

Army to review discharges and status-upgrade procedures for behavioral health conditions

The U.S. Army has agreed to review the discharges of thousands of veterans affected by post-traumatic stress disorder, traumatic brain injury, military sexual trauma or other behavioral health conditions, and to change some of its administrative procedures for individuals who apply to have their discharge statuses upgraded in the future. This agreement follows a settlement reached in the nationwide class-action lawsuit Kennedy v. McCarthy. A federal court preliminarily approved the agreement on Dec. 28, 2020.

Under the agreement, the Army will automatically reconsider certain discharge-status-upgrade decisions made by the Army Discharge Review Board between April 17, 2011, and the effective date of settlement that partially or fully denied relief to Iraq- and Afghanistan-era veterans with less-than-fully-honorable discharges. The settlement also expands reapplication rights for eligible applicants who were discharged and received an adverse ADRB decision between Oct. 7, 2001, and April 16, 2011.

In addition, the Army will implement other procedures, including a program to enable applicants to appear telephonically before the ADRB, more training for board members and updated protocols for decision making in cases involving symptoms or diagnoses of PTSD, TBI, MST or other behavioral health conditions.

Veterans of the Army, including the National Guard and Reserve, who were discharged with a less-than-fully-honorable service characterizations while having a diagnosis of, or showed symptoms of, the conditions listed above may be eligible for relief. Discharge upgrades are not guaranteed and applications will be decided on a case-by-case basis.

A video teleconference hearing on the settlement agreement on Wednesday, March 24, 2021, at 10:00 a.m. ET will address whether to grant final approval to the settlement, whether to issue a final order dismissing the lawsuit and other issues. Persons affected by the settlement may submit written comments and/or appear themselves or through counsel to be heard in support of or in opposition to aspects of the settlement. Persons wishing to object must follow specific procedures, which are outlined on the websites listed below.

A court-approved class notice, the full text of the settlement and information about the court's hearing can be found at <http://www.kennedysettlement.com> and <https://arba.army.pentagon.mil/adrb-overview.html>.

For more information, please contact the Yale Veterans Legal Services Clinic at kennedy.settlement@yale.edu or (203) 364-4588, or visit <https://arba.army.pentagon.mil/adrb-overview.html>.

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