Security (for the Coast Guard) has two corrections boards: a discharge review board (DRB) and a board for correction of military records (BCMR).¹³ In the FY2020 National Defense Authorization Act (NDAA; P.L. 116-92), Congress required the Secretary of Defense to create a “final review” process for discharge upgrade requests.¹⁴ DOD established the Discharge Appeal Review Board (DARB) in April 2021.¹⁵

¹³ 10 U.S.C. §1552 (BCMR); 10 U.S.C. §1553 (DRB). For overarching policies, see DOD Directive 1332.41, Boards for Correction of Military Records (BCMRs) and Discharge Review Boards (DRBs), at <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodd/133241p.pdf>, and DOD Instruction 1332.28, Discharge Review Board (DRB) Procedures and Standards, at <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/133228p.pdf>.

¹⁴ P.L. 116-92, §523; 10 U.S.C. §1553a(a).

¹⁵ U.S. Department of Defense, *DOD Announces New Discharge Appeal Review Board Option*, April 7, 2021, at <https://www.defense.gov/News/Releases/Release/Article/2564345/dod-announces-new-discharge-appeal-review-board-option/>. DOD published a final rule governing the DARB in November 2024. Defense Department, “DOD Discharge Appeal Review Board,” 32 C.F.R. Part 73, RIN 0790-AL57 *Federal Register*, November 29, 2024.

The Air Force Review Board Agency, also launched in 2021, serves as the lead agency for oversight of DOD’s corrections boards and review office.¹⁶ The agency is responsible for congressionally mandated reporting on board outcomes and other statistics.¹⁷

Discharge Review Board (DRB) Review Process

A DRB has authority to change an individual’s reason for separation or service characterization through an administrative process. A former servicemember or the servicemember’s surviving spouse, next of kin, or legal representative may make a request.¹⁸ A DRB, consisting of at least three members, typically initiates review of a discharge or dismissal when an application for review is submitted. The applicant is required to request consideration of specific issues that may change the character of discharge or reason for discharge.¹⁹ The DRB review process involves either a record review (without a hearing) or an in-person hearing.²⁰ The DRB is to review records submitted by an applicant and requested by the DRB. If an applicant elects to have an in-person hearing, the applicant may appear at the hearing to provide testimony or call witnesses.²¹ The applicant is allowed to have legal representation at the DRB, but the government does not pay attorney fees.²² Following the hearing, the DRB determines whether the military department characterized the discharge in a procedurally and substantively correct manner. A majority vote by the DRB members is needed for the DRB to make its findings, which are issued in a decisional document.²³

Board for Correction of Military Records (BCMR) Review Process

Relative to a DRB, a BCMR has broad authority to “correct an error” in, or “remove an injustice” from, an individual’s service record.²⁴ It provides an administrative process for a current or former servicemember to request a record correction or present a monetary claim associated with the correction.²⁵ The BCMR typically serves as the next step following an unfavorable DRB decision. An applicant who has been denied a request for discharge characterization upgrade from a DRB or who is outside the 15-year window for DRB consideration may appeal to a BCMR. Typical scenarios in which a BCMR might act include procedural errors during a servicemember’s separation, significant new evidence supporting the petitioner, or subsequent changes in policy that would affect the DRB’s decision (e.g., changes to policies with respect to sexual orientation, as discussed in the “Sexual Orientation” section below).

Discharge Appeal Review Board (DARB) Process

The Under Secretary of Defense for Personnel and Readiness oversees the DARB’s policies and procedures, while the Secretary of the Air Force, “as the designated lead agent for the DARB,”

¹⁶ See <https://afrba-portal.cce.af.mil/#>.

¹⁷ Public reporting is required by P.L. 116-92, §523, and available at <https://boards.law.af.mil/stats.htm>.

¹⁸ 10 U.S.C. §1553.

¹⁹ 32 C.F.R. §70.8(a)(3).

²⁰ 32 C.F.R. §70.8(b)(3).

²¹ If an applicant does not want to appear in person, or is unable to appear, the applicant’s counsel or representative may appear on the applicant’s behalf. 32 C.F.R. §70.8(b)(3)(ii).

²² 32 C.F.R. §70.8(b)(4).

²³ 32 C.F.R. §70.8(e).

²⁴ 10 U.S.C. §1552(a)(1).

²⁵ 10 U.S.C. §1552.

makes appointments of DARB members.²⁶ The DARB serves as a final level of DOD administrative review—a petitioner must first exhaust all administrative remedies available through a DRB and BCMR before seeking review from DARB.²⁷

The DARB panel is to consider a petitioner’s request and is responsible for reviewing the individual’s record and the applicability of DOD policies and standards. The panel then makes recommendations to the DARB president on whether the request for a discharge characterization upgrade should be “granted, partially granted, or denied.”²⁸

Timeliness of Application and Review

For a DRB, an applicant must request review within 15 years of the discharge or dismissal,²⁹ for BCMRs, the request must be made within three years of discovering the error or injustice.³⁰ In some cases, the relevant Secretary may waive the BCMR’s three-year deadline.³¹ A petitioner must request a final DARB review within 365 calendar days of receipt of the respective military department’s BCMR decision.³²

Corrections boards are required to complete reviews within a specified timeframe. Prior concerns from constituents about the timeliness of the boards’ review action led Congress, in 1998, to require the boards to complete a certain percentage of their reviews within 10 months of receiving the applications.³³ This requirement was phased in, and since FY2011, the boards have been required to complete 90% of reviews within 10 months.³⁴ Statute also directs the DRB to prioritize and expedite any discharge review related to post-traumatic stress disorder (PTSD) or traumatic brain injury (TBI).³⁵

²⁶ 32 C.F.R. §§73.3, 73.4(a); Under Secretary of Defense, Directive-type Memorandum 23-006 – “DoD Discharge Appeal Review Board” May 5, 2023, at <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dtm/DTM%2023-006.PDF>.

²⁷ 32 C.F.R. §73.5.

²⁸ 32 C.F.R. §73.4.

²⁹ 10 U.S.C. §1553(a). There is no waiver to this 15-year deadline, and the DRB does not have authority to accept applications for review beyond that deadline. *Green v. White*, 319 F.3d 560, 564 (3d Cir. 2003) (stating that the DRB “was not empowered to hear [a] complaint” filed after the 15-year deadline).

³⁰ 10 U.S.C. §1552(b). In contrast to the DRB provision, the statute of limitations for BCMR review begins to run upon discovery of the error, rather than the date of discharge. 10 U.S.C. §1553(a); 10 U.S.C. §1552(b). Therefore, a BCMR may timely hear claims concerning records well after the date of discharge. *Mullen v. United States*, 19 Cl. Ct. 550, 551 (Cl. Ct. 1990) (holding that application before the BCMR was timely, although filed over eleven years after discharge, because the applicant did not discover the error until he was diagnosed with post-traumatic stress disorder over ten years after discharge).

³¹ 10 U.S.C. §1553(b) (“A board ... may excuse a failure to file within three years after discovery if it finds it to be in the interest of justice.”).

³² 32 C.F.R. §73.5.

³³ P.L. 105-261, §544; 10 U.S.C. §1557. The House Report to accompany the bill (H.Rept. 105-532) stated that “the committee is very sensitive to the many complaints from constituents about the timeliness of actions and perceived problems concerning the independence and fairness of decisions by the boards for the correction of military records.”

³⁴ The law establishes that a correction board’s failure to meet these timelines “does not confer any presumption or advantage with respect to consideration by the board of any application.” 10 U.S.C. §1557.

³⁵ 10 U.S.C. §1553(d).

Special Considerations

Mental Illness

A DRB is also to give “liberal consideration” to a discharge review in which mental health conditions typically associated with combat operations may have been a factor in the discharge decision.³⁶ This “liberal consideration” equally applies to discharge reviews in which sexual assault or harassment caused PTSD, TBI, or other mental health conditions. In 2019, as part of the National Defense Authorization Act for Fiscal Year 2020 (FY2020 NDAA, P.L. 116-92, §521), Congress added a requirement that the DRB seek “advice and counsel” from a mental health specialist in cases where an applicant claims one of these circumstances. The advice and counsel requirement also applies to BCMRs.³⁷ The FY2020 NDAA also required DRB members to receive training on sexual trauma, intimate partner violence, spousal abuse, and the various responses of individuals to trauma.³⁸

Sexual Orientation

In 2010, Congress passed the Don’t Ask Don’t Tell (DADT) Repeal Act (P.L. 111-321).³⁹ This law initiated the removal of restrictions on gay servicemembers. During the period when DADT restrictions were enforced (and under similar DOD policies issued prior to DADT), openly gay individuals were ineligible to enlist and an estimated 32,837 were discharged from service.⁴⁰ In most cases, these discharges were administrative discharges under DOD policies first implemented in the 1980s.⁴¹

Following the enactment of P.L. 111-321, then-Undersecretary of Defense for Personnel and Readiness Clifford L. Stanley issued a memorandum (the Stanley Memorandum) instructing the review boards to grant requests to change narrative reasons for discharge, characterizations of discharge, and reentry codes for former servicemembers under the following conditions:

- the original discharge was based solely on DADT or a similar policy in place prior to the enactment of DADT and
- there are no aggravating factors in the record, such as misconduct.⁴²

³⁶ Memorandum from the Under Secretary of Defense to Secretaries of the military departments, “Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment,” August 25, 2017, at <https://www.secnv.navy.mil/mra/bcnr/Documents/Clarifying-Guidance-to-Military-Discharge-Review-Boards.pdf>. Memorandum from the Office of the Under Secretary of Defense to Secretaries of the military, “Consideration of Discharge Upgrade Requests Pursuant to Supplemental Guidance to Military Boards for Correction of Military/Naval Records (BCMRs/BCNR) by Veterans Claiming Post Traumatic Stress Disorder (PTSD) or Traumatic Brain Injury (TBI),” February 24, 2016, at <https://afrra-portal.cce.af.mil/app/assets/2016-Carson-Memo-24-Feb-2016.pdf>.

³⁷ P.L. 116-92, §521.

³⁸ P.L. 116-92, §525.

³⁹ This law repealed 10 U.S.C. §654, first added by P.L. 103-160.

⁴⁰ U.S. Department of Defense, *Don’t Ask, Don’t Tell Resources*, at <https://www.defense.gov/Spotlights/Dont-Ask-Dont-Tell-Resources/>.

⁴¹ U.S. Department of Defense Directive 1332.14, Enlisted Administrative Separations, Enclosure 8, January 28, 1982, as reported in Nathan S. Lowrey, *Repealing Don’t Ask, Don’t Tell; A Historical Perspective from the Joint Chiefs of Staff*, Office of the Chairman of the Joint Chiefs of Staff, Special Historical Study 15, Washington, DC, 2021.

⁴² Memorandum from Clifford I. Stanley, Under Secretary of Defense for Personnel and Readiness, to Secretaries of the military departments, “Correction of Military Records Following Repeal of Section 654 of Title 10, United States (continued...) ”

The Stanley Memorandum also provides that the repeal of DADT should be a sufficient basis to support reconsideration of requests from applicants who were previously denied upgrades.

Ongoing congressional concern about DADT discharges led to a requirement in the FY2021 NDAA (P.L. 116-283, §525) for DOD to submit a report on the number of former servicemembers discharged due to their sexual orientation who applied for upgrades to their discharge characterizations. It further required DOD to report on discharge review decisions and the percentages granted and denied.⁴³

On September 20, 2023, DOD announced that it would proactively review military records of those separated due to sexual orientation who received discharges designated under less-than-honorable conditions.⁴⁴ DOD has since announced the completion of this proactive review.⁴⁵

COVID-19 Vaccine Refusal

Under the Biden Administration, on August 24, 2021, the Secretary of Defense issued a memorandum directing military department secretaries to “immediately begin full vaccination of all members of the Armed Forces under DoD authority ... against COVID-19.”⁴⁶ While this mandate was in place, many servicemembers who refused to get the vaccine were involuntarily separated from the military.⁴⁷ In response, Congress included a provision in the FY2023 NDAA (P.L. 117-263) that required the Secretary of Defense to “rescind the mandate that members of the Armed Forces be vaccinated against COVID-19.”⁴⁸ On January 10, 2023, following the enactment of P.L. 117-263, the Secretary issued another memorandum rescinding the mandate.⁴⁹ In 2025, DOD estimated that while the mandate was in place, approximately 8,700 servicemembers were separated for failing to comply, and over 3,000 of them received a less than honorable discharge characterization.⁵⁰

Code,” September 20, 2011, at <https://media.defense.gov/2023/Sep/18/2003303089/-1/-1/0/CORRECTION-OF-MILITARY-RECORD-FOLLOWING-REPEAL-OF-SECTION-654-OF-TITLE-10.PDF>; Nathan S. Lowrey, *Repealing Don't Ask, Don't Tell: A Historical Perspective from the Joint Chiefs of Staff*, Office of the Chairman of the Joint Chiefs of Staff, Special Historical Study 15, Washington, DC, 2021.

⁴³ U.S. Department of Defense, *Report: Reviews of Discharges and Dismissals Based on Sexual Orientation*, September 2021, at https://boards.law.af.mil/Congressional_Reports/FY21%20NDAA%2C%20Sec.%20525%20Report%20to%20Congress%20%28Sexual%20Orientation%29.pdf.

⁴⁴ U.S. Department of Defense, *Background Media Roundtable on Don't Ask, Don't Tell Records Review Resources Update*, transcript, September 20, 2023, at <https://www.defense.gov/News/Transcripts/Transcript/Article/3531960/background-media-roundtable-on-dont-ask-dont-tell-records-review-resources-upda/>.

⁴⁵ For more information, see <https://www.defense.gov/Spotlights/Dont-Ask-Dont-Tell-Resources/>.

⁴⁶ Memorandum from Lloyd Austin, Secretary of Defense, to senior Pentagon leadership, “Mandatory Coronavirus Disease 2019 Vaccination of Department of Defense Service Members,” August 24, 2021, at <https://media.defense.gov/2021/Aug/25/2002838826/-1/-1/0/Memorandum-for-mandatory-coronavirus-disease-2019-vaccination-of-department-of-defense-service-members.pdf>.

⁴⁷ Alison Bath, “Service members who refused COVID-19 vaccine say they face obstacles despite policy reversal,” *Stars and Stripes*, January 12, 2023, at <https://www.stripes.com/covid/2023-01-12/covid-unvaccinated-military-8738074.html>.

⁴⁸ P.L. 117-263, §525.

⁴⁹ Memorandum from Lloyd Austin, Secretary of Defense, to senior Pentagon leadership, “Rescission of August 24, 2021, and November 30, 2021, Coronavirus Disease 2019 Vaccination Requirements for Members of the Armed Forces,” January 10, 2023, at <https://media.defense.gov/2023/Jan/10/2003143118/-1/-1/1/SECRETARY-OF-DEFENSE-MEMO-ON-RESCISSION-OF-CORONAVIRUS-DISEASE-2019-VACCINATION-REQUIREMENTS-FOR-MEMBERS-OF-THE-ARMED-FORCES.PDF>.

⁵⁰ U.S. Department of War, “Statement by Chief Pentagon Spokesman, Sean Parnell, on the Restoring Honor to Service Members Separated Under the Coronavirus Disease 2019 Vaccine Mandate Memorandum,” press release, December (continued...)

On January 27, 2025, President Trump issued Executive Order 14184 to “make reinstatement available to all members of the military (active and reserve) who were discharged solely for refusal to receive the COVID-19 vaccine.”⁵¹ Following the executive order, DOD officials published guidance directing the DRBs and BCMRs to “generally grant a discharge upgrade request” when a former servicemember was involuntarily separated based solely on refusal to be vaccinated for COVID-19.⁵²

In November 2025, VA issued a press release stating that, in September 2025, it “sent letters to Veterans who have already received upgraded discharges to inform them of their potential eligibility for GI Bill education benefits.”⁵³

On December 6, 2025, the Secretary of Defense issued a memorandum directing “a proactive review of personnel records, to identify individuals who were involuntarily discharged solely for refusing to take the COVID-19 vaccine and facilitate appropriate discharge upgrades.”⁵⁴ On December 10, 2025, the Under Secretary of Defense for Personnel and Readiness provided guidance on how to implement the proactive review.⁵⁵ An involuntarily discharged individual does not need to apply for a discharge upgrade. The guidance instructs the secretaries of the military departments to identify individuals eligible for review, refer their names to DRBs, and “ensure that the DRBs review and issue decisions to every individual identified as eligible ... within one calendar year [of December 10, 2025] ... and notify individuals who receive relief” in a timely manner on an ongoing basis.⁵⁶

15, 2025, <https://www.war.gov/News/Releases/Release/Article/4360905/statement-by-chief-pentagon-spokesman-sean-pannell-on-the-restoring-honor-to-se/>.

⁵¹ Executive Order 14184, “Reinstating Service Members Discharged Under the Military’s COVID-19 Vaccination Mandate,” January 27, 2025.

⁵² Memorandum from Jules W. Hurst III, Under Secretary of Defense for Personnel and Readiness, to Secretaries of the military departments, “Supplemental Guidance to the Military Department Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests from Service Members Adversely Impacted by Coronavirus Disease 2019 Vaccination Requirements,” May 7, 2025, at https://www.war.gov/Portals/1/Spotlight/2025/Guidance_For_Federal_Policies/Supplemental-Guidance-to-the-Military-Department-Discharge-Review-Boards-and-Boards-for-Correction-of-Military-Naval-Records.pdf.

⁵³ U.S. Department of Veterans Affairs, “Trump EO reinstates GI Bill benefits to Veterans discharged for refusing COVID vaccine,” press release, November 17, 2025, <https://news.va.gov/press-room/trump-eo-reinstates-gi-bill-benefits-to-veterans-discharged-for-refusing-covid-vaccine/>.

⁵⁴ Memorandum from Pete Hegseth, Secretary of War, to senior Pentagon leadership, “Restoring Honor to Service Members Separated Under the Coronavirus Disease 2019 Vaccine Mandate,” December 6, 2025, at <https://media.defense.gov/2025/Dec/15/2003842948/-1/-1/1/RESTORING-HONOR-TO-SERVICE-MEMBERS-SEPARATED-UNDER-THE-CORONAVIRUS-DISEASE-2019-VACCINE-MANDATE.PDF>.

⁵⁵ Memorandum from Anthony Tata, Under Secretary of War for Personnel and Readiness, to Secretaries of the military departments, “Guidance to Restore Honor to Service Members Separated Under the Coronavirus Disease 2019 Vaccine,” December 10, 2025, at <https://media.defense.gov/2025/Dec/15/2003842981/-1/-1/1/GUIDANCE-TO-RESTORE-HONOR-TO-SERVICE-MEMBERS-SEPARATED-UNDER-THE-CORONAVIRUS-DISEASE-2019-VACCINE.PDF>.

⁵⁶ Memorandum from Anthony Tata, Under Secretary of War for Personnel and Readiness, to Secretaries of the military departments, “Guidance to Restore Honor to Service Members Separated Under the Coronavirus Disease 2019 Vaccine,” December 10, 2025, at <https://media.defense.gov/2025/Dec/15/2003842981/-1/-1/1/GUIDANCE-TO-RESTORE-HONOR-TO-SERVICE-MEMBERS-SEPARATED-UNDER-THE-CORONAVIRUS-DISEASE-2019-VACCINE.PDF>.

Judicial Review of a Correction Board Decision

If a former servicemember is denied a request for a discharge upgrade or a correction to military records, the servicemember may seek judicial review of that decision in federal court.⁵⁷ Although the statutes related to DRB review and BCMR review are silent with regard to judicial review, a servicemember may seek review of a final agency action under the Administrative Procedure Act (P.L. 79-404).⁵⁸

Although judicial review is available, that review is limited in several respects. A court conducts review only on the administrative record—that is, it does not consider new evidence and makes a determination based solely on the record that was before the DRB or BCMR at the time of the board’s decision.⁵⁹ Arguments not raised during the administrative adjudication before the correction board are waived, and the reviewing court does not consider them.⁶⁰ Further, the scope of review is generally “limited to determining whether a decision . . . is arbitrary, capricious, unsupported by substantial evidence, or contrary to applicable statutes and regulations.”⁶¹ Such arbitrary and capricious review does not require the court to reevaluate the evidence but only to determine whether the board’s conclusion is supported by substantial evidence.⁶² Thus, a court does not review the record to reach its own conclusion based on the presented facts but, instead, reviews only the board’s decision to ensure that it is reasonable. Finally, courts employ a general principle that, in cases involving military personnel decisions, “the military is entitled to substantial deference in the governance of its affairs.”⁶³

Despite the limited nature of judicial review, a court is to ensure that the board has applied the appropriate standards when considering a discharge upgrade request. For example, the U.S. Court of Appeals for the Ninth Circuit remanded a case back to the Army BCMR for failure to appropriately apply the “liberal consideration” standard to a former servicemember who suffered from PTSD.⁶⁴ In that case, the former servicemember sought an upgrade to his bad conduct discharge received as a sentence from a general court-martial.⁶⁵ The BCMR, in reviewing the case, accepted a psychologist’s opinion that “PTSD does not cause the legal elements of the crime” for which the servicemember had been convicted and declined to upgrade the discharge status.⁶⁶ The court held that the “liberal consideration” standard requires a military correction board to consider the totality of circumstances surrounding the discharge—that is, “the Board is

⁵⁷ See, e.g., *Barnick v. United States*, 591 F.3d 1372, 1374 (Fed. Cir. 2010).

⁵⁸ 5 U.S.C. §704.

⁵⁹ *Metz v. United States*, 466 F.3d 991, 998 (Fed. Cir. 2006) (holding that review is limited to the administrative record).

⁶⁰ *Metz*, 466 F.3d at 998 (“[A] plaintiff may waive an argument with respect to that issue by not asserting it before the Board.”).

⁶¹ *Melendez Camilo v. United States*, 642 F.3d 1040, 1044 (Fed. Cir. 2011) (“Accordingly, the scope of our review for challenges to military correction board decisions is ‘limited to determining whether a decision of the Correction Board is arbitrary, capricious, unsupported by substantial evidence, or contrary to applicable statutes and regulations.’”).

⁶² *Falk v. Sec’y of the Army*, 870 F.2d 941, 945 (2d Cir. 1989) (“[W]hen applying the arbitrary and capricious test, a court may not assess the wisdom of an agency’s choice; inquiry is limited instead to whether the Board has made a clear error of judgment.”). Substantial evidence is less than a preponderance and only requires that there is sufficient evidence that “a reasonable mind might accept as adequate to support a conclusion.” *Debor v. United States*, No. 21-2258C, 2023 WL 4417362, at *9 (Fed. Cl. July 7, 2023).

⁶³ *Antonellis v. United States*, 723 F.3d 1328, 1332 (Fed. Cir. 2013).

⁶⁴ *Bussey v. Driscoll*, 131 F.4th 756, 764 (9th Cir. 2025) (“We vacate the district court’s judgment and remand this case to the Board to reconsider [the] upgrade request under the appropriate standard.”).

⁶⁵ *Bussey*, 131 F.4th at 760–61.

⁶⁶ *Bussey*, 131 F.4th at 763.

legally required to consider whether PTSD ‘potentially contributed to’ these ‘circumstances,’” not just whether PTSD was the but-for cause of the crime leading to the discharge.⁶⁷ It further explained that “[l]iberal consideration’ requires the Board to resolve doubts” in the former servicemember’s favor, and it remanded the case to the BCMR to apply the appropriate standard.⁶⁸

Similarly, courts have remanded cases to DRBs and BCMRs for failing to follow the appropriate procedures, such as failing to consider submitted evidence⁶⁹ or failing to provide adequate findings and conclusions⁷⁰ in the decision documents. As another example, in *Jenkins v. Speer*, the court remanded the BCMR’s decision for failure to consider evidence provided by the former servicemember.⁷¹ The former servicemember argued before the BCMR that he had received inadequate legal counsel during his discharge from service, which led to him receiving an OTH discharge.⁷² In support of his claim, he submitted a letter he had received from his attorney from when he was being discharged from service.⁷³ The BCMR did not consider the letter and declined to upgrade his discharge.⁷⁴ The court remanded the case because the BCMR had failed to consider the potentially material evidence.⁷⁵

Service Criteria to Establish “Veteran” Status

VA benefits are available to former servicemembers (or certain survivors of former servicemembers) who can establish “veteran” status for VA purposes.⁷⁶ Title 38, Section 101(2), of the *U.S. Code* defines *veteran* as “a person who served in the active military, naval, air, or space service, and who was discharged or released therefrom under conditions other than dishonorable.” Therefore, to qualify for VA benefits,⁷⁷ a former servicemember must (1) satisfy the active service requirement and (2) be discharged from service “under conditions other than dishonorable.”⁷⁸ This section of the report discusses these eligibility requirements for VA benefits.

Active Service Requirement

First, to qualify as a “veteran” for VA purposes, a former servicemember must have “served in the active military, naval, air, or space service.”⁷⁹ Therefore, former servicemembers must establish

⁶⁷ *Bussey*, 131 F.4th at 762.

⁶⁸ *Bussey*, 131 F.4th at 763–64.

⁶⁹ *Jenkins v. Speer*, 258 F. Supp. 3d 115, 129 (D.D.C. 2017) (“Because the ABCMR did not address Captain Hyder’s cover letter or Mr. Jenkins’s declaration, its decision was arbitrary.”).

⁷⁰ *Martin v. Sec’y of Army*, 455 F. Supp. 634, 639 (D.D.C. 1977) (“Precedent dictates that the case be remanded to the Secretary of the Army for the entry of findings upon which the Court can base its review.”).

⁷¹ *Jenkins*, 258 F. Supp. 3d at 136.

⁷² *Jenkins*, 258 F. Supp. 3d at 122.

⁷³ *Jenkins*, 258 F. Supp. 3d at 126.

⁷⁴ *Jenkins*, 258 F. Supp. 3d. at 126–127.

⁷⁵ *Jenkins*, 258 F. Supp. 3d. at 136.

⁷⁶ *Lile v. McDonough*, 37 Vet. App. 140, 146 (2024) (“The threshold matter in any VA benefits claim is the claimant’s basic eligibility [which is] determined by proving ‘veteran’ status.”).

⁷⁷ Certain VA health benefits, such as emergent suicide care, may be available to former servicemembers who do not meet the statutory definition of “veteran” for VA purposes.

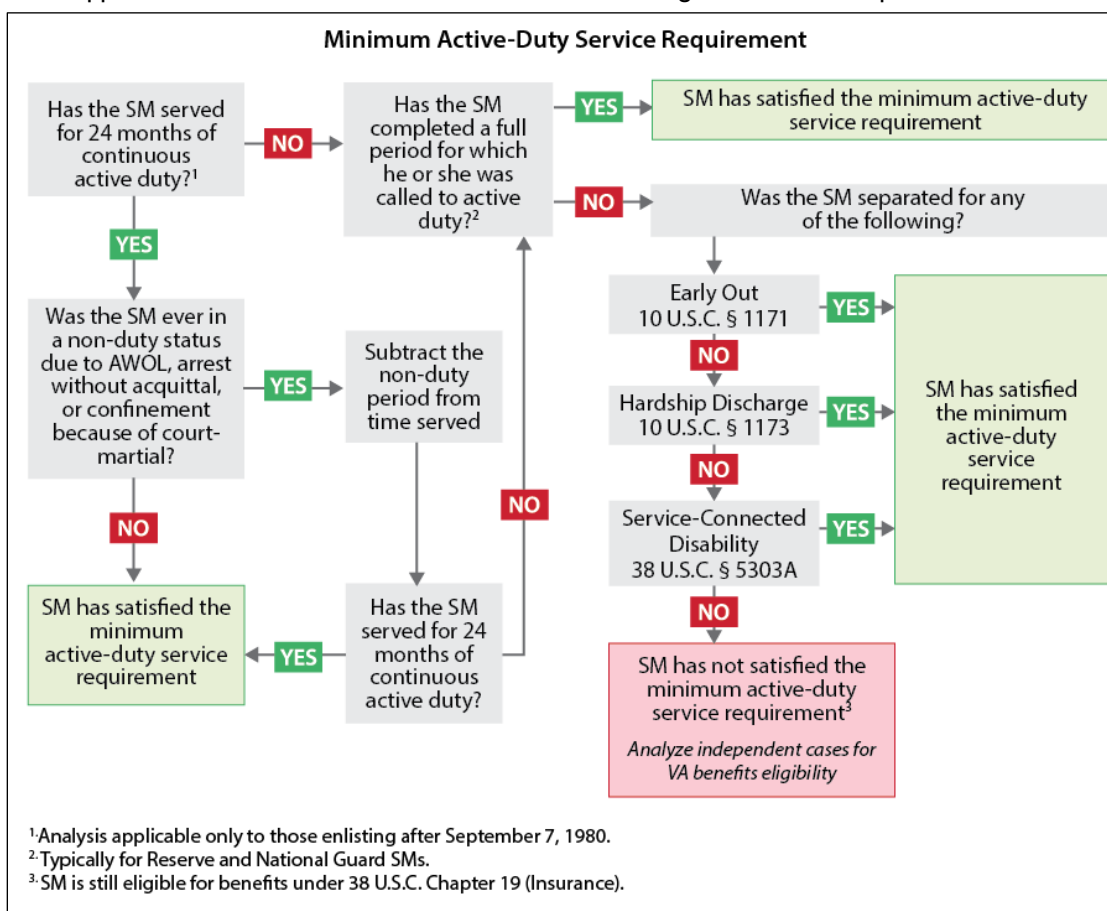
⁷⁸ *Lile*, 37 Vet. App. at 146.

⁷⁹ 38 U.S.C. §101(2). As the focus of this report concerns former servicemembers’ character of service, a full discussion of the active service requirement is beyond the scope of this report. For more information on the active (continued...)

that they performed “active” service. For a former servicemember to establish veteran status, generally the individual must have completed active military service for a minimum period of time.⁸⁰ This period is usually the lesser of the full period the individual was ordered to active duty or 24 months, though there are certain exceptions.⁸¹ **Figure 1** shows multiple pathways through which a servicemember may satisfy the active-duty service requirement.

Figure 1. Does the Individual Satisfy the Active-Duty Service Requirement?

Applies to Former Servicemembers with Service that Began on or After September 8, 1980



Source: CRS, adapted from Section 2.3.2 of the National Veterans Legal Services Program’s *Veterans Benefits Manual 2023-2024*. The minimum active-duty service requirement is housed at 38 U.S.C. §5303A (not to be confused with 38 U.S.C. §5303(a)) and 38 C.F.R. §3.12a (2022).

Notes: AWOL = Absence without official leave; SM = Servicemember.

service requirement, see CRS Report R47299, *U.S. Department of Veterans Affairs: Who Is a Veteran?*, by Madeline E. Moreno.

⁸⁰ 38 U.S.C. §5303A; 38 C.F.R. §3.12a(a).

⁸¹ 38 C.F.R. §3.12a(d) (listing exceptions to length-of-service requirement).

Character of Discharge Requirement

Second, to qualify as a “veteran” for VA purposes, a former servicemember must have been “discharged or released [from service] under conditions other than dishonorable.”⁸² Therefore, VA must determine whether a former servicemember is eligible for benefits based on the circumstances that warranted the servicemember’s character of discharge.⁸³ Congress and VA have established, respectively, statutory and regulatory bars to benefits that disqualify former servicemembers from receiving VA benefits due to their character of discharge.⁸⁴ If individuals are not barred from benefits pursuant to the statutes or regulations, they are considered to be discharged “under conditions other than dishonorable” and are generally eligible for benefits.⁸⁵ **Table 2** summarizes these bars to benefits. There is a narrow exception to some of these bars to benefits: if VA determines that a former servicemember was *insane*⁸⁶ at the time of the offense that led to his or her discharge or release under dishonorable conditions, then that offense is not to serve as a bar to benefits.⁸⁷

Previously, “homosexual acts involving aggravated circumstances” served as a regulatory bar to benefits, but this bar was removed when VA finalized a rule change on April 26, 2024.⁸⁸ The removal of this bar did not change VA policy, as former servicemembers who were discharged strictly due to DADT had “been generally eligible for benefits” since the implementation of the DADT Repeal Act.⁸⁹

Table 2. Statutory and Regulatory Bars to Benefits

Statutory Bars
Being a conscientious objector who refused to wear the uniform or comply with lawful orders of a competent military authority (38 U.S.C. §5303(a))
Sentence of a general court-martial (38 U.S.C. §5303(a))
Desertion (38 U.S.C. §5303(a))

⁸² 38 U.S.C. §101(2). Notably, DOD does not use the term “conditions other than dishonorable” when issuing a character of service determination upon a servicemember’s separation from the military. See, the “Character of Service Categories” section of this report. Instead, Congress elected to use “conditions other than dishonorable” to provide VA with flexibility surrounding the determination on what character of service would qualify for “veteran” status. *Garvey v. Wilkie*, 972 F.3d 1333, 1339 (Fed. Cir. 2020) (“Congress provided the VA with ‘discretion,’ in determining the ‘conditions’ under which a former servicemember was ‘[]worthy’ of benefits.” [quoting S.Rep. No. 78-755 p. 15]); *Newman v. McDonough*, 35 Vet. App. 310, 315 (2022) (noting that while DOD issues five separate discharge statuses, “VA recognizes only *two categories* of discharge—dishonorable and other than dishonorable—when determining eligibility for VA benefits”).

⁸³ *Newman*, 35 Vet. App. at 315 (explaining that “VA performs its own [character of discharge] determinations by examining the underlying conduct that led to a former servicemember’s discharge”).

⁸⁴ 38 U.S.C. §5303(a); 38 C.F.R. §§3.12(c), (d).

⁸⁵ See *Newman*, 35 Vet. App. at 315 (“[T]he [VA] uses both statutory and regulatory provisions to determine whether a former servicemember’s discharge was under conditions other than dishonorable.”).

⁸⁶ 38 C.F.R. §§3.12(b), 3.354.

⁸⁷ 38 U.S.C. §5303(b); 38 C.F.R. §3.12(b).

⁸⁸ U.S. Department of Veterans Affairs (VA), “Update and Clarify Regulatory Bars to Benefits Based on Character of Discharge,” 38 C.F.R. Part 3, 89 *Federal Register* 32361, April 26, 2024, <https://www.federalregister.gov/documents/2024/04/26/2024-09012/update-and-clarify-regulatory-bars-to-benefits-based-on-character-of-discharge>.

⁸⁹ U.S. Department of Veterans Affairs, “Tenth anniversary of the repeal of Don’t Ask, Don’t Tell,” September 20, 2021, <https://web.archive.org/web/20250203111933/https://news.va.gov/94920/tenth-anniversary-of-the-repeal-of-dont-ask-dont-tell/>.

Discharge of an individual during a period of hostilities as an alien (38 U.S.C. §5303(a))
Absence without official leave (AWOL) for a continuous period of 180 days or more without “compelling circumstances” (38 U.S.C. §5303(a)) ^a
Regulatory Bars
Undesirable discharge in lieu of trial by general court-martial (38 C.F.R. §3.12(d)(1)(i))
Mutiny or spying (38 C.F.R. §3.12(d)(1)(ii)) ^b
An offense involving moral turpitude (generally includes conviction of a felony) (38 C.F.R. §3.12(d)(2)(i)) ^a
Willful and persistent misconduct 38 C.F.R. §3.12(d)(2)(ii) ^a

Source: CRS, based on information in 38 U.S.C. §5303 and 38 C.F.R. §3.12(d).

- a. VA considers multiple factors to determine if compelling circumstances exist to mitigate the AWOL or willful and persistent misconduct. These factors are found in 38 C.F.R. §3.12(e)(1–3). A compelling circumstances exception may also apply to an offense involving moral turpitude.
- b. Additional federal crimes considered “subversive activities” under 38 U.S.C. §6105 can lead to the forfeiture of VA benefits. For more information, see CRS In Focus IF11762, *Veteran Involvement in the U.S. Capitol Breach: Possible Effects on VA Benefits*.

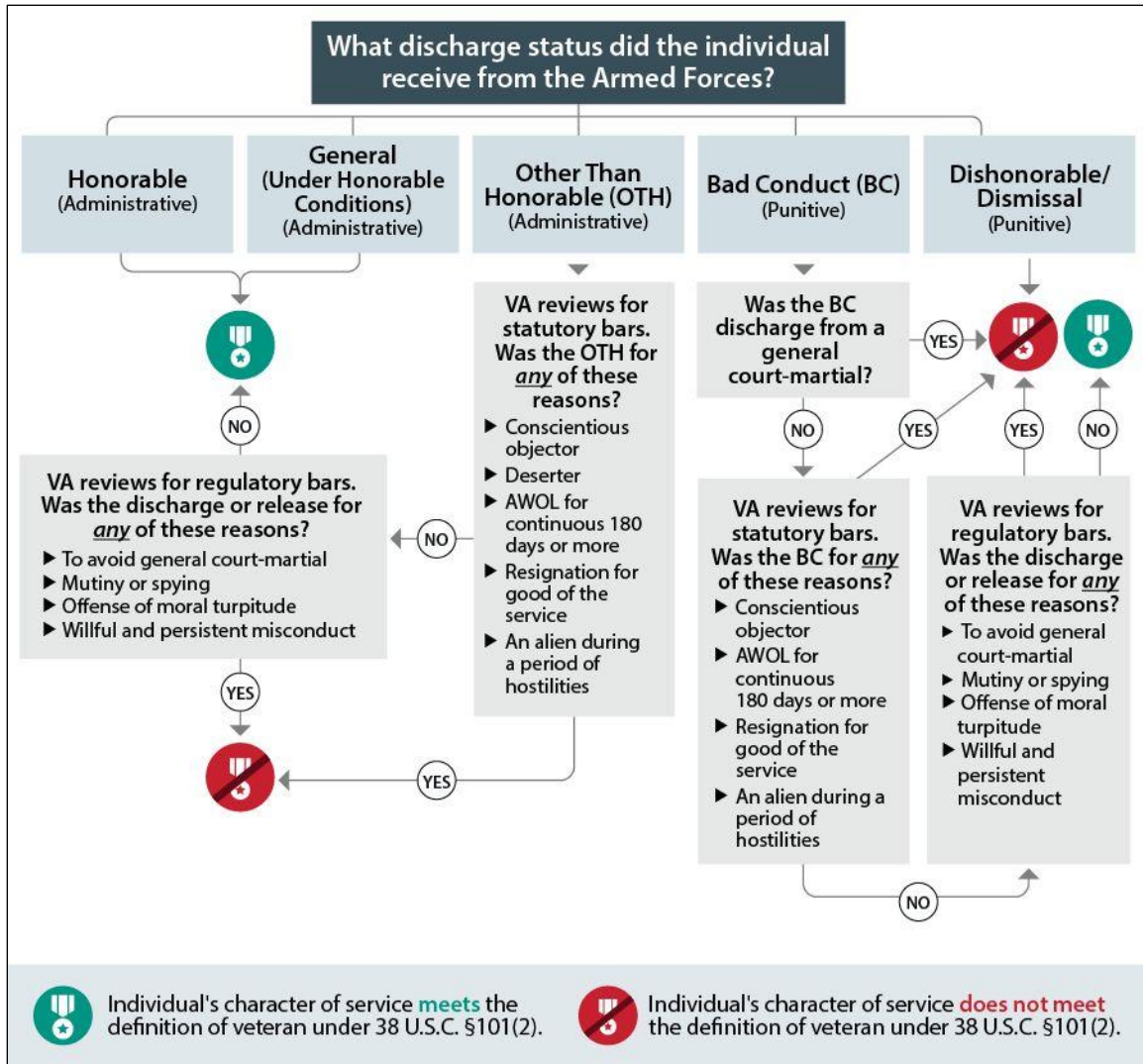
Character of Discharge Review in VA

Generally, VA presumes that a veteran with an honorable or general discharge is eligible for VA benefits and programs, and will not reexamine the service branch’s discharge characterization if that individual is eligible for the benefits for which they are applying.⁹⁰ However, an individual with a less-than-honorable discharge may still be eligible for some VA benefits, even if he or she does not receive a discharge upgrade through the military correction boards. If an individual with a less-than-honorable discharge applies for benefits, VA is to look for additional service records to determine if the individual could qualify under another eligible period of service.⁹¹ If the individual has no other qualifying periods of service, VA is to conduct a character of discharge review to determine if the circumstances surrounding the former servicemember’s discharge bars him or her from receiving benefits under statute or VA regulations. **Figure 2** shows how an individual’s military discharge status determines what factors VA considers in a discharge review, and how these factors determine whether VA considers an individual to meet the definition of a veteran under Title 38, Section 101(2) of the *U.S. Code*.

⁹⁰ 38 C.F.R. §3.12(a) states that a “discharge under honorable conditions is binding on the Department of Veterans Affairs as to character of discharge.” This is generally true, but a character of discharge determination is still necessary “if the separation reason is listed as a bar to benefits under 38 U.S.C. 5303(a),” as written in VA Adjudication Procedures Manual M21-1, X.iv.I.A.1.f. *Discharge Characterizations and Circumstances That Generally Do Not Require a COD Determination*, https://www.knowva.ebenefits.va.gov/system/templates/selfservice/va_ssnew/help/customer/locale/en-US/portal/55440000001018/content/554400000177986/M21-1-Part-X-Subpart-iv-Chapter-1-Section-A-Character-of-Discharge-COD-and-Bars-to-Benefits#1d.

⁹¹ An exception applies for disability compensation. A former servicemember may not use a period of honorable service to secure eligibility for disability compensation for a disability incurred under a period of dishonorable service. See 38 C.F.R. § 3.12(a) and Title Redacted by Agency, Bd. Vet. App. 1821394 (Apr. 10, 2018) (finding individual ineligible for disability compensation, even though individual had prior periods of honorable service, because claimed back injury occurred during a period of service that was dishonorable for VA purposes).

Figure 2. Does the Individual Meet the Veteran Status Requirement?



Source: CRS, adapted from RAND Corporation, "The Veterans Left Behind: Eligibility for Department of Veterans Affairs Benefits and Other Than Honorable Discharges," September 2024, page 9, Figure 1: Character-of-Discharge Determination and Benefits Eligibility, available at https://www.rand.org/content/dam/rand/pubs/perspectives/PEA1300/PEA1363-13/RAND_PEA1363-13.pdf.

When considering a veteran’s character of service for a discharge review, VA assesses the veteran’s entire period of military service. A dishonorable discharge during one period of service does not necessarily bar a veteran from receiving benefits based on a separate period of service that terminated under honorable or general conditions.⁹² VA may not need to perform a character of discharge review for a certain period of service if a veteran already has at least one other period of service with a discharge characterization that confers eligibility for the benefit sought.⁹³

⁹² U.S. Department of Veterans Affairs, *Claims for VA Benefits and Character of Discharge*, https://www.benefits.va.gov/BENEFITS/docs/COD_Factsheet.pdf.

⁹³ VA Adjudication Procedures Manual M21-1, *X.iv.1.A.1.g. Avoiding Premature COD Determinations*, https://www.knowva.ebenefits.va.gov/system/templates/selfservice/va_ssnew/help/customer/locale/en-US/portal/55440000001018/content/554400000177986/M21-1-Part-X-Subpart-iv-Chapter-1-Section-A-Character-of-Discharge-COD-and-Bars-to-Benefits%3FarticleViewContext=article_view_related_article#1g.

In cases of multiple periods of service, VA uses the period of honorable service to establish eligibility for VA benefits.⁹⁴ VA's character of discharge review can take up to a year, but former servicemembers may apply for discharge upgrades from their service branches at the same time.⁹⁵

VA's review process cannot result in a discharge upgrade, as that can take place only through DRBs or BCMRs.⁹⁶ Through the review, VA determines that a veteran's record falls into one of three categories:

1. **Honorable for VA Purposes.** The evidence provided by a former servicemember supports a determination that the veteran's service was honorable for VA purposes. Such a determination establishes basic eligibility for all benefits administered by VA so long as all other requirements are met. VA accepts discharges that are characterized as honorable or general (under honorable conditions) as other than dishonorable for VA benefit purposes.⁹⁷
2. **Health Care Eligible.** Servicemembers who are not eligible for VA benefits may still qualify for VA health care if they meet the requirements in 38 U.S.C. §1710, "Hospital, Nursing Home, Domiciliary, and Medical Care."
3. **Dishonorable for VA Benefits.** A determination that the circumstances surrounding a former servicemember's discharge bar that individual from receiving any benefits or services provided by VA.

A claimant who is dissatisfied with VA's determination from the character of discharge review may appeal that decision through VA's appeal process.

VA Outreach Regarding Character of Discharge Review

In a press release on April 25, 2024, VA stated that it conducted "extensive outreach" to servicemembers with OTH and bad conduct discharges, "increasing the number who applied for VA care or benefits from approximately 1,700 in 2012 to more than 10,000 in 2023."⁹⁸ The 2024 press release also stated, "Over the past 10 years, VA's eligibility determination rate for these former service members has been 75%—meaning that VA provided care or benefits to 75% of them (57,000+ former service members)."⁹⁹

⁹⁴ VA Adjudication Procedures Manual M21-1, *X.iv.I.A.1.g.*

⁹⁵ U.S. Department of Veterans Affairs, *Claims for VA Benefits and Character of Discharge*, https://www.benefits.va.gov/BENEFITS/docs/COD_Factsheet.pdf.

⁹⁶ See "Disputing an Armed Forces Discharge Characterization."

⁹⁷ 38 C.F.R. §3.12(a).

⁹⁸ U.S. Department of Veterans Affairs, "VA expands access to care and benefits for some former service members who did not receive an honorable or general discharge," press release, April 25, 2024, <https://www.va.gov/wilmington-health-care/news-releases/va-expands-access-to-care-and-benefits-for-some-former-service-members-who-did-not-receive-an-honorable-or/>.

⁹⁹ U.S. Department of Veterans Affairs, "VA expands access to care and benefits for some former service members who did not receive an honorable or general discharge," press release, April 25, 2024, <https://www.va.gov/wilmington-health-care/news-releases/va-expands-access-to-care-and-benefits-for-some-former-service-members-who-did-not-receive-an-honorable-or/>.

On October 2, 2024, VA proposed a rule to establish a pilot program to award grants to legal services providers to assist veterans to improve their characterization of service.¹⁰⁰ The comment period ended on December 2, 2024. As of April 15, 2026, VA has not published a final rule.¹⁰¹

Overview of Selected VA Benefits Affected by Character of Service

VA offers a wide range of benefits to veterans, many of which are affected by adverse character-of-service determinations. This section discusses several large VA benefit programs that are affected by a former servicemember's character of service: Disability Compensation, the Veterans Pension, and the Survivors Pension, which are administered by the Veterans Benefits Administration (VBA), and VA medical care, which is administered by the Veterans Health Administration (VHA).

For each of these programs, eligibility depends on veteran status.¹⁰² Veteran status is established by a former servicemember meeting two primary criteria:

- full-time active duty (other than active duty for training) military service (i.e., Army, Navy, Air Force, Marine Corps, Space Force, Coast Guard),¹⁰³ and
- discharge or release from service under conditions other than dishonorable.

Disability Compensation

Disability Compensation is a monthly, tax-free benefit for veterans with service-connected disabilities, disabilities that were caused or aggravated by military service, or VA health care. VA assigns disability ratings based upon “the average impairments of earning capacity resulting from such injuries in civil occupations”¹⁰⁴ to provide veterans with an alternate source of income while they may be unable to work due to one or more service-connected conditions. Each disability is given a rating between 0% and 100% using the Veterans Affairs Schedule for Rating Disabilities, which is codified at 38 C.F.R. §§4.1–4.150. Ratings for individual disabilities are then combined using a table and rounded to the nearest 10%.¹⁰⁵ A veteran with a combined rating of at least 10% is eligible for Disability Compensation so long as he or she meets the character of discharge and active-duty requirements, as previously discussed.¹⁰⁶ A veteran with a combined rating of at least 30% may be eligible to receive increased payment amounts if the veteran has dependents (generally a spouse or children).¹⁰⁷

¹⁰⁰ U.S. Department of Veterans Affairs, “Legal Services for Veterans-Legal Assistance for Access to VA Programs Grant Program,” 38 C.F.R. Part 81, RIN 2900-AS17 *Federal Register*, October 2, 2024.

¹⁰¹ See <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202410&RIN=2900-AS17> for more information.

¹⁰² See “Service Criteria to Establish “Veteran” Status.”

¹⁰³ As discussed above, the minimum active-duty requirement includes 24 months of continuous service or the period called to service if activated for less than 24 months. Reservists and National Guard members called to active duty by a federal order (for other than training purposes) who complete the full call-up period would qualify. Commissioned officers of the Public Health Service and National Oceanic and Atmospheric Administration (or its predecessor, the Environmental Science Services Administration) are also eligible for certain VA benefits. 38 U.S.C. §101(21)(B), (C).

¹⁰⁴ 38 U.S.C. §1155.

¹⁰⁵ 38 U.S.C. §1155; 38 C.F.R. §4.25.

¹⁰⁶ 38 U.S.C. §1110.

¹⁰⁷ 38 U.S.C. §1115. Current compensation rates are available at <https://www.va.gov/disability/compensation-rates/veteran-rates/>.

In FY2024, VA spent \$152.50 billion on Disability Compensation for 5,992,967 beneficiaries.¹⁰⁸ The estimated average individual amount paid annually was \$25,446.¹⁰⁹ To learn about other benefits for service-disabled veterans, see CRS Report R44837, *Benefits for Service-Disabled Veterans*.

Veterans Pension and Survivors Pension

Veterans must have been discharged other than dishonorably to qualify for the Veterans Pension. The Veterans Pension is a monthly, tax-free payment for certain eligible veterans who are 65 or older or have at least one nonservice-connected disability.¹¹⁰ Unlike with Disability Compensation, veterans are subject to a net worth limit¹¹¹ and must have served during a congressionally designated period of war to be eligible for the Veterans Pension.¹¹² Pension amounts are greater for veterans with more dependents and for veterans who require aid and attendance (such as in-home care).¹¹³ VA estimated that it paid an average individual amount of \$14,486 to 137,817 Veterans Pension recipients in FY2024.¹¹⁴

When a veteran dies, his or her survivors may be eligible for the Survivors Pension, but only if the veteran was eligible to receive the Veterans Pension.¹¹⁵ Thus, a former servicemember's character of service affects a spouse's or other survivor's eligibility for a pension as well. VA estimated that it paid an average individual amount of \$11,212 to 98,155 Survivors Pension recipients in FY2024.¹¹⁶ For more information on the Veterans and Survivors Pensions, see CRS Report R46511, *Veterans Benefits Administration (VBA): Pension Programs*, by Madeline E. Moreno.

Veterans' Health Care

VHA operates the nation's largest integrated direct health care delivery system. VHA provides care for approximately 9.1 million enrolled veterans¹¹⁷ at over 1,300 VA sites of care.¹¹⁸ VHA is primarily a direct provider of care—it owns the facilities and employs the clinicians. However,

¹⁰⁸ U.S. Department of Veterans Affairs, *Veterans Benefits Administration Annual Benefits Report*, Fiscal Year 2024, 2025, p. 9, <https://www.benefits.va.gov/REPORTS/abr/docs/2024-abr.pdf>.

¹⁰⁹ U.S. Department of Veterans Affairs, *Veterans Benefits Administration Annual Benefits Report*, Fiscal Year 2024, 2025, p. 9, <https://www.benefits.va.gov/REPORTS/abr/docs/2024-abr.pdf>.

¹¹⁰ Under 38 U.S.C. §5311, a veteran may not receive both the Veterans Pension and Disability Compensation at the same time. If a veteran is eligible for both programs, the veteran will receive compensation from whichever program would provide a greater payment amount. For more information, see <https://www.va.gov/resources/how-are-pension-benefits-and-disability-compensation-different/>.

¹¹¹ The net worth limit is codified at 38 U.S.C. §1522. For current pension rates, see Department of Veterans Affairs, *Current pension rates for Veterans*, December 2, 2024, <https://www.va.gov/pension/veterans-pension-rates/>.

¹¹² 38 U.S.C. §1521(a).

¹¹³ 38 U.S.C. §1521(d).

¹¹⁴ U.S. Department of Veterans Affairs, *Veterans Benefits Administration Annual Benefits Report*, Fiscal Year 2024, 2025, p. 10, <https://www.benefits.va.gov/REPORTS/abr/docs/2024-abr.pdf>.

¹¹⁵ 38 U.S.C. §1541.

¹¹⁶ U.S. Department of Veterans Affairs, *Veterans Benefits Administration Annual Benefits Report*, Fiscal Year 2024, 2025, p. 10, <https://www.benefits.va.gov/REPORTS/abr/docs/2024-abr.pdf>.

¹¹⁷ U.S. Department of Veterans Affairs, *FY2025 Congressional Submission*, Medical Programs, vol. 2 of 5, March 2024, p. VHA-41.

¹¹⁸ U.S. Department of Veterans Affairs, *FY2025 Congressional Submission*, Medical Programs, vol. 2 of 5, March 2024, p. VHA-17.

under certain circumstances, VA will pay for a veteran to receive care in the community.¹¹⁹ Generally, veterans are required to be enrolled in the VA health care system to obtain health care services.¹²⁰ Veterans who are enrolled have access to a comprehensive medical benefits package that includes a range of outpatient and inpatient services.¹²¹ Once enrolled, a veteran remains enrolled in the health care system and may access health care services at any VA medical facility.

Generally, after a veteran meets the basic eligibility criteria (active-duty status and discharge under conditions other than dishonorable), the veteran must qualify for enrollment based upon service-connected disability, income, and other factors, such as being a former prisoner of war or being awarded the Medal of Honor or Purple Heart.¹²² The veteran then may enroll in the VA health care system and utilize the standard medical benefits package.¹²³

In some circumstances, a former servicemember who does not receive an honorable or general discharge (under honorable conditions) may still be eligible to receive certain health care services from VHA, depending on certain character of discharge conditions. In the context of VA health care, an OTH discharge does not necessarily deprive a former servicemember of certain benefits. For example, a former servicemember with an OTH discharge for conduct that falls under a VA *regulatory bar* to benefits,¹²⁴ although ineligible for most VA health care, is still eligible for VA health care for a service-connected disability.¹²⁵ However, a former servicemember with a *bad conduct discharge* or an OTH discharge that serves as a *statutory bar*¹²⁶ for VA benefits would not be eligible for VA health care for that period of service.¹²⁷ A veteran with multiple periods of service may be eligible for VA health care services based on a prior period of other than dishonorable service.¹²⁸

Congress has created a number of exceptions with regard to discharge status and eligibility for VA health care for servicemembers. These exceptions relate primarily to mental health care: emergency mental health care under humanitarian care, presumption of mental illness or psychosis, special eligibility for those seeking mental health services, emergent suicide care, and military sexual trauma treatment and counselling. These exceptions are each described in the subsequent sections of this report.

¹¹⁹ Under certain circumstances, VA is authorized to pay for primary and specialty care under the Veterans Community Care Program (38 U.S.C. §1703 and 38 C.F.R. §17.4000), including for emergent care (38 U.S.C. §1725 and §1728), urgent care (38 U.S.C. §1725A), and health care abroad (38 U.S.C. §1724).

¹²⁰ Some veterans are not required to enroll to receive hospital and outpatient care. 38 C.F.R. §17.37.

¹²¹ 38 C.F.R. §17.38.

¹²² 38 U.S.C. §1705. For more information on eligibility and enrollment in VA health care, see CRS Report R42747, *Health Care for Veterans: Answers to Frequently Asked Questions*.

¹²³ 38 C.F.R. §17.38.

¹²⁴ See the list of regulatory bars at 38 C.F.R. §3.12(d) and **Table 2**.

¹²⁵ Effective October 1977 (P.L. 95-126). When Congress passed P.L. 95-126, Congress recognized the “strong moral obligation of the Federal Government to provide treatment for service-connected disabilities.” See U.S. Congress, Senate Committee on Veterans’ Affairs, *Eligibility for Veterans Benefits Pursuant to Vietnam Era Discharge Upgrading*, report to accompany S. 1307, 95th Cong., 1st sess., June 28, 1977, p. 18.

¹²⁶ See the statutory bars at 38 U.S.C. 5303(a) and **Table 2**.

¹²⁷ 38 C.F.R. §3.360(b).

¹²⁸ Major John W. Brooker, Major Evan R. Seamone, and Leslie C. Rogall, “Beyond ‘T.B.D.’: Understanding VA’s Evaluation of A Former Servicemember’s Benefit Eligibility Following Involuntary or Punitive Discharge from the Armed Forces,” *Military Law Review*, vol. 214 (winter 2012), p. 50.

Emergency Health Care Under Humanitarian Care Provisions

The Department of Veterans Affairs Health Care Programs Enhancement Act of 2001 (P.L. 107-135) provided the VA Secretary broad authority to furnish hospital care or medical services in emergency situations to any individuals, regardless of whether they meet the requirements for “veteran” status. This authority is generally referred to as the *humanitarian care authority*. Furthermore, the Jeff Miller and Richard Blumenthal Veterans Health Care and Benefits Improvement Act of 2016 (P.L. 114-315) requires VA emergency departments to, at minimum, screen individuals for medical emergencies. If a facility determines that a medical emergency exists, the individual is to be provided care with the intent of stabilizing the emergency condition.¹²⁹ The individual is generally billed for any emergency services provided.¹³⁰

A former servicemember with a bad conduct or dishonorable discharge who is in distress and in need of emergency mental health services may receive VA services under humanitarian care provisions.¹³¹ A former servicemember can access VA’s system by calling the Veteran Crisis Line¹³² or visiting a VA emergency room, urgent care center, or veteran’s center.

On March 7, 2017, during a hearing before the House Veterans’ Affairs Committee, then-VA Secretary David Shulkin announced his intention to expand urgent mental health care services to former servicemembers with OTH discharges.¹³³ Under this initiative, effective July 5, 2017, a former servicemember with an OTH discharge with an urgent mental health need qualifies for a 90-day episode of care, which includes inpatient, residential, or outpatient care.¹³⁴ This initiative provides care beyond the requirement to stabilize the patient under humanitarian care provisions. During this 90-day period, VBA may have time to complete a character of discharge review determination and notify VHA of the former servicemember’s discharge status. It also allows the chief medical officer of each Veterans Integrated Service Network¹³⁵ to authorize an additional 90 days of treatment on request.

Eligibility Based on Presumption of Mental Illness or Psychosis

Under two presumptions of eligibility—for psychosis¹³⁶ and mental illness other than psychosis—certain former servicemembers, including those with OTH administrative discharges, may qualify

¹²⁹ U.S. Department of Veterans Affairs, Veterans Health Administration, *Eligibility Determination*, VHA Directive 1601A.02, July 6, 2020, and 38 U.S.C. §1784A.

¹³⁰ 38 U.S.C. §1784.

¹³¹ U.S. Department of Veterans Affairs, Veterans Health Administration, *Eligibility Determination*, VHA Directive 1601A.02, July 6, 2020, p. 17.

¹³² In 2007, VHA established a suicide crisis hotline. It was initially called the National Veterans Suicide Prevention Hotline. In 2011 its name was changed to the Veteran Crisis Line (VCL). In addition to calling, veterans can chat and text and connect with a counselor. See <https://www.veteranscrisisline.net>.

¹³³ U.S. Congress, House Veterans’ Affairs Committee, *Shaping the Future: Consolidating and Improving VA Community Care*, 117th Cong., 1st sess., March 7, 2017.

¹³⁴ Memorandum from Deputy Under Secretary for Health for Operations and Management (1ON) to Network Directors (1ON1-23) and Network Mental Health Leads (1ON1-23), “Eliminating Veteran Suicide: Emergency Services for Other Than Honorable,” June 26, 2017.

¹³⁵ The VA health care system is divided into administrative regions called Veterans Integrated Service Networks, based on geography. There are currently 18 such regions. For more information, see CRS In Focus IF10555, *Introduction to Veterans Health Care*.

¹³⁶ “Psychosis is a range of symptoms that includes experiencing hallucinations and/or delusions. It is seen most commonly in schizophrenia, schizoaffective disorder, and bipolar disorder.” Source: Jared Bernard et al., *A Clinician’s Guide to Psychosocial and Psychotherapeutic Interventions for Veterans with Psychosis*, VA South Central Mental (continued...)

for free care for those conditions. Under the presumptive eligibility for psychosis, a former servicemember must have served on active duty during World War II, the Korean conflict, the Vietnam era, or the Persian Gulf War and developed an active psychosis (1) within two years after discharge from active duty and (2) before specific statutory dates associated with the war or conflict in which the servicemember served.¹³⁷

Under the presumptive eligibility for mental illness other than psychosis, a former servicemember must have served on active duty in the Persian Gulf War and developed an active mental illness other than psychosis (1) within two years after discharge and (2) before the end of the two-year period beginning on the last day of the Persian Gulf War.¹³⁸

Former servicemembers entitled to either of these presumptions do not have to meet the minimum active-duty service requirements and are not required to pay any copayments for the treatment of covered conditions.¹³⁹

Special Eligibility Provisions for Those Seeking Mental Health Care Services from VA

Section 258 of the Military Construction, Veterans Affairs, and Related Agencies Appropriations Act of 2018 (P.L. 115-141, as amended by P.L. 115-182 and P.L. 115-251) authorized VA to provide initial mental health care assessments and subsequent mental health care or behavioral health care services to certain former servicemembers, including those who served in the reserve components and who meet the following criteria:

- **Conditions of discharge.** The individual served on active duty and was discharged or released under a condition that is less than honorable, but the individual did not receive a dishonorable discharge or discharge by court-martial (i.e., those with an honorable discharge, a dishonorable discharge, or a discharge by court-martial are not eligible for mental health care services under this special eligibility provision).
- **Duration of service.** The individual served for a period of more than 100 cumulative days.
- **Conditions of service.** The individual (1) was deployed in a theater of combat operations, in support of a contingency operation, or in an area at a time during which hostilities occurred, including by controlling an unmanned aerial vehicle

Illness Research, Education and Clinical Center (SC MIRECC), <https://www.mirecc.va.gov/VISN16/docs/psychotherapy-for-psychosis-clinician-brochure.pdf>.

¹³⁷ 38 U.S.C. §1702 and 38 C.F.R. §17.109. Congress has defined the dates of these conflicts and cutoff dates for developing associated a psychosis as follows: for those who served in World War II, before July 26, 1949; for those who served in the Korean conflict, before February 1, 1957; for those who served during the Vietnam era, before May 8, 1977; and for those who served in the Persian Gulf War, before the end of the two-year period beginning on the last day of the Persian Gulf War. The Persian Gulf War is defined as “the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.” 38 U.S.C. §101(33). No end date has yet been prescribed. Generally, for eligibility purposes, active service in Southwest Asia during the Gulf War (Operation Desert Shield, Operation Desert Storm, Operation Iraqi Freedom, and Operation New Dawn, including service in one or more of the following areas: Iraq; Kuwait; Saudi Arabia; the neutral zone between Iraq and Saudi Arabia; Bahrain; Qatar; the United Arab Emirates; Oman; and the waters of the Persian Gulf, Red Sea, Arabian Sea, and Gulfs of Aden and Oman) would qualify. See Department of Veterans Affairs, Veterans Health Administration, *Gulf War Registry*, VHA DIRECTIVE 1325, June 1, 2017.

¹³⁸ 38 U.S.C. §1702; 38 C.F.R. §17.109.

¹³⁹ 38 C.F.R. §17.109.

from a location other than such theater or area, or (2) was the victim of a physical assault of a sexual nature, a battery of a sexual nature, or sexual harassment.

- **Enrollment.** The individual is not currently enrolled in VA's health care system.¹⁴⁰

An individual with an OTH administrative discharge who meets the above criteria does not need to enroll in VA's health care system, does not have to meet the minimum active-duty service requirements, and is not required to pay any copayments for mental and behavioral health care services included under VA's standard medical benefits package.¹⁴¹

Emergent Suicide Care

Section 201 of the Veterans Comprehensive Prevention, Access to Care, and Treatment Act of 2020 (P.L. 116-214) required the VA Secretary to provide emergent suicide care in a VA facility to a veteran experiencing an acute suicidal crisis *or* to pay for care in a non-VA facility *or* to reimburse the veteran for such care.¹⁴²

Individuals are eligible for emergent suicide care if they meet the statutory definition of *veteran*, discussed above,¹⁴³ or if they are former servicemembers, including for service in the Reserve components, who meet each of the following criteria:¹⁴⁴

- **Conditions of discharge.** The individual served on active duty and was discharged or released under a condition that is not honorable but is not a dishonorable discharge or a discharge by court-martial.
- **Duration of service.** The individual served for a period of more than 100 cumulative days.
- **Conditions of service.** The individual (1) was deployed in a theater of combat operations, in support of a contingency operation or in an area at a time during which hostilities occurred, including by controlling an unmanned aerial vehicle from a location other than such theater or area, or (2) was the victim of a physical assault of a sexual nature, a battery of a sexual nature, or sexual harassment.
- **Enrollment.** The individual is not currently enrolled in VA's health care system.

This provision authorizes VA to provide care for a period not to exceed 30 days on an inpatient basis or in a crisis residential care facility. If such care is unavailable or not clinically appropriate, VA must provide care on an outpatient basis for a period of no more than 90 days. After such time, if the Secretary determines that an individual remains in an acute suicidal crisis, the Secretary can extend the period of care as appropriate.¹⁴⁵

¹⁴⁰ 38 U.S.C. §1720I.

¹⁴¹ U.S. Department of Veterans Affairs, Veterans Health Administration, *Eligibility Determination*, VHA DIRECTIVE 1601A.02 November 21, 2018.

¹⁴² VA published an interim final rule implementing the provisions of Section 201 of the act. For more information, see <https://www.federalregister.gov/documents/2023/01/17/2023-00298/emergent-suicide-care>.

¹⁴³ 38 U.S.C. §101(2).

¹⁴⁴ 38 U.S.C. §1720I(b). VA published an interim final rule implementing emergent suicide care. For more information, see <https://www.federalregister.gov/documents/2023/01/17/2023-00298/emergent-suicide-care>.

¹⁴⁵ 38 U.S.C. §1720J(c).

The Secretary may not impose any charges (i.e., no “cost sharing” or “out-of-pocket” costs) for emergent suicide care or emergency transportation.¹⁴⁶ However, VA can seek reimbursement from an individual’s other health insurance if the individual receiving care has other coverage.¹⁴⁷

Military Sexual Trauma (MST) Treatment and Counseling

A specific exception exists regarding discharge status and eligibility for VA health care for former servicemembers who have experienced MST. According to statute, MST-related counseling and care must be provided to “former members of the Armed Forces who the [VA] Secretary determines require such counseling and care and services to treat a condition, which in the judgment of a health care professional employed by the Department, resulted from a physical assault of a sexual nature, battery of a sexual nature, or sexual harassment which occurred while the former member of the Armed Forces was serving on duty, regardless of duty status or line of duty determination.”¹⁴⁸ Furthermore, *sexual harassment* is defined as “unsolicited verbal or physical contact of a sexual nature which is threatening in character.”¹⁴⁹

A former servicemember is *not* required to be enrolled in VA’s health care system to receive MST-related counseling and care.¹⁵⁰ In addition, an individual does not need to have a VA service-connected disability rating or other documentation that the MST experience occurred to receive VA health care services.¹⁵¹ All VA health care services (inpatient, outpatient, and pharmaceutical services) for physical and mental health conditions related to experiences of MST are provided at no cost to eligible individuals.¹⁵²

Medical Care Tentatively Approved on Prima Facie Evidence

In some cases, VHA can provide treatment to a former servicemember, even if his or her character of discharge is at issue, based on prima facie eligibility. This situation typically arises when a former servicemember has recently been discharged from service (i.e., within six months) and seeks care at a VHA facility but does not yet have an established service-connected disability. VHA can provide care if in the “application of sound medical judgment” VHA tentatively determines that the condition “originated in, or was aggravated during, service.”¹⁵³ If VHA initially authorizes treatment based on prima facie eligibility, VHA prepares *VA Form 10-7131, Exchange of Beneficiary Information and Request for Administrative and Adjudicative Action*, annotates it with “Medical care being authorized for (condition) on prima facie evidence of eligibility,” and forwards the completed form (along with a copy of the VA examination, hospital report, or outpatient treatment report, as applicable) to the Veterans Service Center of the VBA office with jurisdiction over the servicemember’s claims.¹⁵⁴ Upon receipt of *VA Form 10-7131*,

¹⁴⁶ 38 U.S.C. §1720J(f)(1).

¹⁴⁷ 38 U.S.C. §1720J(f)(3).

¹⁴⁸ 38 U.S.C. §1720D(a)(1).

¹⁴⁹ 38 U.S.C. §1720D(f).

¹⁵⁰ 38 U.S.C. §1720D(g)(2).

¹⁵¹ 38 U.S.C. §1720D(g)(2).

¹⁵² Veterans Health Administration, *VHA Directive 1151, Military Sexual Trauma (MST) Program*, December 1, 2021, p. 4, https://www.va.gov/vhapublications/ViewPublication.asp?pub_ID=6402.

¹⁵³ VA Adjudication Procedures Manual M21-1, *XIII.i.3.A.6. Requirements for Determining Prima Facie Eligibility*, https://www.knowva.ebenefits.va.gov/system/templates/selfservice/va_ssnew/help/customer/locale/en-US/portal/55440000001018/content/554400000173640/M21-1-Part-XIII-Subpart-i-Chapter-3-Section-A-General-Information-on-Eligibility-for-Medical-Services#6.

¹⁵⁴ VA Adjudication Procedures Manual M21-1, *XIII.i.3.A.6*.

the center is to determine if the claimant's character of discharge is favorable or if the claimant is otherwise eligible for VA health care services and return the completed form to VHA.¹⁵⁵

Appealing a VA Character of Discharge Decision

If a claimant disagrees with an initial decision of a VA *agency of original jurisdiction* (AOJ) (e.g., a regional office, medical center, or other VA entity) on a claim for benefits or reimbursement, the claimant may appeal it.¹⁵⁶ This right to appeal includes appealing a VA decision finding a claimant ineligible for benefits due to the claimant's character of discharge determination from VA.¹⁵⁷ This section of the report briefly outlines the appeal process for VA decisions under the Veterans Appeals Improvement and Modernization Act of 2017 (AMA; P.L. 115-55).¹⁵⁸

The AMA provides three avenues for review of an AOJ decision: (1) requesting higher-level review from a more experienced adjudicator within the AOJ, (2) filing a supplemental claim with new evidence at the AOJ, or (3) appealing to the Board of Veterans' Appeals (BVA).¹⁵⁹ Each of these options is discussed in further detail below.

The AMA provides that a claimant may seek an unlimited number of reviews and, so long as each subsequent appeal is filed within one year of the most recent decision, keep the original claim's effective date.¹⁶⁰ Therefore, requesting higher-level review or filing a supplemental claim does not preclude a claimant from seeking BVA review of the resulting VA decision.¹⁶¹ A claimant may also seek judicial review of a BVA decision.¹⁶²

Higher-Level Review

The first option for seeking review of an adverse decision from an AOJ is requesting higher-level review of the initial determination.¹⁶³ To elect higher-level review, the claimant must submit a completed *Decision Review Request: Higher-Level Review* form (VA Form 20-0996) within one

¹⁵⁵ VA Adjudication Procedures Manual M21-1, *XIII.i.3.A.6*.

¹⁵⁶ 38 U.S.C. §5104C.

¹⁵⁷ See, e.g., Title Redacted by Agency, Bd. Vet. App. A24026767 (May 22, 2024) (“The appellant’s submission to the service department and determinations on his character of discharge could materially impact the adjudication of the character of discharge claim. The AOJ had a duty to attempt to obtain these federal records or explain why they could not be obtained or otherwise do not exist.”); Title Redacted by Agency, Bd. Vet. App. A23020519 (August 16, 2023) (“[T]he matter of his character of discharge and whether it is a bar to benefits is the subject of this appeal.”).

¹⁵⁸ In 2017, Congress enacted the AMA in an effort to “expedite VA’s appeals process while protecting veterans’ due process rights.” H.Rept. 115-135, at 2 (2017). Any appeal filed after February 19, 2019, is subject to AMA procedures. For appeals filed before that date, the claimant can continue with the pre-AMA “legacy” appeal process or move to the new AMA process. A discussion of the legacy appeal process is beyond the scope of this report.

¹⁵⁹ 38 U.S.C. §5104C.

¹⁶⁰ 38 U.S.C. §§5104C, 5110. Although a claimant may seek an unlimited number of reviews, those reviews may not be sought concurrently, and the BVA may dismiss such improperly filed claims for review. 38 U.S.C. §5104C(a)(2); *Hundley v. McDonough*, No. 21-2419, 2022 WL 593766, at *2 (Vet. App. February 28, 2022) (“Because the veteran is barred by statute from filing an [appeal with the BVA] while also seeking higher level review (unless and until he has first withdrawn the request for higher level review), and because there is no contention that [the claimant] attempted to withdraw his request for higher level review, the Board was correct to dismiss his claims.”).

¹⁶¹ 38 U.S.C. §5104C(B).

¹⁶² 38 U.S.C. §§7252, 7292.

¹⁶³ 38 U.S.C. §5104B; 38 C.F.R. §3.2601.

year from the date the AOJ issued the initial decision.¹⁶⁴ This review is “conducted by an experienced adjudicator” within VA who did not participate in the AOJ’s initial decision.¹⁶⁵

Review is conducted on the record as it existed at the time of the AOJ’s initial decision.¹⁶⁶ The claimant is not permitted to submit additional evidence for consideration, and the higher-level adjudicator may not require the AOJ to develop evidence unless the adjudicator finds that the AOJ failed to comply with its obligations under VA’s “duty to assist” claimants.¹⁶⁷ The higher-level adjudicator reviews the record de novo, giving no weight to the determinations made by the AOJ—except that the higher-level adjudicator is bound by all AOJ findings that are *favorable* to the claimant unless a finding is the result of a clear and unmistakable error.¹⁶⁸

A claimant is not entitled to a hearing when seeking higher-level review of an AOJ decision, but the claimant can request an “informal conference” with the higher-level adjudicator.¹⁶⁹ Typically, these informal conferences do not occur in person.¹⁷⁰ The informal conference provides the claimant, or the claimant’s representative, the opportunity to make arguments regarding alleged errors of fact or law present in the initial decision but does not provide the opportunity to provide testimony as to new facts or evidence to be considered on the record.¹⁷¹ As discussed above, the decision is made on the factual record developed at the time the AOJ made the initial decision.

When the higher-level adjudicator reaches a determination on the claim, VA sends a detailed notice of the decision to the claimant,¹⁷² which must include information on any evidence that was not considered because it was submitted after the AOJ’s determination on the claim.¹⁷³ That notice must also advise what steps the claimant may take to have that evidence considered.¹⁷⁴ If the claimant is still dissatisfied with the decision, the claimant may file a supplemental claim or appeal to the BVA.¹⁷⁵

¹⁶⁴ 38 U.S.C. §5104B(b); 38 C.F.R. §3.2601(d).

¹⁶⁵ 38 C.F.R. §3.2601(e).

¹⁶⁶ 38 U.S.C. §5104B(d); 38 C.F.R. §3.2601(f); *Aviles-Rivera v. McDonough*, 35 Vet. App. 268, 275 (2022) (“If a claimant chooses the higher-level review lane, the evidentiary record that is before the higher-level adjudicator is limited to the evidence that was of record in the AOJ decision being reviewed.”).

¹⁶⁷ 38 C.F.R. §§3.2601(f), (g).

¹⁶⁸ 38 U.S.C. §§5104A, 5104B(e); 38 C.F.R. §§3.104, 3.2601; Title Redacted by Agency, Bd. Vet. App. A24073205 (Nov. 7, 2024) (remanding denial of claim to the AOJ for reconsideration because AOJ had reversed its decision concerning a prior favorable finding regarding the claimant’s PTSD diagnosis without providing reasons showing that there was a clear and unmistakable error and advising the AOJ “that clear and unmistakable evidence is an onerous evidentiary standard and means that the evidence is undebatable”); *Fugo v. Brown*, 6 Vet. App. 40, 43 (1993) (explaining that a clear and unmistakable error “is the kind of error, of fact or of law, that when called to the attention of later reviewers *compels* the conclusion, to which reasonable minds could not differ, that the result would have been *manifestly* different but for the error”).

¹⁶⁹ 38 C.F.R. §3.2601(h).

¹⁷⁰ 38 C.F.R. §3.2601(h) (“For the purposes of this section, *informal conference* means contact with a claimant’s representative or, if not represented, with the claimant, telephonically, or as otherwise determined by the VA.”).

¹⁷¹ 38 C.F.R. §3.2601(h).

¹⁷² 38 U.S.C. §5104(b).

¹⁷³ 38 U.S.C. §5104B(c)(1).

¹⁷⁴ 38 U.S.C. §5104B(c)(2).

¹⁷⁵ 38 C.F.R. §3.2500(a).

Supplemental Claim

The second option for a claimant that has received an adverse decision from an AOJ is filing a supplemental claim.¹⁷⁶ A claimant must support the supplemental claim with “new and relevant evidence.”¹⁷⁷ For evidence to be “new,” it must not have been previously in the claim record considered by VA.¹⁷⁸ New evidence is “relevant” if it “tends to prove or disprove a matter in issue” or if it “raises a theory of entitlement that was not previously addressed.”¹⁷⁹ VA’s duty to assist applies to a supplemental claim,¹⁸⁰ and VA is required to make reasonable efforts to obtain the evidence necessary to substantiate the claim on behalf of the claimant.¹⁸¹

The option to file a supplemental claim is available to a claimant following any VA denial of a claim, including following an AOJ initial determination, higher-level review, BVA review, judicial review, or review of a previously filed supplemental claim.¹⁸² A supplemental claim may even be filed years after the denial of the initial claim.¹⁸³ However, if the supplemental claim is received within one year of the previous denial of the most recent claim, that initial claim is considered to be “continuously pursued,” and the claimant retains the initial claim’s effective date—typically, the original date of the claim—if the supplemental claim is ultimately granted.¹⁸⁴ Therefore, if the claimant is able to provide new and relevant evidence related to the claim after each subsequent denial, a claimant can potentially keep the original effective date of a claim until it is ultimately granted.

VA evaluates the previously provided evidence along with the newly submitted evidence to reach a new determination on the claim.¹⁸⁵ Once VA reaches a decision, it provides notice to the claimant and the claimant’s representative detailing how the agency reached its conclusion.¹⁸⁶ If the claimant is dissatisfied with VA’s decision, the claimant may seek higher-level review of that decision, appeal to the BVA, or submit another supplemental claim.¹⁸⁷

Board of Veterans’ Appeals

The BVA is a distinct entity located within VA that “conduct[s] hearings and consider[s] and dispose[s] of appeals properly before the Board in a timely manner.”¹⁸⁸ It has jurisdiction to review “all questions of law and fact necessary to a decision by the Secretary of [VA] under a law that affects the provision of benefits by the Secretary to veterans or their dependents or

¹⁷⁶ 38 U.S.C. §5104C; 38 C.F.R. §3.2500(a)(2).

¹⁷⁷ For a supplemental claim to be considered complete, the claimant must identify or include the potentially new evidence. 38 C.F.R. §3.160(a). If VA receives an incomplete supplemental claim, VA will notify the claimant of the information needed to complete the claim. 38 U.S.C. §5102(b). If the claimant provides the missing information within 60 days of the VA’s notice, then VA is to consider the supplemental claim filed on the date that VA received the incomplete form. 38 C.F.R. §3.155(d)(1)(i).

¹⁷⁸ 38 C.F.R. §3.2501(a)(1).

¹⁷⁹ 38 C.F.R. §3.2501(a)(1).

¹⁸⁰ 38 C.F.R. §3.2501(c).

¹⁸¹ 38 C.F.R. §3.159(c).

¹⁸² 38 U.S.C. §§5104C, 5110.

¹⁸³ 38 U.S.C. §5104C(b).

¹⁸⁴ 38 U.S.C. §5110(a)(2).

¹⁸⁵ 38 C.F.R. §3.2501.

¹⁸⁶ 38 U.S.C. §5104.

¹⁸⁷ 38 U.S.C. §5104C.

¹⁸⁸ 38 U.S.C. §7101.

survivors.”¹⁸⁹ Members of the BVA—also known as veterans law judges (VLJs)—are the adjudicators who make decisions on appeals to the BVA.¹⁹⁰ A final BVA decision is considered the final decision of the VA Secretary on the issue.¹⁹¹

To elect BVA review, a claimant must file a notice of disagreement using VA Form 10182 with the BVA within one year of an AOJ’s decision (including an initial decision, higher-level review, or a decision on a supplemental claim).¹⁹² A claimant must select one of three review options available at the BVA: (1) the *direct review* docket, (2) the *new evidence* docket, or (3) the *hearing* docket.¹⁹³ The docket selected affects the claimant’s procedural rights before the BVA and the time it takes for the BVA to reach a final decision on the appealed issue.

In all of these dockets, the BVA generally reviews the record de novo, meaning the assigned VLJ looks at the claim anew and does not accord any weight to the AOJ’s conclusions.¹⁹⁴ There is one exception to the BVA’s de novo review: the BVA is bound by all AOJ findings that are favorable to the claimant unless a finding is the result of a clear and unmistakable error.¹⁹⁵ The proceedings are non-adversarial—that is, there is no party that argues *against* the claimant.¹⁹⁶ Nonetheless, a claimant may elect to be represented before the BVA by an attorney, a claims agent, or a representative of a recognized veterans’ service organization.¹⁹⁷ The representative must be accredited by VA to represent a claimant.¹⁹⁸

Each docket has different rules for the presentation of new evidence or the availability of a hearing before the VLJ. Under direct review, the VLJ reviews the decision based solely on the record evidence that existed when the AOJ made the initial determination.¹⁹⁹ There is no opportunity to submit additional evidence or have a hearing with the VLJ.²⁰⁰

If a claimant elects the new evidence docket, the claimant may submit additional supporting evidence with the notice of disagreement or within 90 days after submitting the notice.²⁰¹ There is no opportunity for a hearing, and the VLJ reviews the newly submitted evidence along with the evidence on which the original AOJ decision was based.

¹⁸⁹ 38 C.F.R. §104.

¹⁹⁰ 38 C.F.R. §20.101.

¹⁹¹ 38 U.S.C. §7104.

¹⁹² The board may provide an extension of the one-year deadline if the claimant submits a written request showing good cause. 38 C.F.R. §20.203(c).

¹⁹³ 38 C.F.R. §20.202(b).

¹⁹⁴ 38 C.F.R. §20.300(a).

¹⁹⁵ 38 U.S.C. §5104A; Title Redacted by Agency, Bd. Vet. App. A19002242 (Oct. 24, 2019) (holding that the BVA was bound by an AOJ’s favorable finding on the veteran’s claim because there was no clear and unmistakable error when it was “not entirely unreasonable” to find that certain evidence supported a claim and that “reasonable minds could differ” with respect to the probative value of the evidence).

¹⁹⁶ 38 C.F.R. §20.700(c).

¹⁹⁷ 38 C.F.R. §20.5.

¹⁹⁸ 38 C.F.R. §20.5. VA maintains a website, available at <https://www.va.gov/ogc/apps/accreditation/index.asp>, that enables claimants to search for accredited attorneys, agents, and veterans’ service organizations.

¹⁹⁹ 38 C.F.R. §20.301.

²⁰⁰ *Aviles-Rivera v. McDonough*, 35 Vet. App. 268, 274–76 (2022) (stating that “the Board was prohibited from considering” a scientific report that supported the veteran’s claim when the veteran elected the direct review option and the scientific report was not in the evidentiary record); *Andrews v. McDonough*, 34 Vet. App. 151, 158 (2021) (“We see no ambiguity in the statute here—if [the claimant] remains in the direct review docket, he may not submit new evidence; or rather, the Board may not consider new evidence.”).

²⁰¹ 38 C.F.R. §20.303.

Only the hearing docket permits a claimant to schedule a hearing with a VLJ.²⁰² The claimant can elect to attend the hearing (1) in person at the BVA's office in Washington, DC; (2) virtually from a VA facility; or (3) virtually from a personal internet-connected device.²⁰³ Hearings are informal, and the claimant or the claimant's representative can provide testimony and argument. The claimant can submit additional evidence at the hearing and within 90 days following the hearing.²⁰⁴ The VLJ reviews the record evidence that was before the AOJ, the testimony and arguments from the hearing, and any additional evidence submitted.

When review is complete, the BVA grants, denies, or remands the claim to the AOJ for further development.²⁰⁵ The BVA's decision must include a written explanation of its findings and conclusions on all issues of fact and law presented in the claim.²⁰⁶ If the claimant disagrees with the BVA's decision, the claimant may continue the claim within VA by filing a supplemental claim with new and relevant evidence or seek judicial review of the BVA decision.²⁰⁷

Judicial Review of BVA Decisions

Three courts can review BVA decisions. First, a claimant who disagrees with a BVA decision can appeal that decision to the U.S. Court of Appeals for Veterans Claims (CAVC).²⁰⁸ Second, any party can appeal a CAVC decision to the U.S. Court of Appeals for the Federal Circuit.²⁰⁹ Finally, parties can seek review of Federal Circuit decisions by the U.S. Supreme Court.²¹⁰ Unlike proceedings at the BVA, judicial review of a VA decision is adversarial in nature—that is, VA may argue against the claimant and defend the BVA's determinations as correct.

U.S. Court of Appeals for Veterans Claims

If a claimant is not satisfied with BVA's decision, the claimant may appeal the decision to the CAVC,²¹¹ an Article I court with exclusive jurisdiction over appeals from the BVA.²¹² To appeal a BVA decision, a claimant must file a notice of appeal with the CAVC within 120 days after the date the BVA mailed notice of the decision to the claimant.²¹³

The CAVC's review of BVA decisions is limited in scope. The CAVC is permitted to review findings of fact only for clear error and is generally prohibited from making factual findings in the first instance.²¹⁴ The CAVC reviews questions of law *de novo*, and it must also consider

²⁰² 38 C.F.R. §20.302.

²⁰³ 38 C.F.R. §20.702.

²⁰⁴ 38 C.F.R. §20.302.

²⁰⁵ 38 C.F.R. §20.801(b)(4).

²⁰⁶ 38 C.F.R. §20.801.

²⁰⁷ 38 U.S.C. §§5104C; 7252.

²⁰⁸ 38 U.S.C. §§7252, 7261, 7266. VA may not appeal a BVA decision to the CAVC. 38 U.S.C. §7252(a) (providing that “the Secretary may not seek review of” a BVA decision).

²⁰⁹ 38 U.S.C. §7292.

²¹⁰ See 28 U.S.C. §1254.

²¹¹ 38 U.S.C. §§7252, 7266.

²¹² 38 U.S.C. §§7251–7252.

²¹³ 38 U.S.C. §7266. This 120-day period is not an absolute requirement, and filing a late notice of appeal does not necessarily bar the CAVC's review. See *Henderson v. Shinseki*, 562 U.S. 428 (2011) (holding that the 120-day filing requirement, although an important claim-processing rule, is not jurisdictional).

²¹⁴ 38 U.S.C. §7261; see *Webster v. Derwinski*, 1 Vet. App. 155, 159 (1991) (“Because we are a Court of review, it is not appropriate for us to make a *de novo* finding, based on the evidence, of [a factual matter].”).

whether the BVA acted arbitrarily, contrary to the Constitution, in excess of statutory authority, or without following proper procedures.²¹⁵

U.S. Court of Appeals for the Federal Circuit and the U.S. Supreme Court

If a claimant or the government is dissatisfied with the CAVC's determination, either party may appeal the decision to the Federal Circuit.²¹⁶ The Federal Circuit provides the last appeal of right for decisions on VA benefits, but the scope of the court's review is limited. The Federal Circuit is authorized to decide all questions of law, including statutory and constitutional interpretation, and can set aside regulations (or interpretations thereof) that are arbitrary or capricious, unconstitutional, in excess of statutory jurisdiction, or procedurally deficient.²¹⁷ The Federal Circuit is not permitted to review any challenge to a factual determination or a "challenge to a law or regulation as applied to the facts of a particular case."²¹⁸

Finally, if either party disagrees with the Federal Circuit's decision, the party may petition the Supreme Court for certiorari. Parties do not, however, have a right to Supreme Court review. If the Supreme Court grants certiorari and hears the case, its decision is final.

Considerations for Congress

Congress has long taken an interest in character of service and character of discharge determinations, as discharge status can have implications for former servicemembers' and their families' financial situations, standing in their communities, and physical and mental health.²¹⁹ On June 25, 2024, VA's rule change to 38 C.F.R. §3.12 took effect, which brought renewed congressional interest in discharge status characterizations. The rule change removed a regulation that barred servicemembers who were discharged due to "homosexual acts" from receiving benefits. The change also created "compelling circumstances" exceptions for two preexisting regulatory bars for offenses involving "moral turpitude" or "willful and persistent misconduct." The removal of the "homosexual acts" bar did not change VA policy. However, as a result of the other modifications included in this rule change, former servicemembers who were previously ineligible for VA benefits may now be eligible.

Congress may consider how to ensure that those who apply for discharge upgrades through the Armed Forces or VA character of discharge reviews are being evaluated fairly and according to the same standards. A July 2025 Government Accountability Office (GAO) report found that military boards inconsistently applied DOD's guidance to give "liberal consideration" to applicants with mental health conditions and applicants who experienced sexual harassment or assault.²²⁰ This resulted in servicemembers with similar applications for discharge upgrades experiencing different outcomes based solely on how the military board (of the branch with which a servicemember served) interpreted DOD guidance. Using data from cases closed between January 2018 and March 2024, GAO found that "rates of discharge upgrades granted

²¹⁵ 38 U.S.C. §7261.

²¹⁶ 38 U.S.C. §7292.

²¹⁷ 38 U.S.C. §7292(d)(1).

²¹⁸ 38 U.S.C. §7292(d)(2).

²¹⁹ RAND Corporation, "The Veterans Left Behind: Eligibility for Department of Veterans Affairs Benefits and Other Than Honorable Discharges," September 2024, p. 2, available at https://www.rand.org/content/dam/rand/pubs/perspectives/PEA1300/PEA1363-13/RAND_PEA1363-13.pdf.

²²⁰ U.S. Government Accountability Office, *Military Discharge: Actions Needed to Help Ensure Consistent and Timely Upgrade Decisions*, GAO-25-107354, July 24, 2025, <https://www.gao.gov/products/gao-25-107354>.

ranged from 18 to 49 percent among the boards.”²²¹ GAO issued nine recommendations for DOD, including that DOD update the “liberal consideration” guidance and communicate the estimated adjudication time frames with applicants.

Another area of consideration is how an influx in new benefits claims might affect VA’s current spending and future budgetary needs. With Disability Compensation spending increasing due, in part, to the influx of claims filed after the passage of P.L. 117-168 (commonly known as the PACT Act) in 2022,²²² there has been concern about how much it will cost to continue expanding benefits to more veterans.²²³ In the FY2026 budget submission, VA noted that the number of veterans receiving Disability Compensation had grown 78% over 13 years, “from 3.3 million in 2011 to 5.8 million in 2024.”²²⁴ VA estimates that it will disburse \$181,235,708 in Disability Compensation benefits to 6,151,003 beneficiaries by the end of 2025.²²⁵

In the future, Congress may consider ways to expand or limit eligibility for some or all VA benefits. One option could be to amend the statutory bars to benefits discussed in this report. Another option could be to alter the definition of veteran for VA purposes and character of service determinations. A third possibility could be to change the eligibility requirements for a particular benefit, as Congress did to allow certain former servicemembers with OTH discharges to access emergent suicide care.

²²¹ U.S. Government Accountability Office, *Military Discharge: Actions Needed to Help Ensure Consistent and Timely Upgrade Decisions*, GAO-25-107354, July 24, 2025, <https://www.gao.gov/products/gao-25-107354>.

²²² U.S. Department of Veterans Affairs, *FY 2026 Budget Submission*, Burial and Benefit Programs and Department Administration, May 2025, p. 155, <https://department.va.gov/wp-content/uploads/2025/06/2026-Volume-3-Burial-and-Benefits-Programs-and-Department-Administration.pdf>.

²²³ New York Times, *Burn Pit Program for Veterans Could Cost at Least \$400 Billion, Agency Finds*, February 16, 2023, <https://www.nytimes.com/2023/02/16/us/politics/burn-pits-veterans-budget-deficit.html>.

²²⁴ U.S. Department of Veterans Affairs, *FY 2026 Budget Submission*, Volume 3, May 2025, p. 150, <https://department.va.gov/wp-content/uploads/2025/06/2026-Volume-3-Burial-and-Benefits-Programs-and-Department-Administration.pdf>.

²²⁵ U.S. Department of Veterans Affairs, *FY 2026 Budget Submission*, Volume 3, May 2025, pp. 147-148, <https://department.va.gov/wp-content/uploads/2025/06/2026-Volume-3-Burial-and-Benefits-Programs-and-Department-Administration.pdf>.

Appendix A. Table of Common Abbreviations

Table A-I. Common Abbreviations

Abbreviation	Full Name
AMA	Veterans Appeals Improvement and Modernization Act of 2017 (P.L. 115-55)
AOJ	Agency of Original Jurisdiction
AWOL	Absence Without Official Leave
BCMR	Board for Correction of Military Records
BVA	Board of Veterans' Appeals
CAVC	Court of Appeals for Veterans Claims
DADT	Don't Ask Don't Tell
DARB	Discharge Appeal Review Board
DOD	Department of Defense
DRB	Discharge Review Board
Federal Circuit	U.S. Court of Appeals for the Federal Circuit
MST	Military Sexual Trauma
NDAA	National Defense Authorization Act
OTH	Other than Honorable
PTSD	Post-Traumatic Stress Disorder
TBI	Traumatic Brain Injury
VA	Department of Veterans Affairs
VBA	Veterans Benefits Administration
VHA	Veterans Health Administration
VLJ	Veterans Law Judges

Appendix B. Additional CRS Resources

- CRS Report R47299, *U.S. Department of Veterans Affairs: Who Is a Veteran?*
- CRS Report R46511, *Veterans Benefits Administration (VBA): Pension Programs*
- CRS Report R44837, *Benefits for Service-Disabled Veterans*²²⁶
- CRS Report RL34024, *Veterans and Homelessness*
- CRS Report R42504, *VA Housing: Guaranteed Loans, Direct Loans, and Specially Adapted Housing Grants*
- CRS In Focus IF10555, *Introduction to Veterans Health Care*
- CRS Report R42747, *Health Care for Veterans: Answers to Frequently Asked Questions*
- CRS In Focus IF11886, *Veteran Suicide Prevention*
- CRS Report R46813, *Department of Veterans Affairs: Burial Benefits and the National Cemetery Administration*
- CRS Report R40757, *Veterans' Benefits: Dependency and Indemnity Compensation (DIC) for Survivors*
- CRS Report R42785, *Veterans' Educational Assistance Programs and Benefits: A Primer*

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²²⁶ This CRS report includes information on Disability Compensation, the Veteran Readiness and Employment program, selected housing programs, and selected veterans' life insurance programs.

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