

Glossary

United States Department of Veterans Affairs (VA) Structure

3 Branches:

National Cemetery Administration: Honors Veterans and their eligible family members with final resting places in national shrines and with lasting tributes commemorating military service. VA maintains more than 130 national cemeteries that honor Veterans and their eligible family members.

Veterans Health Administration: Integrated health system providing care to eligible Veterans and their dependents. Consists of medical centers, community-based outpatient clinics, community living centers, Vet Centers, and Domiciliaries.

- *Medical Centers (VAMCs)* = Largest VA healthcare facilities, frequently called “VA Hospitals,” provided a wide range of inpatient and outpatient healthcare services for Veterans and their dependents. Typically, VAMCs are located in urban areas (e.g., New York City, Albany, Syracuse, Buffalo) or near urban areas (e.g., Canandaigua, which is close to Rochester).
- *Community-Based Outpatient Clinics (CBOCs)* = Smaller than a VAMC, these satellite clinics provide the most common outpatient services, including health and wellness visits, to Veterans and their family members. Often, CBOCs lack the advanced medical technology that a VAMC will provide, but offer a good “first step” site for medical screenings, check-ups, etc. Commonly, CBOCs are located in rural areas to accommodate the Veterans and dependents who cannot easily access a VAMC. The Veterans Health Administration also offers a widely used “telemedicine” program to connect patients visiting a CBOC with specialists who examine the patient from a remote location.
- *Community Living Centers (CLCs)* = Facilities offering a “nursing home level of care” to Veterans who need assistance with activities of daily living and/or skilled nursing care (and, when necessary, palliative care). Typically, Veterans remain in a CLC for a relatively short-term stay. However, a Veteran can (if medically necessary) continue to reside in a CLC for the remainder of his or her life.

- *Vet Center* = Facilities providing a broad range of counseling, outreach, and referral services to combat Veterans and their families. Services for a Veteran may include individual and group counseling in areas such as Post-Traumatic Stress Disorder (PTSD), alcohol and drug assessment, and suicide prevention referrals. All services are free and confidential.
- *Domiciliaries* = Residential facilities offering residential rehabilitation and treatment services for Veterans with multiple and severe medical conditions, mental illness, addiction, or psychosocial deficits. Treatment intensity, environmental structures, and type of supervision vary based on population served.

Veterans Benefits Administration (VBA): The entity responsible for administering the Department's programs that provide financial and other forms of assistance to Veterans, their dependents, and survivors.

- *Regional Office (VARO)* = The most localized office level within the VBA. New York State has VAROs in New York City and Buffalo. Interestingly, pension claims filed in New York typically are processed at the Philadelphia VARO.

Common VA Benefits

Disability Compensation = Tax-free monetary benefit paid to Veterans with disabilities incurred or aggravated during active duty military service. The Veteran must prove a nexus between a current disability and the Veteran's military service, demonstrating that the disability was "as likely as not" caused by military service.

The VA bases amount of money that the Veteran receives upon the degree of the Veteran's disability. VA employees review evidence that the Veteran submits in support of his or her claim and, based on this evidence, awards the Veteran a disability compensation rating on a scale from 10% ("least severe") to 100% ("most severe").

The VA awards ratings in 10% increments. Chapter 38 of the Code of Federal Regulations contains the specific medical criteria for each rating level of each disability.

A Veteran who receives a 0% rating for a disability receives free VA medical care for that disability, but no financial compensation. Generally, a Veteran will use a VA Form 21-526 or a VA Form 526-EZ to file for disability compensation.

Dependency and Indemnity Compensation (DIC) = Tax-free monetary benefit payable to surviving spouses and other dependents of Veterans who died from their

“service-connected disabilities” (disabilities for which the Veteran received a rating from the VA). In general, the surviving spouse or other dependent uses a VA Form 21-534 to file a claim for DIC.

Non-Service-Connected Pension = Tax-free benefit for Veterans who served during a period of war for a non-service-connected disability. The Veteran does not need to serve in a combat zone to qualify. Service for at least one day during a period when the United States was at war (not limited to combat service) is enough to satisfy the “wartime service” requirement for this benefit. To qualify, the Veteran’s countable income must fall below a specific dollar amount set by Congress. Additionally, a Veteran cannot have household assets above a threshold set by Congress to qualify for a VA pension. All asset transfers are subject to a three-year lookback provision, with potential penalties for transfers that are not for fair market value. The VA automatically deems a Veteran who is age 65 or older “disabled” for pension eligibility. Typically, a Veteran uses a VA Form 21-527EZ to apply for a non-service-connected pension.

“Special” Pension = A Veteran or a surviving spouse who meets all of the criteria for a “regular” VA non-service-connected pension *and* requires another person’s assistance with two or more activities of daily living (washing, dressing, eating, toileting, etc.) can receive a larger financial benefit known as the “Aid & Attendance Special Pension.”

A Veteran or a surviving spouse who meets all of the criteria for a “regular” VA non-service-connected pension *and* is “substantially confined to your immediate premises because of permanent disability” can receive a larger financial benefit known as the “Housebound Special Pension.”

A Veteran or a surviving spouse cannot receive both Aid & Attendance and Housebound simultaneously.

Survivors Pension (“Death Pension”) = Tax-free monetary benefit payable to a low-income, un-remarried surviving spouse and/or unmarried children of a deceased Veteran who served during a period of war. The claimant’s countable household income must fall below a threshold that Congress establishes annually. Typically, a surviving spouse or dependent child uses a VA Form 21-534EZ to apply for a Survivors Pension.

Vocational Rehabilitation & Employment (“Voc. Rehab.”) = Program assisting Veterans with service-connected disabilities prepare for, find, and maintain employment. Services include evaluations to determine employable skills, vocational counseling, job training programs, assistance finding and keeping a job, post-secondary training opportunities, and Independent living services for Veterans unable to work due to the severity of their disabilities. See Title 38, Chapter 31, of the U.S. Code for full range of services.

Post-9/11 Educational Assistance Program (“Post-9/11 G.I. Bill) = Educational benefit available only to honorably discharged Veterans with a qualifying period of active duty service after September 10, 2001, and their qualifying dependents. Recipients are eligible for financial assistance for up to 36 months when pursuing their education at qualifying institutions of higher education and vocational training programs in the form of tuition and fees, a monthly housing allowance, and a books and supplies stipend. The program also provides certain recipients the opportunity to transfer unused post-9/11 G.I. Bill educational benefits to their spouses and children.

For all fully eligible recipients attending a public college, university, or other public school, the VA pays full tuition and fees directly to the school. For recipients attending a private school, tuition and fees are capped at a national maximum rate. Post-9-/11 G.I. Bill benefits are payable for 15 years following the Veteran’s discharge from military service.

Full criteria for post-9/11 G.I. Bill eligibility are found in Title 38, Chapter 33, of the United States Code.

Montgomery G.I. Bill = Educational benefits program that was the most widely used program prior to the post-9/11 G.I. Bill’s implementation. Under the Active Duty Component of the Montgomery G.I. Bill (Title 38, Chapter 30, of the United States Code), honorably discharged Veterans and active duty Servicemembers with at least two years of active duty military service may receive up to 36 months of education benefits. Benefits are generally payable for 10 years following separation from military service.

Under the Selected Reserve Component of the Montgomery G.I. Bill, eligible members of Reserve units may receive up to 36 months of education benefits. Generally, a Reservist in good standing must have a six-year service obligation to qualify for this benefit. Typically, eligibility under the Selected Reserve Component ends on the date of separation from the Reserves. However, the VA may extend eligibility if the Reservist was discharged due to a disability not caused by the Reservist’s own willful misconduct, or if the Reservist is mobilized from his or her Reserve status to active duty military service.

Specially Adapted Housing Grant = Available funding to help Veterans with certain severe service-connected disabilities purchase or construct an adapted home, or modify an existing home to accommodate a disability. Among the most common eligible service-connected disabilities are: loss of the use of both legs or both arms, loss of the use of one leg and one arm, severe burns, blindness in both eyes, and the loss of the use a lower extremity on or after September 11, 2001, that prevents the Veteran from

moving without the aid of braces, crutches, canes, or a wheelchair. Typically, a Veteran will use a VA Form 26-4555 to apply for a Specially Adapted Housing Grant.

Burial Benefits = VA burial benefits include a gravesite in any of the National Cemetery Administration's 133 national cemeteries with available space, opening and closing of the grave, perpetual care, a Government headstone or marker, a burial flag, and a Presidential Memorial Certificate, at no cost to the deceased Veteran's family. Typically, a claimant uses VA Form 21P-530 to apply for burial benefits.

Burial benefits available for Veterans' spouses and dependents buried in a national cemetery include burial with the Veteran, perpetual care of the gravesite, and the spouse's or dependent's name and date of birth and death inscribed on the Veteran's headstone, at no cost to the family. Spouses and dependents receive these burial benefits even if they predecease the Veteran.

If a Veteran is buried in a private cemetery, available burial benefits include a government-issued headstone, marker or medallion, a burial flag, and a Presidential Memorial Certificate, at no cost to the family. However, no burial benefits are available for Veterans' spouses or dependents buried in private cemeteries.

Additionally, a Veteran's surviving spouse (or the Veteran's surviving dependent children if no spouse survives the Veteran) may be eligible for a burial allowance to help offset funeral costs. If the Veteran died from a service-connected disability on or after September 1, 2001, the maximum burial allowance is \$2,000. If the Veteran died from a service-connected disability before September 11, 2001, the maximum burial allowance is \$1,500.

If the Veteran's death was not service-connected, the maximum burial allowance today is \$300, along with a payment of approximately \$700 (varies by the year of the Veteran's death) to pay for the plot of land on which the Veteran is interred. If the Veteran dies while under the care of a Veterans Health Administration facility, then the maximum amount of money in the burial allowance payout increases.

Common VA Benefits Procedural Terms

Accreditation = Under federal law, any individual representing a party in the preparation, presentation, and prosecution of a claim for VA benefits must first receive accreditation from the VA as a claims agent, attorney, or representative of a VA-recognized Veterans Service Organization (VSO). Individuals seeking accreditation as a VSO representative apply by filing VA Form 21; individuals seeking accreditation as a claims agent or as an attorney apply by filing VA Form 21a.

Maintaining accreditation includes, but is not limited to, certain requirements regarding reimbursement for assisting claimants. No person or organization may charge claimants a fee for assistance in preparing applications for VA benefits or presenting claims to VA. Accredited agents and attorneys may charge fees for assistance on a claim for VA benefits only after VA issues a decision on a claim and the claimant files a Notice of Disagreement initiating an appeal of that decision. If a party ever charges a Veteran a fee at any stage in the process, that party must file the fee agreement with the VA for the VA's review and approval.

Title 38, Chapter 59, of the United States Code, and Title 38, Sections 14.626 through 14.637 of the Code of Federal Regulations, provides the legal provisions regarding obtaining and maintaining accreditation through the VA.

Appeal = Any party who receives a decision on a VA claim has the right to appeal that decision. To initiate the appellate process, the Veteran must timely file a Notice of Disagreement with the VA. (See "Notice of Disagreement" below). From there, the appellate process moves through various steps — first, administratively within the VA, and secondly, beyond the VA to the United States Court of Appeals for Veterans' Claims. Supreme Court caselaw requires these appellate proceedings to be "non-adversarial" and "claimant-friendly" processes.

Board of Veterans' Appeals (BVA) = One of the three options of appellate review within the VA's administrative review process. The BVA's Veterans Law Judges, all of whom are attorneys experienced in Veterans' Law and in reviewing VA benefits claims, issue written decisions for each appeal. Staff attorneys, also trained in Veterans' Law, review each appeal and assist the BVA's Law Judges in reaching their final conclusions.

Appellants can choose to appeal directly to the BVA, or to seek review from a VA personnel in other "lanes" of the appellate process first. The appellant has the right to request an in-person hearing or a hearing via videoconference before a Veterans Law Judge, but such a hearing is not required if the appellant wants strictly a documentary review of the case without appearing before a judge.

Claim = The initial filing for any variety of VA benefits. All VA claims go to a VARO for initial handling and processing. There is no time limits regarding filing a claim. For instance, a World War II Veteran could file a disability compensation claim tomorrow for a service-connected disability incurred or exacerbated in 1942 without facing any prejudice from the VA's reviewers for "waiting" so long.

Clear and Unmistakable Error (CUE) = A collateral attack on a final VA rating decision. To prevail, the Veteran must prove three elements: (1) the facts known at the time of the decision being attacked on the basis for CUE were not before the adjudicator or the VA incorrectly applied the law then in effect; (2) an error occurred based on the

record and the law that existed at the time; and (3) had the VA not made the error, the outcome would have been manifestly different. A successful CUE petition forces the VA to revise its previously final decision, even if the customary appeals deadline has expired.

Effective Date = The date on which VA benefits payments begin. Sometimes, a Veteran's effective date allows for retroactive payments from the VA that pre-date the actual submission of the claim to the VA. Generally, an effective date for service-connection for a disability that is directly linked to an injury or disease incurred or exacerbated by military service is the date VA receives a claim or the date entitlement arose, whichever is later. However, if the claimant files the claim within one year of separating from active duty military service, then the effective date is the day after separation from service.

Fully Developed Claim (FDC) = Optional VA initiative providing a pathway for faster claims processing if the claimant submits all relevant evidence in the initial claims filing. If the claimant subsequently submits additional evidence regarding a claim that was initially filed as a FDC, the VA will remove the claim from the FDC program and process it through the traditional claims process. Generally, a claimant uses a VA Form 21-526EZ to file a FDC for disability compensation benefits (or a Form 21-527EZ for pension benefits, or a Form 21-534EZ for survivors' benefits).

Higher-Level Review = A fast-tracked appeal of an initial decision by the VA in which the claimant cannot add any new evidence into the record. The appellant may have an informal phone conference with an employee of the Veterans Benefits Administration, but the appellant has no rights to receive a formal hearing if choosing this method of appeal. The VA has a goal of resolving all higher-level review appeals within 125 days of receiving the appeals package from the appellant.

New and Material Evidence = Information that a claimant submits to the VA to supplement a Request for Reconsideration or a request to re-open a claim. This evidence must be relevant and relate to an unestablished fact necessary to prove the claim. It has to have a legitimate influence or bearing on the decision, and cannot be cumulative or redundant. It cannot be information that the claimant previously provided to the VA.

Ninety-Day Notice = A request from the BVA asking the appellant to submit any additional evidence before the BVA renders a final decision regarding the appeal. The appellant has 90 days from the date of this request to provide this evidence to the BVA. If the BVA does not receive any new evidence during this 90-day period, then the BVA will proceed on the record without any additional materials.

Notice of Disagreement (NOD) = A statement of intent to appeal a VA decision regarding a claim for benefits. A party has one year from the date of the VA's decision to file the Notice of Disagreement with the VA.

Request for a Reopened Claim = A claimant's request for a new judgment on certain varieties of previously denied claims submitted after the one-year appeal deadline expires. Generally, this avenue is available for only disability compensation, DIC, and burial benefits claims. (Claimants typically pursue a brand-new claim for other denials).

Request for Reconsideration = A claimant's request for a new judgment on a previously denied claim submitted within the one-year appeal deadline. Frequently, a claimant will submit a Request for Reconsideration using VA Form 21-4138 ("Statement in Support of Claim"), but using this form is not mandatory.

Statement of the Case (SOC) = A statement from the VA to the appellant declaring the VA's positions on the facts and law relevant to the appeal. The VA prepares and sends this statement to the appellant after receiving the NOD. The VA will mail this statement to the appellant's last known address. Frequently, the VA will take several months to prepare a SOC. If the appellant disagrees with the VA's positions in the SOC, then the appellant should proceed by filing a VA Form 9.

Supplemental Claim = An appeal in which the appellant may submit new evidence into the record, but the appellant is not entitled to an in-person hearing or a video hearing to present the appeal. This appeals lane is designed for faster processing and resolution than the appeal to the Board of Veterans' Appeals.

Supplemental Statement of the Case (SSOC) = If an appellant submits new evidence with a VA Form 9, that new evidence goes to the VARO. The VARO will then respond to this new evidence presented by sending a SSOC to the appellant. Importantly, an appellant is legally guaranteed 60 days from the date when the VA issued the SSOC to respond in writing to the SSOC, even if the other customary deadlines for filing a Form 9 have already expired.

Common New York State Veterans' Benefits

Blind Annuity = Monthly payment from New York State to legally blind wartime Veterans and to the unremarried surviving spouses of legally blind wartime Veterans who reside and are domiciled in New York State. Blindness *does not* need to be service-connected for the Veteran or the spouse to qualify. Military service needs to occur during a time of war, but does not necessarily need to occur in a combat zone. Eligibility depends on the Veteran's blindness, so the legally blind non-Veteran spouse of a non-blind Veteran would not qualify.

Experience Counts = Governor Cuomo's multi-faceted initiative to help Veterans utilize skills learned in the military to transition into New York's workforce. For example, Veterans who gained military training and experience as a medic can use this experience to count toward certification as a civilian paramedic, home health aide, or nursing home aide in New York State. The Department of Motor Vehicles waives the road test for a Commercial Driver's License for Veterans with experience driving trucks and heavy equipment during military service. Veterans with other Military Occupational Specialties can transfer these skills into careers in New York ranging from working as a Licensed Radiological Technologist to working as a security guard.

In addition, recognizing the frequency at which military families move from place to place, the Experience Counts program also includes pathways for military spouses in certain licensed professions to transfer their careers into New York State with greater ease. For example, New York recognizes out-of-state licenses for military spouses who are real estate brokers, cosmetologists, barbers, and other careers requiring a license from the New York State Department of State.

Gold Star Parent Annuity = Authorizes an annuity payment of up to \$500 per Gold Star Parent of a Servicemember who was killed in combat. Recipients must be residents and domiciliaries of New York State. Payments are disbursed in semi-annual installments (March and September). Controlling definition of "Gold Star Parent" appears in federal law (10 USC 1126). Definitions that privately run "Gold Star organizations" use may not necessarily match the controlling definition in federal law.

Hire-A-Vet Credit = A statewide tax incentive for businesses hiring post-9/11 Veterans to full-time jobs. To qualify, the business must employ a post-9/11 Veteran with an Honorable or General discharge for no less than 35 hours per week for one calendar year. The Veteran must attest that he or she was not employed for 35 or more hours in the previous 180 days for the business to qualify for the tax exemption. Businesses may earn up to \$5,000 for hiring a qualified Veteran, and up to \$15,000 for hiring a qualifying Veteran who is disabled.

Lifetime Liberty Pass = Pass from the New York State Department of Parks, Recreation, and Historic Preservation granting the holder free access to state parks, boat launch sites, historic sites, and park preserves throughout New York State, as well as free entry to 28 New York State golf courses. Veterans with a VA-rated disability of 40% or higher who are New York State residents qualify for this pass.

Supplemental Burial Allowance = A payment of up to \$6,000 from New York State to immediate family members of Servicemembers killed in combat zones or dying from wounds incurred in combat to offset funeral and interment expenses.

State Veterans Homes = The New York State Department of Health operates four state Veterans homes for Veterans, spouses and certain parents: a 242-bed Veterans home at Oxford, Chenango County, a 250-bed Home at St. Albans, Queens; a 126-bed Home in Batavia, Genesee County; and a 250-bed home at Montrose, Westchester County. A 350-bed Veterans Home on the campus of SUNY Stony Brook in Long Island is operated by the University's Health Sciences Center. Health care and skilled nursing services are available at all facilities.

To be eligible for care in a State Veterans Home, a Veteran must have received an honorable discharge from military service, served for at least 30 days on active duty, and either entered active duty military service from New York State or resided in New York for at least one year to applying for admission to the State Veterans Home.

Troops To Energy = National employment initiative for Veterans seeking careers in the energy industry. New York became part of this program in 2014. Available jobs are listed through a Troops To Energy clearinghouse website.

Veterans Distinguishing Mark = Honorably discharged Veterans (including members of the National Guard and Reserves) can receive the word "Veteran" printed on their driver's license, learner's permit, or non-driver's ID at any local New York State Department of Motor Vehicles office. There is no charge for this printing service. This designation gives Veterans a far more convenient alternative to carrying around their discharge paperwork as proof of military service.

Veterans Tuition Award = Scholarship from the New York State Higher Education Services Corporation to combat Veterans entering a higher education course of study as a matriculated student. The financial award per semester equals to the lesser amount of either the undergraduate tuition that the State University of New York (SUNY) charges New York State residents or the actual tuition of the combat Veteran's program of study.

Veterans With Disabilities Employment Program (55-c or "55 Charlie") = Section 55-c of New York State's Civil Service Law authorizes 500 entry-level public sector positions to be filled with qualified wartime Veterans with disabilities. Applicants must meet the minimum qualifications for the position, but are not required to take a Civil Service examination.

Any Veteran who has received the Purple Heart or has a VA disability rating of at least 10% is automatically eligible for this program.

Other Commonly Used Veterans' Terms

Active Duty = A Servicemember is on Active Duty if he or she works for the military full-time and can be deployed at any time. Individuals serving in the Reserve or in the National Guard are not full-time active duty military personnel, although they can be activated to active duty status at any time should the need arise. Also frequently referenced as “Title 10 Status.”

DD214 = A Veteran’s Certificate of Release or Discharge from Active Duty issued by the United States Department of Defense. This is the most important single record that a Veteran can possess to prove that he or she served in the Armed Forces.

National Personnel Records Center = Agency of the National Archives and Records Administration that serves as a repository for military records. Based in St. Louis, this is the entity to which a Veteran submits a Standard Form 180 (SF 180) when seeking copies of his or her DD214, military medical records, records necessary to substantiate an application for a lost or destroyed military medal or decoration, or other records pertaining to that Veteran’s military personnel file.

Operation Enduring Freedom (OEF) = Military operation that began on October 7, 2001 with allied air strikes on Taliban and al Qaeda targets.

Operation Iraqi Freedom (OIF)/Operation New Dawn (OND) = Military operation that began in March 2003 with the American-led coalition’s invasion of Iraq. Labeled Operation Iraqi Freedom until 2010, when it was re-named Operation New Dawn.

Power of Attorney (POA) = A Veteran or dependent must grant Power of Attorney to a VA-accredited representative before that representative can represent the Veteran or dependent in a claim or appeal for VA benefits. The Veteran or dependent must file a Declaration of Representation with the VA to designate a person or organization as his or her representative. To appoint an accredited representative of a Veterans Service Organization (such as the NYS Division of Veterans’ Affairs), the Veteran or dependent must first file VA Form 21-22 with the VA. To appoint a VA-accredited attorney, the Veteran or dependent must first file VA Form 21-22a with the VA.

Importantly, a validly executed Power of Attorney recognized under state law has no effect on an individual’s legal ability to prosecute a VA benefits claim. Only a POA executed under the VA’s own standards discussed above will legally allow an individual to represent a Veteran or dependent in a VA benefits matter.

Servicemembers Civil Relief Act (SCRA) = A powerful yet often-underutilized set of equity-based consumer protection statutes for Servicemembers on active duty, recently discharged Veterans, and their dependents. Provisions include the ability to stay civil actions during the duration of an individual’s military service, the ability to avoid certain civil fines and penalties during the duration of an individual’s military service, and the

implementation of a 6% interest rate cap for all obligations entered into before beginning active duty if the military service materially affects his or her ability to meet the obligations. Codified at 50 U.S.C. Appx. 501–593.

Standard Form 180 (SF 180) = The form used to request military records, including but not limited to a Veteran’s DD214, from the National Personnel Records Center in St. Louis and from that Veteran’s particular branch of service.

Uniformed Services Employment and Re-employment Rights Act (USERRA) — A set of statutes protecting Servicemembers’ re-employment rights when returning from a period of military service (including activation to Title 10 status from the National Guard or Reserves) and guarding against employer-based discrimination due to past, present, or future military service. If an employee notifies his or her employer in advance about upcoming military service obligations, and returns to that job in a timely manner after serving in the military for five years or less, that employee receives several protections under USERRA, including the right to be re-employed with all of the job-based benefits the Veteran would have attained if he or she had not been absent due to military service. Codified at 38 U.S.C 4301–4335.

Veterans Treatment Court = Alternative resolution program within the criminal justice system that links eligible Veterans with treatment services using a team-centered model supervised by the court’s presiding judge. Building on the existing models of Drug Treatment Courts, these courts offer Veteran defendants (typically referenced as “justice-involved Veterans”) the opportunity to complete a rigorous treatment program in lieu of incarceration for certain criminal offenses.

Each jurisdiction structures its Veterans Treatment Court model differently. Overall, however, the Veterans Treatment Court model requires regular court appearances (generally a bi-weekly minimum in the early phases of the program), as well as mandatory attendance at treatment sessions with an interdisciplinary treatment team and frequent and random testing for substance abuse. Veterans Treatment Courts also link the justice-involved Veteran to a Veteran mentor for peer-to-peer assistance and support in a structured setting. Veterans Treatment Courts act as a “one-stop shop,” linking Veterans with the programs, benefits and services they have earned, particularly through interactions with the VA’s Veterans Justice Outreach officers (VJOs).

Commonly Seen Military Discharge Classifications

- **Honorable.** This is the highest classification of discharge. It means that the Veteran completed his or her service obligation at or above the level required by that branch of service. An individual with this classification meets the discharge classification requirements for all Veterans’ benefits that the United States Department of Veterans Affairs oversees.

- **General Discharge Under Honorable Conditions.** This classification means that the Veteran provided satisfactory service in the estimation of his or her branch of the military, but the Veteran’s conduct was in some way not meritorious enough to deserve an Honorable discharge. Individuals with this discharge classification can receive most VA benefits, but cannot receive education benefits under the G.I. Bill.

- **Discharge Under Other Than Honorable Conditions.** This classification, usually called “an OTH” in conversation among military members and Veterans, means that the Veteran engaged in a “pattern of behavior that constitutes a significant departure from the conduct expected” of an individual in military service. Receiving this level of discharge can (but does not always) deprive Veterans of many Veterans’ benefits. Additionally, individuals who receive an OTH classification are usually barred from re-enlisting into any branch of the military.

- **Bad Conduct Discharge (BCD).** An individual can receive this discharge only if a military court-martial finds him or her guilty of certain particularly serious offenses under the Uniform Code of Military Justice (UCMJ). Receiving this discharge classification has severe post-discharge consequences for the Veteran, including deprivation of most Veterans benefits.

- **Dishonorable Discharge.** An individual can receive this discharge only if a General Court-Martial finds him or her guilty of “serious offenses of a civil or military nature.” (NOTE: If a commissioned officer is convicted at a General Court-Martial, then the officer’s discharge paperwork will list that he or she received a “Dismissal,” which carries the same negative consequences as a Dishonorable Discharge).

Discharge Upgrade = A procedure by which a Veteran can appeal his or her character of discharge. While these cases are difficult to win, a victory can bring many positive outcomes to the Veteran, particularly regarding benefits eligibility. Generally, a discharge upgrade proceeding can follow one of two basic pathways:

- (1) ***Discharge Review Board.*** Every branch of the military (Army, Navy, Air Force, Marines, Coast Guard) maintains its own Discharge Review Board. Each Discharge Review Board consists of a panel of five officers from that branch of service. A minimum of three votes are required to change the Veteran’s discharge classification. A Discharge Review Board cannot review Dishonorable

Discharges or Bad Conduct Discharges (unless issued by a Special Court-Martial), but can review all other classifications of discharge.

A Veteran can appeal to the Discharge Review Board within fifteen years after the individual's discharge from military service. After fifteen years passes, then the Discharge Review Board cannot hear the Veteran's appeal.

Typically, a Discharge Review Board will upgrade a Veteran's discharge based on grounds of equity or propriety. (10 U.S.C. §1553; 32 C.F.R. §70.9).

Department of Defense Form 293 is the proper form to use when appealing to a Discharge Review Board. Applicants to a Discharge Review Board can elect either a "non-personal appearance review" or a "personal appearance review" before the Discharge Review Board's members. Commonly, advocates will request a "non-personal appearance review" first. Then, if the Discharge Review Board denies the upgrade, the Veteran (and his or her advocates) can request that the Discharge Review Board reconsider the case with a personal appearance before the board.

The Discharge Review Board must expedite the Veteran's case if the Veteran served during a wartime period and was later diagnosed with Traumatic Brain Injury (TBI) or Post-Traumatic Stress Disorder (PTSD). Additionally, the Discharge Review Board in such situations must include at least one member who is a psychiatrist, a clinical psychologist, or a physician.

- (2) **Board for Correction of Military Records.** Each branch of the service also maintains a Board for Correction of Military Records (or, in the case of the Navy and Marine Corps, a "Board for Correction of Naval Records"). Each Board for Correction of Military Records consists of civilians who are employed within that particular service branch.

Unlike a Discharge Review Board, the Board for Correction of Military Records may amend not only the Veteran's discharge classification, but also virtually any other component of the Veteran's discharge paperwork, including removing incorrect statements about the reasons for the Veteran's separation from military service, altering re-enlistment codes, changing the Veteran's date of discharge, and any other area of the Veteran's discharge paperwork that reveals an "error or injustice." (10 U.S.C. §1552(b)).

A Veteran can appeal to the Board for Correction of Military Records at any time, regardless of date of discharge from military service.

However, every Board for Correction of Military Records operates under a legal presumption that it will accept an appeal from a Veteran only within three years after the date when the Veteran discovers the “alleged error or injustice” in his or her discharge records. To overcome this presumption, the Veteran’s application to the Board for Correction of Military Records must include a statement expressing why the Board should, in “the interest of justice,” abandon the three-year requirement and hear the case.

Department of Defense Form 149 is the proper form to use when appealing to a Board for Correction of Military Records.