



Kennedy Settlement Information

* Attention Army Veterans *

The Army Discharge Review Board (DRB) recently settled a class action lawsuit with Yale Veterans Legal Services Clinic. The settlement requires the Army to reconsider certain discharge upgrade decisions where Post-Traumatic Stress Disorder (PTSD) and other mental health conditions are a factor in the veteran's misconduct.

What is this case about?

The Army DRB was sued by some Army veterans whose discharge upgrade cases were not decided in accordance with the laws and directives that govern the DRBs decision-making process. The Army agreed to go back and review some of their previously decided discharge upgrade cases to make sure that they were decided correctly. Specifically, they agreed to review those cases where PTSD or PTSD-related conditions played a part in the misconduct that led to the less-than-honorable discharge. Some Army veterans will automatically have their discharge upgrade denials re-decided by the DRB, while others will be allowed to reapply and have the Army re-decide their case.

Does this case apply to me?

If you meet **all** the following criteria, then you may be eligible to have your discharge upgrade decision reviewed by the Army:

- You served in the Army, Army Reserve, and Army National Guard between October 7, 2001 and April 26, 2021.
- You were discharged from the Army, Army Reserve, and Army National Guard with a **General Under Honorable Conditions** or an **Other than Honorable Conditions** discharge, but not a Bad Conduct or Dishonorable discharge.
- You requested a Discharge Upgrade from the Army DRB between October 7, 2001 and April 26, 2021.
- The Army DRB did not grant you everything you requested in your application. (For example, you requested an Honorable discharge but they only upgraded you to a General discharge, or they didn't upgrade you at all.)

Will my Discharge Upgrade case be reviewed?

Whether your discharge upgrade decision will be reviewed will depend on the date of your discharge upgrade decision and whether your mental health was a factor in

the misconduct that led to your less-than-honorable discharge. For some cases, the Army will automatically review the previous application, whereas for others, the Army will allow the applicant to reapply to receive a new review and decision.

Automatic Review: Your application will be **automatically reviewed** if the date on the decision from the Army DRB in your discharge upgrade case is between April 17, 2011 and April 26, 2021 **and** your application included a diagnosis or evidence of (or allegations of symptoms of) PTSD, Traumatic Brain Injury (TBI), Military Sexual Trauma (rape, sexual assault, or sexual harassment), or other behavioral health conditions. The Army will send notice of this automatic reconsideration process to all eligible applicants, inviting them to submit additional evidence within 60 days and providing referral information for potential free legal representation and medical services. Lastly, the Army DRB has agreed to conduct telephonic personal hearings for all who request one.

Eligible to Reapply: You will not receive an automatic review, but you are **eligible to reapply** for a discharge upgrade to the Army and be entitled to receive a new review and Board decision if:

- The date on the decision from the Army DRB in your discharge upgrade case is between October 7, 2001 and April 16, 2011, **and** your application included a diagnosis or evidence of (or allegations of symptoms of) PTSD, Traumatic Brain Injury (TBI), Military Sexual Trauma (rape, sexual assault, or sexual harassment), or other behavioral health conditions

-- OR --

- The date on the decision from the Army DRB in your discharge upgrade case is between April 17, 2011 and September 4, 2014, and your application **did not** include a diagnosis or evidence of (or allegations of symptoms of) PTSD, Traumatic Brain Injury (TBI), Military Sexual Trauma (rape, sexual assault, or sexual harassment), or other behavioral health conditions.

The Army will review your new submission and issue a new decision in your discharge upgrade. If you separated **within the last 15 years**, you will re-submit your application to the Army DRB using [DD Form 293](#). If you separated **more than 15 years ago**, you will re-submit your application to the Army Board for Correction of Military Records using [DD Form 149](#). The Army will send notice to eligible applicants informing them of their right to reapply, including referral information for potential free legal representation and medical services. Lastly, the Army DRB has agreed to conduct telephonic personal hearings for all who request one.

Where can I get more information?

For more information, we encourage you to visit the Kennedy Settlement website: <https://www.kennedysettlement.com/>. In addition, the Army will post notice of reapplication rights for 2001–2011 applicants and reconsideration for 2011–2020 applicants on its website, <https://arba.army.pentagon.mil/adrb-overview.html> and <https://arba.army.pentagon.mil/adrb-faq.html>.

Where can I get assistance with my Discharge Upgrade re-application?

There are free legal resources available to assist you on your re-application to the Army Discharge Boards.

Swords to Plowshares serves homeless and low-income veterans living in the **San Francisco Bay Area**. Eligible veterans will receive a one-time consultation with a Swords to Plowshares attorney about their Discharge Upgrade. Although we cannot guarantee on-going representation to all veterans, we may be able to represent you before the Army DRB or BCMR, or help find you a volunteer attorney who can represent you free of charge. Please call Swords' Legal Unit Intake line at 415-789-8387.

The Connecticut Veterans Legal Center: CVLC provides full representation services for certain eligible veterans living in the state of **Connecticut** and limited discharge upgrade consultations for veterans outside of Connecticut. Visit www.ctveteranslegal.org and call their Intake Line at 203-479-0375

For veterans outside San Francisco and Connecticut, please see Swords' Discharge Upgrade Referral List available here: <https://www.swords-to-plowshares.org/resources/referrals>.