



VETS HELPING VETS SINCE 1974

VA CHARACTER OF DISCHARGE DETERMINATIONS

An Alternative to Discharge Upgrades

SELF-HELP GUIDE CHECKLIST



Before You Start

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- When is a COD necessary?
- How is a COD different than a Discharge Upgrade?
- How does the VA decide a COD?
- Different “bars” to VA Benefits Eligibility
 - Willful & Persistent Misconduct
 - Moral Turpitude
- Compelling Circumstances



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- VA Benefit Claims Forms



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- Write a detailed statement about the circumstances of your discharge and any compelling circumstances



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Available VA Benefits

- Learn about benefits you may be eligible for today with a less than honorable discharge

WHAT IS A “CHARACTER OF DISCHARGE” DETERMINATION?

Unfortunately, not everyone who served in the military is able to receive VA benefits. There are different factors that the VA uses to determine if someone is eligible – one of those factors is the veteran’s **discharge status**.

Honorable, General, and some Uncharacterized

For veterans with Honorable, General Under Honorable Conditions, and certain Uncharacterized discharge statuses, their discharge status won’t cause any issues when applying for most VA benefits.

OTH, BCD, Dishonorable, and other Uncharacterized

For veterans with Other than Honorable (OTH), Bad Conduct (BCD), Dishonorable, and some other Uncharacterized discharges, the VA will make a decision – called a Character of Discharge (COD) determination – whether that individual veteran is eligible for benefits based on a review of the misconduct in service and other factors.

How to Apply for a COD?

If you’re a veteran with a less than honorable discharge, you don’t apply for a COD – instead, the VA will automatically conduct a COD determination when it receives your application for a VA benefit, such as healthcare or service connection. The COD will be the first step the VA takes in processing your claim.

If you’re successful in the COD process, you will be eligible for most VA benefits including VA healthcare, home loan, service connection, and wartime pension. You will still need to meet the individual requirements for those benefits – for example, that you served during wartime in order to get wartime pension. But, what’s important is that your discharge status won’t stop you from receiving most VA benefits.

This guide explains how the VA makes a COD determination and what you can do to increase your chances of being found eligible for VA benefits.

WHEN IS A COD NECESSARY?

The chart below explains when the VA needs to conduct a COD in order to determine a veteran's eligibility for benefits. You'll see that a COD is needed whenever a veteran with an OTH, BCD, or Dishonorable discharge applies for most VA benefits.

Note: VA's homeless services, which provide support to veterans who are unhoused or at risk of losing their housing, are available to many veterans with less than honorable discharges without having to go through the COD process.

Discharge Status	VA Healthcare and Monetary Benefits (Service Connection, Wartime Pension, Home Loan)	VA Homeless Services (HUD-VASH, Grant Per Diem, SSVF assistance)
Honorable	Eligible	Eligible
Uncharacterized due to Entry Level Separation	Eligible	Eligible
Uncharacterized due to Void Enlistment or Dropped from the Rolls	May be Eligible - VA COD is needed	Eligible
General Under Honorable Conditions	Eligible (except for GI Bill)	Eligible
Other than Honorable	May be Eligible - VA COD is needed	Eligible
Bad Conduct from a Special Court Martial Conviction	May be Eligible - VA COD is needed	Eligible
Bad Conduct from a General Court Martial conviction	May be Eligible - VA COD is needed	Ineligible
Dishonorable	May be Eligible - VA COD is needed	Ineligible

HOW IS A COD DIFFERENT THAN A DISCHARGE UPGRADE?

There is a lot of confusion and misinformation out there about Discharge Upgrades and Character of Discharge (COD) determinations. These are two separate processes with two different outcomes.

- **Discharge Upgrade** – this is a request to the **Department of Defense (DOD)** to change the discharge status on your DD214 (e.g., from Other than Honorable to General Under Honorable Conditions).
- **COD** – this is a request to the **Department of Veterans Affairs (VA)** that only affects VA benefits eligibility, but does not change your DD214.

Key differences:

- The VA's COD process takes months; a Discharge Upgrade can take years.
- COD success rate is higher than that of Discharge Upgrades.

If your main motivation is to receive VA benefits, a COD might be your best bet. If you want your discharge status on your DD214 changed, then you have to go through the Discharge Upgrade process. But, know that these are two separate processes at two separate government agencies, so there's no harm in going through both and you can apply for both at the same time.

This guide goes over the VA's COD process **only**, but if you want more guidance on the DOD's Discharge Upgrade process, check out Swords' other Self-Help Guide on [Discharge Upgrades](#).

HOW DOES THE VA DECIDE A COD?

We've learned that the VA may or may not find you eligible for VA benefits, but how does the VA make this decision? What factors does the VA consider when they choose to approve or deny a veteran's COD?

First, the VA looks at **the reason you were discharged**. They will review your separation paperwork and DD214 to identify the events or misconduct that led to your discharge. When assessing your COD, the VA can only take into account the misconduct that was the basis for your discharge.

Sometimes, figuring out a veteran's reason for discharge is pretty straightforward. For example, you were discharged after going AWOL for 3 months. Or, you were discharged for a "pattern of misconduct" after receiving multiple non-judicial punishments (NJPs).

Other times, a veteran may have had some minor misconduct in service but was ultimately discharged for only one serious infraction at the end of service. For example, you got an NJP for underaged drinking, and another one for being late to work, but in the end, you were discharged for a positive drug test and there was no mention of the earlier NJPs in your discharge paperwork. In that case, **your reason for discharge** is one positive drug test (not the earlier NJPs).

Next, the VA will evaluate if any disqualifying factors apply to your case based on your discharge reason. The VA is unable to provide benefits to veterans discharged for specific reasons, so they will match your discharge reason against that list to determine your eligibility.

On the next two pages, you will find a list of all the discharge reasons that the VA considers to be "bars" or obstacles to receiving VA benefits. Take a look at these discharge reasons, and see if any apply to you.

THE DIFFERENT “BARS” TO VA BENEFITS ELIGIBILITY

If your reason for discharge was ...	• By general court martial conviction • In lieu of trial by general court martial • Resignation by an officer for the good of the service • As an alien during a period of hostilities • For mutiny, espionage, desertion, or as a conscientious objector
... then your COD will be denied <i>unless</i>:	You were “insane” at the time of the misconduct

If you were discharged for a reason that is listed above, then the VA will deny your COD ***unless*** you were “insane” at the time of the misconduct. There’s more information about the “insanity defense” on **page 18**.

If you were **not** discharged for any of these reasons, go to the next page...

THE DIFFERENT “BARS” TO VA BENEFITS ELIGIBILITY

If your reason for discharge was for...	• Going AWOL for 180+ continuous days • An offense involving moral turpitude (go to page 10 for more information on what this means) • Willful and persistent misconduct (go to the next page for more information on what this means)
... then your COD will be denied <i>unless</i>:	There are “compelling circumstances” that excuse the misconduct

If you were discharged for a reason listed here, then the VA will deny your COD ***unless*** they find “compelling circumstances” that excuse the misconduct. We’ll go into what counts as a “compelling circumstance” starting on page 11.

If you were discharged for a reason that is not listed on the last page or above, the VA will still conduct a COD but your discharge status is not considered a “bar” to VA benefits, and you should be found eligible for benefits.

WILLFUL & PERSISTENT MISCONDUCT

A discharge categorized as “willful and persistent misconduct” is one of the barriers to receiving VA benefits. In fact, it’s the most common reason for discharge that the VA uses to deny a veteran’s COD.

So, what counts as “willful and persistent” misconduct according to the VA?

- **“Willful”** is not clearly defined by the VA, but generally it means you did something **on purpose**. For example, if you were dealing with mental health issues that impaired your judgment at the time you used drugs, or you were in an abusive relationship that left you few options but to go AWOL, or another situation that might explain that your behavior wasn’t **intentional**, that will be important for you to explain to the VA.
- **“Persistent,”** on the other hand, is defined clearly in the law as having committed:
 - Two instances of minor misconduct within two years
 - One instance of minor misconduct within two years of a serious instance of misconduct, or
 - Two serious instances of misconduct within 5 years

Minor versus Serious Offense

- A **minor offense** is any misconduct that has a maximum sentence under the Uniform Code of Military Justice (UCMJ) that would not include a dishonorable discharge or imprisonment for longer than a year.
- A **serious offense** is any offense that could be punished for longer than one year under the UCMJ.

The VA uses the most updated version of the Manual for Courts Martial maximum sentencing guidelines to determine if an offense is minor or serious, which is available at this link:

[https://jsc.defense.gov/Portals/99/2024%20MCM%20files/MCM%20\(2024%20ed\)%20-%20TOC%20no%20index.pdf?ver=b7JVpxV5rbIHgOENICRVKQ%3d%3d](https://jsc.defense.gov/Portals/99/2024%20MCM%20files/MCM%20(2024%20ed)%20-%20TOC%20no%20index.pdf?ver=b7JVpxV5rbIHgOENICRVKQ%3d%3d).

WILLFUL & PERSISTENT MISCONDUCT

(continued)

What counts as an “offense” of misconduct?

For the purpose of counting up the number of offenses, it’s important to note that multiple infractions that all stem from one event or a single circumstance count as **one instance** of misconduct.

Examples of misconduct that the VA **would** likely find to be “persistent”:

- Discharged for three short UAs that happened within the last year of service
- Discharged for an NJP for underaged drinking and a positive drug test, both in the last six months of service

Examples of misconduct that the VA **would not** likely find to be “persistent”:

- Discharged for drug use after tests found both cocaine and marijuana
- Discharged for an AWOL period lasting 2 months
- Discharged for being drunk in public and resisting arrest that were all part of one event

Basis of Discharge

When deciding if your discharge was based on “willful & persistent” misconduct, the VA can only consider the misconduct that was **the basis of your discharge**.

If you got in trouble a couple of times, but you were discharged for only one event at the end of service, the VA **cannot** consider those earlier instances of misconduct when counting up if you had “persistent” misconduct. VA can only consider that one event that you were actually discharged for.

Your separation paperwork in your military personnel file should say what infractions you were discharged for.

Remember even if you were discharged for “willful & persistent” misconduct, the VA can still find you eligible if you have a compelling reason that explains your misconduct. More on this on page 11.

MORAL TURPITUDE

What counts as an “offense” of moral turpitude?

If you discharged from the service for committing an act of **moral turpitude**, that could be another reason the VA denies your eligibility for benefits, so what does that mean?

It's any intentional, unjustifiable act that:

- Gravely violates accepted moral standards, **and**
- Would likely cause harm to a person or property.

This kind of misconduct would generally shock the public conscience as being inherently base, vile, or depraved, such as a violent crime. Or, it would be the kind of act that is inconsistent with our society's accepted rules of morality and duties owed between people, or to society in general, such as fraudulent criminal behavior.

Here are some examples of offenses of moral turpitude:

- Felony conviction from either a state or federal non-military court,
- Serious crimes against a person, such as rape or murder, robbery (Article 122), assault with a loaded firearm (Article 128), or illegal drug trafficking, and
- Crimes involving harm or loss to property such as arson, burglary, larceny, or forgery.

The following are example of offenses that **do not** meet VA's definition of moral turpitude:

- Parking tickets
- Public intoxication without harm to another or the service, including Article 112: Drunkenness and other incapacitation offenses
- Article 86: Failing to go, going from duty station, and
- Article 86: Absence from unit for 30 days or less
- One-time marijuana use
- Adultery

Remember even if you were discharged for an offense of moral turpitude, the VA can still find you eligible if you have a compelling reason that explains your misconduct. More on this on the next page.

COMPELLING CIRCUMSTANCES

If you were discharged for one of these reasons:

- Going AWOL for 180+ continuous days
- An offense of moral turpitude
- Willful and persistent misconduct

... you may still be eligible for VA benefits!

In these cases, the VA's next step is to determine if there were "**compelling circumstances**" that excuse the misconduct. If there are, then the VA will grant your COD and find you eligible for benefits.

Here are three categories of "**compelling circumstances**" that the VA will consider:

- All the good things you did in service
- Any factors that explain why the misconduct happened
- If there was a legal defense for the misconduct

These are outlined in more detail over the next few pages. As you read this information over, jot down if any of these apply to your experiences in the military. At a minimum, you likely can tell the VA about #1 – all the good things you did prior to the misconduct.

It's very important that you include **a personal statement** with your VA benefits application explaining what, if any, compelling circumstances apply to your case. We discuss that further in Step #2: Writing Your Personal Statement – on page 15.

COMPELLING CIRCUMSTANCES

(continued)

1. All the Good in Service

The VA wants to see that your service before the misconduct can generally be characterized as “honest, faithful, and meritorious and of benefit to the Nation,” so be sure to tell them about the good things you did in service.

EXAMPLE

- How long did you serve before you started having troubles?
- Did you receive any early promotions, commendations, awards, or medals?
- Did you deploy? Where to, and what work did you do on deployment?
- Did you attend special schools or training?
- Did you get good marks on performance reports?

2. Reasons for the Misconduct

The VA wants to know if you were coping with certain issues at the time that led you to commit the act that led to discharge. For example:

EXAMPLE

- Did you have a mental health condition, such as PTSD, traumatic brain injury (TBI), depression, schizophrenia, ADHD, impulsive disorder, cognitive disabilities, or a substance use disorder that was starting to affect you while in service?
- Were you experiencing issues with your physical health that affected your conduct?
- Were you experiencing a hardship related to combat experiences or being stationed overseas?
- Did you experience sexual abuse or sexual assault while in service?
- At the time of the misconduct, did you feel under duress or coerced? Did you suffer from feelings of desperation, like you had no other choice?
- Did your obligations to your family or others contribute to your misconduct?
- Was your age, education level, cultural background, or maturity a factor in your in-service misconduct?

COMPELLING CIRCUMSTANCES

(continued)

3. Legal Defense

Did you have a valid legal defense that would have prevented you from being convicted of the misconduct in a court martial? The legal defense **must go directly** to the actual issue of the misconduct rather than to procedures, technicalities, or formalities.

Your Personal Statement to the VA

You'll want to explain your "compelling circumstances" to the VA in a detailed personal statement that you'll submit with your claim so they understand what you were going through at the time.

Almost all veterans will have something to say about #1 – Good things they did in the service. And most will have something to say about #2 – their reason for committing the misconduct. But #3 – having a valid legal defense – will be rare.

That's not a problem though because the VA only needs to see at least one category of "compelling circumstances" to approve a veteran's COD. So, feel free to just focus on #1 or #2, or both.

More on writing your personal statement at **Step #2** on page 15.

**Now, let's walk through the step-by-step process
of applying for a VA Benefit ...**

STEP 1: APPLY FOR A VA BENEFIT

Now that you understand a bit more about the VA's COD process, we want to provide you **step-by-step instructions** on how to initiate your COD determination at the VA.

The VA will conduct your COD determination after they receive your application for any VA benefit. Below is a list of common VA benefits and the form needed to apply.

- **For service-related disabilities:** File for Service Connection using VA Form 21-526EZ.
- **For elderly or disabled wartime veterans with low income:** Apply for the Wartime or Non-Service Connected Pension using VA Form 21-527EZ.
- **For healthcare:** Submit VA Form 10-10EZ.
- **For a home loan:** Request a Certificate of Eligibility for a VA Home Loan with VA Form 26-1880.

Previously denied? If you applied for a benefit in the past and were denied because of your COD – you should try again. There were significant changes in the law in 2024 and you could be found eligible today even if you were denied in the past. To request that the VA review your prior COD determination, you would file a Supplemental Claim using VA Form 20-0995.

The instructions for filing the claim are included with each form.

You can also apply online at **vets.gov**.

STEP 2: WRITE YOUR PERSONAL STATEMENT

When you file for a benefit, it's important to attach a personal statement that explains the circumstances of your discharge. Although the VA will have access to your military record, it's important that you point out all the positive aspects of your service to them.

If "compelling circumstances" apply to your situation, tell the VA about what happened and why those circumstances excuse what happened at discharge.

You can write your statement on **VA Form 21-4138 – Statement in Support of Claim**.

Here are a few examples of what this might look like in your statement:

EXAMPLE

- I went AWOL because it was too difficult for me to see the person who assaulted me.
- I used drugs because I was suffering from feelings of depression due to what I witnessed on deployment and tried to self-medicate.
- I got in a fight with other soldiers because my PTSD caused me to act out aggressively towards others.

Support Letters

People in your life can provide you letters to help tell the story of what happened before you were discharged, which you can send to the VA. Are you in touch with any friends from service, or with people in your chain of command, or with family members who knew what was going on at the time? You can ask them to write letters explaining what was going on at the time of your discharge.

STEP 3: REQUEST A HEARING?

When you file your benefits claim, you can also request a hearing with the VA to discuss your COD. To do this, you can include on a VA Form 21-4138 a request for a hearing. You'd simply write –

“I request a hearing on the issue of my Character of Discharge.”

A COD hearing is **totally optional**, but if you do this, the VA will invite you in to talk directly with the person who will decide your eligibility. You will be able to tell them exactly what happened, and the VA employee will be able to ask you questions about your experience. You will also be able to bring other people with you, like friends or family members.

This can make a big difference in the outcome of your COD, because it helps the VA to see you as a person and not just a paper application, and to better understand what happened to you. But, requesting a hearing will **very likely delay** getting a decision from the VA, so weigh that in your decision whether to request a hearing or not.

And, know that if you don't request a hearing and the VA denies your COD, you can always ask for a hearing on appeal.

STEP 4: RECEIVE A DECISION

You should get a decision from the VA within 4–12 months.

If your COD is **successful**, the VA will send you a letter telling you that and they will automatically start to process the underlying benefits claim that you submitted already. You don't need to submit anything else to initiate that claim process.

And your positive COD decision means you're generally eligible for VA benefits, not just the one you applied for. For example, if you applied for service connection, your discharge status won't get in the way of you receiving healthcare, a home loan, or most other VA benefits -- in addition to service connection.

If the VA **denies** your COD, the VA will send you a letter explaining why they are denying your COD. Read the decision and appeal instructions enclosed with the letter carefully. You'll have **one year to appeal** the VA's decision, and you can reach out to a local VSO to help you figure out the best appeal option for you.

Resource

Accredited Veteran Services Organization finder on the VA website:

<https://www.va.gov/resources/va-accredited-representative-faqs/>

SPECIAL SITUATIONS

Re-enlistment and multiple periods of service

For many VA benefits, you only need one “good” period of service. If you have multiple periods of service, or if you re-enlisted, then you may already be eligible for benefits. The VA will look at the terms of your original enlistment contract. If there’s little or no misconduct in that original period of service, you’ll get all VA benefits, including GI Bill, earned from that completed enlistment period. They’ll then look at the rest of your time in service and conduct a COD for the remaining months or years. We have a separate guide that talks about this in more detail – [Back to Back & Conditional Discharges](#).

Education Benefits – G.I. Bill and VR&E

The G.I. Bill has special eligibility requirements. For the G.I. Bill, your DD-214 must actually say “Honorable.” For those with a less than honorable discharge, this means you must succeed in the Discharge Upgrade process to get this benefit. The VA does have a comparable benefit to the G.I. Bill for service-connected veterans (10%+) – Veteran Readiness & Employment (VR&E). It can pay for things like tuition, fees, and books. If you’re successful in your COD, and are service-connected, this may be a good benefit to look into to help pay for your education.

Insanity Defense

For veterans discharged for reasons listed on [**page 6**](#), the VA can only approve your COD if you were “**insane**” at the time of the misconduct that led to your discharge. The VA has its own definition of “insane” which you can read at [38 CFR § 3.354](#), and the VA will sometimes schedule an evaluation with a doctor to determine if a veteran meets that definition as part of the COD process.

If you experienced a serious change in your behavior and mental health at the time of the misconduct, you should include information about that in your personal statement to the VA. In that statement, you should clearly state: “I was insane per 38 CFR 3.354 at the time of the misconduct, and I am requesting that the VA schedule me a Compensation & Pension exam for insanity.”

AVAILABLE BENEFITS

Benefits You Can Get Regardless of the Outcome of Your COD

Therapy

Counseling is available at VA healthcare facilities and Vet Centers for OTH veterans who served in a combat theater, who have a service connected mental health condition, or who experienced military sexual trauma .

To locate a Vet Center near you, visit

http://www.va.gov/directory/guide/vetcenter_flsh.asp.

Service- Connected Disability Healthcare

For veterans with OTH discharges, you are eligible to receive free VA healthcare for all service-connected conditions, even if the VA denies your COD.

Housing Services

HUD-VASH vouchers, rental support under the Supportive Services for Veterans and Families (SSVF) program, and other homeless services from the VA are available to veterans with OTHs and BCDs from Special Courts Martial.

NOTES

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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 September 2025.

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