



VETS HELPING VETS SINCE 1974

## PLAN AHEAD: PROTECT YOUR RIGHTS BEFORE YOU LEAVE THE MILITARY

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**After you're discharged from the military, you may find that you want to apply for VA disability benefits or a discharge upgrade. Even if you're not thinking about these possibilities right now, we urge you to protect your rights by taking a few simple steps today—*before* your discharge. They could save you many hours of work later on.**

*Your discharge won't be automatically upgraded six months after your discharge.*

We'll start with two urgent warnings, and then offer a series of recommendations. The warnings don't apply to everyone, but the recommendations do.

### WARNINGS

- If you're about to receive a discharge that isn't fully Honorable, you may be told that it will automatically be upgraded after six months. **This is *not* true.** It has never been true. The time to get legal assistance is **now**. For help, check with the Military Law Task Force at [www.nlgmtf.org](http://www.nlgmtf.org) or the GI Rights Hotline at [www.girightshotline.org](http://www.girightshotline.org).
- The Navy is notorious for destroying personnel records, so it's particularly important for sailors to get complete copies of all of their records **before** they leave the service. See the GET COPIES OF ALL RECORDS section below.

## RECOMMENDATIONS

For **all** service personnel, we recommend the following:

### CREATE A PAPER TRAIL

If you're injured in the service, or become seriously ill, **get medical care right away, before you're discharged.** If you wait until you're a civilian to get the medical or psychiatric care you need, it may be impossible to prove that your disability began during your military service. Without that proof, you could lose out on many thousands of dollars in monthly benefits.

**Don't go without treatment. If you're unwilling or unable to get medical or psychiatric care from the military, get it from a civilian doctor instead.** This advice applies whether you're on active duty, or in the Reserve or National Guard. Be sure to keep a record of the doctor's name, address, and telephone number, because you may later need to request copies of the doctor's records for submission to the VA, the Discharge Review Board, the Board for Correction of Military Records, or the Board for Correction of Naval Records.

*Report incidents of  
discrimination  
immediately, in writing.*

**During your separation medical exam, report all of your medical problems—physical and mental—and do your best to make sure that the doctor records them in detail.** List all of these problems on DD Form 2697, "Report of Medical Assessment." You'll find it at [www.dtic.mil/whs/directives/infomgt/forms/eforms/dd2697.pdf](http://www.dtic.mil/whs/directives/infomgt/forms/eforms/dd2697.pdf). (When you fill out this form, it's okay to answer "no" or "uncertain" to Question 18—"At the present time, do you intend to seek Department of Veterans Affairs [VA] disability?" You'll still be able to apply for VA benefits later, if you wish.)

**If you're subjected to discrimination, report it immediately, in writing.** You can file a complaint with the Equal Opportunity office on your base, or with the Inspector General's office. If you believe you were wronged by your commanding officer, you can file a "Request for Redress" under Article 138 of the Uniform Code of Military Justice. If redress is refused, you can then file a complaint under Article 138 with any commissioned officer who is superior to your commanding officer. Keep a copy of your complaint or request, and copies of any written responses you receive from the military.

It's also wise to keep a journal or diary in which you describe the incidents of discrimination immediately after they occur, before you begin to forget the details. You can also note any conversations you have with the military about the incidents. If you describe instances of discrimination in letters or e-mails to your family or friends, keep copies for yourself. They could be useful as evidence.

## GET COPIES OF ALL RECORDS

**Make certain you obtain complete copies of your Official Military Personnel File/Service Record Book.**

**Make certain you obtain complete copies of all of your service medical records,** from your initial enlistment exam through your final discharge exam.

**Psychiatric records** are sometimes kept separate from other military medical records. If necessary, request them directly from the clinic or hospital where you were seen. You can use DD Form 2870, Authorization for Disclosure of Medical and Dental Information. It's available at [www.dtic.mil/whs/directives/infomgt/forms/eforms/dd2870.pdf](http://www.dtic.mil/whs/directives/infomgt/forms/eforms/dd2870.pdf). If the clinic or hospital refuses to release your psychiatric records, you can ask a civilian mental health professional or an attorney to request them on your behalf.

If you enrolled in a **drug or alcohol rehabilitation program**—or even if you only attended an orientation—make a specific request for the program records. These records are sometimes not included in your regular medical records.

If possible, get copies of **unit incident reports, after-action reports, log books, and any other documentation** that might be helpful in pursuing a claim for VA benefits or a discharge upgrade. These documents can be particularly helpful if you need to demonstrate that your command had a pattern of acting unjustly. Some of these documents are routinely destroyed after two years, so it's important to get copies of them now.

If anyone in your unit initiated a **Congressional inquiry** regarding an issue that affected you, get copies of all letters to and from the member of Congress. (Example: a member of your unit contacted his Congressperson after all the members of the unit received Non-Judicial Punishments (NJP's) for refusing the anthrax vaccine.)

Get copies of any **Inspector General or Equal Opportunity** reports involving you or your unit, if you think they might be helpful later.

If you were the subject of a **criminal investigation**, request copies of all of your records from the investigating agency, for example, the Army's Criminal Investigative Division (CID) or the Navy's Criminal Investigative Service (NCIS).

If you were subjected to **judicial or non-judicial proceedings**, be sure to request copies of all records of the proceedings. If you were court-martialed, get a copy of the transcript. If there was an Article 32 hearing, get the summary. Get transcripts

or summaries of any administrative separation board hearings or other board hearings.

In discharge upgrade cases, your discharge “packet” will generally include the **Staff Judge Advocate (SJA) review of the discharge recommendation, the command’s recommendation, and a number of attachments.** The attachments should include any documents related to the discharge, such as records of NJP’s in the case of a misconduct discharge, or medical exam reports in the case of a medical discharge.

## Disclaimer

*This memorandum provides general information only. It does not constitute legal advice, nor does it substitute for the advice of an expert representative or attorney who knows the particulars of your case. Any use you make of the information in this memorandum is at your own risk. We have made every effort to provide reliable, up-to-date information, but we do not guarantee its accuracy. The information in this memorandum is current as of December 2012.*

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