



***Kennedy v. McCarthy* Settlement Summary**

The settlement in *Kennedy v. McCarthy* provides relief for thousands of post-9/11 Army veterans who were administratively separated with less-than-fully-Honorable discharges and who have had post-traumatic stress disorder, traumatic brain injury, an experience of sexual assault, or other mental health conditions. Primarily, it requires the Army to decide, or redecide, the discharge upgrade applications of these veterans under revised and more generous standards. It also requires the Army to remedy procedural defects and implement new processes that will prevent future mishandling of discharge upgrade applications. These reforms help ensure that Army veterans are not unjustly denied the honor and recognition they earned through their service. Any veterans who receive an honorable discharge status pursuant to this settlement will potentially obtain access to federal and state veterans' benefits previously denied to them due to their erroneous characterization of service.

Key Terms

- The Army Discharge Review Board (ADRB) will automatically reconsider all applications containing evidence of qualifying mental health conditions decided on or after April 17, 2011 and that did not receive the full upgrade requested, using standards and procedures more favorable to veterans.
- The Army will provide public and individualized notice to veterans whose ADRB applications containing evidence of qualifying mental health conditions were decided from October 7, 2001, to April 16, 2011 and did not fully grant the requested relief, inviting the submission of a new discharge application, which will be reviewed using standards and procedures more favorable to veterans.
- The ADRB will reform the processes and procedures it uses to evaluate applications from veterans with qualifying mental health conditions, incorporating new language into its operating manuals and decisional documents that require in-depth consideration of mental health factors.
- The ADRB will implement a Universal Telephonic Personal Appearance Hearing Program, enabling veterans from across the country to appear telephonically from their home or another convenient location in discharge upgrade proceedings. Previously, all veterans had to travel at their own expense to Washington, D.C., if they wanted to participate in person in the ADRB's review hearing.
- The Army will conduct annual training for ADRB members specifically tailored to the issues presented by applications that contain evidence of certain mental health conditions.
- The Army will notify all veterans who apply to the ADRB of their right to seek legal and medical services and provide guidance on how veterans can obtain these services.