

LRC Research Training

Veterans Legal Clinic Fall 2025

Julianne Odin

Student Services Librarian

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Today's Topics

- Secondary Sources
- Government Websites
- Primary Authority
- Generative AI

Secondary Sources

Veterans Law Best Bets

- [Veterans Benefits Manual](#) (available on Lexis and in print at the clinics)
- [ABA Discharge Upgrade Manual](#) (available as a ProQuest ebook and in print at the clinics and the LRC)
- Law review articles by veterans' advocates
 - [Lexis](#) and [Westlaw](#)
 - [HeinOnline](#)
 - [Google Scholar](#)

Legal Encyclopedias and ALR

- [AmJur](#) (also on [Lexis](#))
 - Volumes on [Veterans and Veterans' Law](#) and [Military and Civil Defense](#)
- [CalJur](#) (also on [Lexis](#))
 - Volumes on [Veterans](#) and [Military and Civil Defense](#)
- [ALR](#) (also on [Lexis](#))
- The major encyclopedias and ALR are easier to navigate on Westlaw.

Government Websites

Agency Websites

- [VA](#)
- [DoD/Department of War](#)
- [CalVet](#)
- [Internet Archive's Wayback Machine](#)

INTERNET ARCHIVE



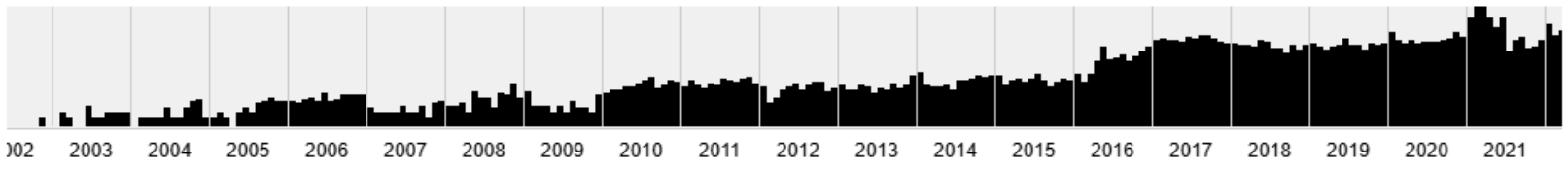
Explore more than 1 trillion web pages saved over time

DONATE

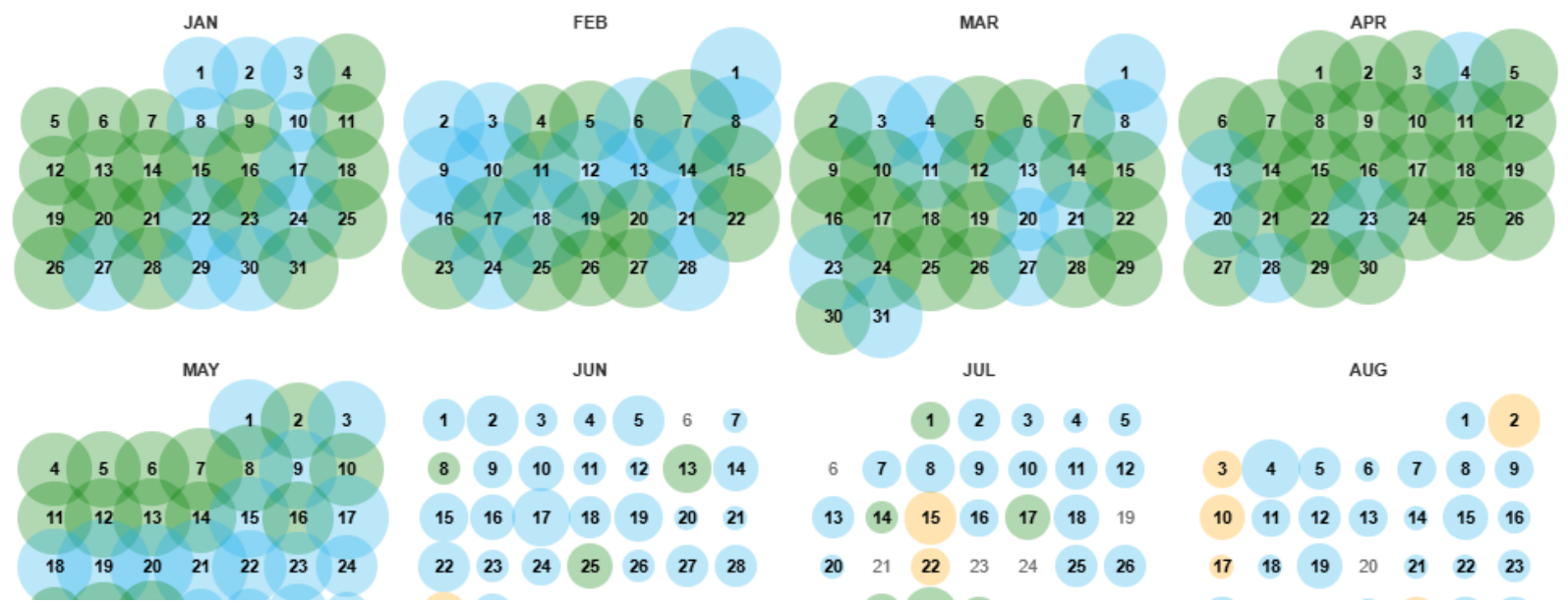
defense.gov

- Calendar
- Collections
- Changes
- Summary
- Site Map
- URLs

Saved 121,886 times between November 16, 2002 and November 6, 2025.



Mon, 07 Apr 2025 00:08:15 GMT (why: archivebot, archiveteam)



NEWS | Dec. 30, 2024

Austin, Biden Laud Former President Carter's Leadership, Humanity

Americans will remember Carter for his leadership in office and his distinguished post-presidency, but the Defense Department also honors his sterling service in uniform, Secretary of Defense Lloyd J. Austin III said.



SPOTLIGHT
Support for Ukraine



SPOTLIGHT
Value of Service



VIDEO | Dec. 23, 2024
Austins Deliver Holiday Message



LAPSE IN APPROPRIATIONS

The most recent appropriations for the Department of War expired at 11:59 p.m. EDT on Sept. 30, 2025. Military personnel will continue in a normal duty status, without pay, until such time as a continuing resolution or appropriations are passed by Congress and signed into law. Civilian personnel not engaged in excepted activities will be placed in a non-work, non-pay status.

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RESOURCES

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[Space Strategy](#)

Primary Authority

Finding Primary Authority

- Primary authority = caselaw, statutes & codes, regulations
- Begin with the citations provided in the secondary authorities

Finding additional statutes/regs

- Browse nearby code sections and view table of contents for related code sections
- Browsing also ensures you are in the right code section – sometimes different parts of the U.S. Code or C.F.R. look similar.
- Leverage online citators (Shepard's and KeyCite) to find cross-references to related code sections
- Use the index to search for keywords
- Search the U.S. Code and CFR (last option!)

Using statutes/regs to find cases

- Notes of Decisions contain references to cases that have interpreted or applied that statutory section
 - This is a huge time-saver anytime you're looking for cases related to a particular statute
- Use citators (Shepard's and KeyCite) to find additional cases that have referenced your code sections

Finding cases

- Military and Veterans Law practice areas on Lexis and Westlaw (Federal courts, BVA and CAVC cases)
 - [Westlaw Military Law Practice Area](#)
 - [Lexis Veterans Law Practice Area](#)
 - [Lexis Military & Military Justice Practice Area](#)
- [Boards of Review Electronic Reading Rooms](#) (BCMR and DRB)
 - Searchable using [Upgrade.vet](#) or site field of [Google Advanced Search](#)

Google Advanced Searching

Find pages with...

To do this in the search box

all these words:

Type the important words: tricolor rat terrier

this exact word or phrase:

Put exact words in quotes: "rat terrier"

any of these words:

Type OR between all the words you want: miniature OR standard

none of these words:

Put a minus sign just before words you don't want:
-rodent, -"Jack Russell"

numbers ranging from:

to

Put 2 periods between the numbers and add a unit of measure:
10..35 lb, \$300..\$500, 2010..2011

Then narrow your results by...

language:

any language

Find pages in the language you select.

region:

any region

Find pages published in a particular region.

last update:

anytime

Find pages updated within the time you specify.

site or domain:

Search one site (like wikipedia.org) or limit your results to a domain like .edu, .org or .gov

terms appearing:

anywhere in the page

Search for terms in the whole page, page title, or web address, or links to the page you're looking for.

file type:

any format

Find pages in the format you prefer.

usage rights:

not filtered by license

Find pages you are free to use yourself.

Advanced Search

Updating and Validating

- Anything you cite must be up to date
- Secondary sources: check for publishing or “last updated” dates
- Primary authority: use citators (Shepard’s and KeyCite) to ensure they are still good law

Generative (Gen) AI

How do Gen AI tools work?

- Gen AI tools that produce text use large language models (LLMs) to predict each word of a response should be based on training.
- A gen AI tool can use a process called retrieval augmented generation (RAG) to couple an LLM with a search engine.
 - RAG works by turning a user's prompt into a search query. The LLM is then supposed to use the results of the query when producing its response.

Considerations for Using Gen AI in Practice

- Confidentiality
- Employer (Clinic) policies
- Court rules
- Ethical guidance

Confidentiality

- Lawyers have a duty to keep client information confidential.
- Some tools promise greater data protection and confidentiality than others, so make sure to investigate a tool's policies before using it.
 - Lexis and Westlaw claim that academic users receive the same data protections, but this is not backed up by the strong contractual protections firms can negotiate.
 - Generally available tools like ChatGPT offer less protection, so be particularly cautious with them.
- Avoid putting confidential client information into any AI tool.

Employer (Clinic) Policies

- Always follow your employer's (the clinic's) policies on the use of gen AI and other technology.
 - Confidentiality and other legal ethics considerations
 - Client preferences
- When in doubt, ask first!

Court Rules

- Some courts and individual judges have rules or standing orders governing the use of gen AI in creating court filings.
 - Even when the clinic’s policy would allow the use of gen AI tools, make sure to check whether the court and/or judge allows the use.
- Lawyers continue to be sanctioned and disciplined for including hallucinated cases in court filings, so be sure to verify all citations.
 - For several examples, see Damien Charoltin, *AI Hallucination Cases*, <https://www.damiencharlotin.com/hallucinations/>. This database tracks cases across the world, including the US, that have discussed hallucinated cases.

Ethical Guidance

- [ABA Comm. on Ethics & Pro. Resp., Formal Op. 512 \(2024\) \(discussing generative artificial intelligence tools\).](#)
 - Discusses competence, confidentiality, communication, interactions with the court, supervision, and fees.
- [Recommendations from Comm. on Pro. Resp. and Conduct on Regul. of Use of Generative AI by Licensees to the State Bar of Cal. Bd. of Tr. \(Nov. 16, 2023\).](#)
 - Discusses similar and additional topics as the ABA.

When to Use Gen AI Tools in Legal Research

- There's no "right time," just wrong ways.
 - Use a tool appropriate for the task.
 - Critically evaluate all AI-generated content.
 - Follow all relevant laws, rules, and instructions.
 - Always use citator on newly discovered primary law sources.

Gen AI Research Tasks

Find	Learn/Investigate	Create/Synthesize/Summarize
<ul style="list-style-type: none">• Find some starting cases on a topic• Find cases matching query	<ul style="list-style-type: none">• Learn about an area of law• Identify the most relevant, timely, & authoritative cases• Ensure there is no authority going the other way• Identify the relevant rule(s)	<ul style="list-style-type: none">• Ensure you've found all cases on point• Summarize the leading authorities• Prune tangential authorities• Harmonize authorities• Reconcile authorities in conflict

Adapted from Rebecca Fordon, Cindy Guyer & Adam Lederer, From AND/OR to AI: Techniques for Prompting Generative AI Tools (May 21, 2024).

Gen AI Writing Tasks

- Catching typos and grammar errors
 - But not for Bluebooking or citation style
- Modifying tone
- Brainstorming
- Summarizing specific, discrete pieces of text
- Creating first drafts

Considerations for Effective Use of a Gen AI Tool

- **R: Role** (assigning a role to the AI)
 - Legal AI tools like Lexis Protégé and Westlaw AI Assisted Research typically have the role of “legal practitioner” built into the programming of the tool
- **I: Instructions** (specific tasks for the AI)
- **C: Context** (providing necessary background info)
- **E: Expectations** (clarifying desired outcomes)
 - Constraints/formatting the response should follow
 - Jurisdiction

Sarah Gotschall, *A Legal Research Prompting Guide and Generative AI System Comparison Exercise*, AI LAW LIBRARIANS (July 17, 2024), <https://www.ailawlibrarians.com/2024/07/17/a-legal-research-prompting-guide-and-generative-ai-system-comparison-exercise/>.

Lexis Protégé

- Ask
 - Preview of cited sources
 - Suggested follow up questions
 - Prompt suggestions
 - AI Guide Research (deep research)
 - Ask Protégé for specific case
- Draft
 - Draft depositions skill
 - Additional document types
 - Drafting mode
- Summarize
- Document
 - Upload up to 10 documents deleted at the end of session
 - Vault: Upload up to 500 documents saved until user deletes them (limit of 50 vaults)
 - Specific tasks: timeline, interrogatories, requests for admission, and more
- Protégé panel in Lexis



New conversation

Enter conversation terms



Yesterday

Delete all

You work for a veterans le... Nov 10

You work for a veterans le... Nov 10

June is a Navy veteran wh... Nov 10

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Past 30 Days

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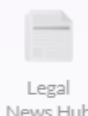
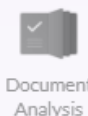
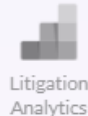
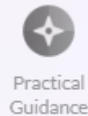
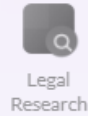
Under California law, are p... Sep 10

Under California law, are p... Sep 10

Under California law, are p... Sep 10

View FAQs

Submit feedback



Protégé | Legal AI

Hi Julianne, which legal task can AI accelerate for you today?

Ask

Draft

Summarize

Documents

Includes: Case Law Codes, Rules & Constitutions Agency Decisions Practical Guidance Treatises

Prompt Tips

When is a VA claim processed under the legacy system?

Select Jurisdiction

Content: Publ., Crim & Civ.

AI-guided research

Prompt suggestions





New conversation

Enter conversation terms



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When is a VA claim processed under the legacy system?

When is a VA claim processed under the legacy system?

JO



Response completed

Sure, here are some suggested prompts. Select one of the questions or your original prompt to proceed.

What are the eligibility requirements for a VA claim to remain in the legacy appeals system?

This query explores the specific criteria that determine whether a claim qualifies for processing under the legacy system, helping to understand the threshold requirements that keep a claim in the older system rather than transitioning to the newer AMA process.

How does the effective date determination differ for VA legacy system claims?

This query examines how effective dates (which determine when benefits begin) are calculated differently under the legacy system, which is a critical consideration for veterans with pending claims as it directly impacts potential retroactive payments.

What rights do veterans have to opt out of the legacy system into the Appeals Modernization Act?

This query investigates the legal options veterans have to voluntarily move their claim from the legacy system to the newer AMA system, addressing the procedural rights veterans maintain over their own claims processing path.

Prompt Tips

Ask a legal question

Select Jurisdiction

Content: Publ., Crim & Civ.

AI-guided research



New conversation



New conversation

Enter conversation terms



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When is a VA claim processed under the legacy system?

potential retroactive payments.

What rights do veterans have to opt out of the legacy system into the Appeals Modernization Act?

This query investigates the legal options veterans have to voluntarily move their claim from the legacy system to the newer AMA system, addressing the procedural rights veterans maintain over their own claims processing path.

What is the average processing timeline for VA legacy system claims compared to AMA claims?

This query focuses on the practical aspect of processing times, which is often a key concern for veterans, and explores how the legacy system's timeline differs from the newer AMA system's processing goals and benchmarks.

What documentation is required to track the status of a VA claim in the legacy appeals system?

This query addresses the procedural requirements for monitoring claims in the legacy system, which uses different forms, tracking methods, and status designations than the AMA system, helping veterans understand how to properly follow their claim's progress.

Original prompt: **When is a VA claim processed under the legacy system?**

Regenerate using AI-guided research



Prompt Tips

Ask a legal question

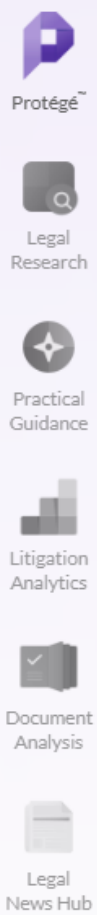
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Content: Publ., Crim & Civ.

AI-guided research



New conversation





New conversation

Enter conversation terms



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When is a VA claim processed under the legacy system?

When is a VA claim processed under the legacy system?

JO



Working on your request using AI-guided research

Reasoning

I'll address this question by first explaining what the VA legacy system is and how it differs from the current Appeals Modernization Act (AMA) system. Then I'll identify the specific criteria that determine when a claim falls under the legacy system rather than the newer AMA process. This will include explaining the transition timeline between the two systems and any exceptions that might apply. I'll need to reference the relevant laws and VA policies that govern this determination.

Action required

Here's how I plan to research your question. If everything looks good, select Confirm to continue. To make changes, choose Edit. To start over with a new prompt, select Discard prompt.

1. What specific criteria determine whether a VA claim is processed under the legacy appeals system rather than the AMA system?
2. What is the VA legacy appeals system and how does it differ from the current Appeals Modernization Act (AMA) system?

Discard prompt

Edit

Confirm

Ask a legal question

Select Jurisdiction

Content: Publ., Crim & Civ.

AI-guided research



New conversation



New conversation

Enter conversation terms



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When is a VA claim processed under the legacy system?

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Show more

Expanding citations

Action required

I've found relevant citations for each question, with brief snippets to help you quickly validate their relevance. You can adjust the selections if needed—once you're ready, select Submit to continue.

1. What specific criteria determine whether a VA claim is processed under the legacy appeals system rather than the AMA system?

§ 3.2400 Applicability of modernized review system. | Administrative Codes | U.S. Federal

12.2 CLAIMS ADJUDICATION UNDER THE AMA | 1 Veterans Benefits Manual 12.2 | Practical Guidance | Treatises | U.S. Federal

Concepcion-Maldonado v. Collins, 38 Vet. App. 294 | United States Court of Appeals for Veterans Claims | Jun 23, 2025 | Cases

Ask a legal question

Select Jurisdiction Content: Publ., Crim & Civ. AI-guided research

New conversation



New conversation

Enter conversation terms



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When is a VA claim processed under the legacy system?

Claims | Jun 12, 2023 | Cases

§ 19.2. Appellant's election for review of a legacy appeal in the modernized system.

Administrative Codes | U.S. Federal

2. What is the VA legacy appeals system and how does it differ from the current Appeals Modernization Act (AMA) system?

38 USCS § 5104C | Codes | U.S. Federal

38 USCS § 7105 | Codes | U.S. Federal

Aviles-Rivera v. McDonough, 35 Vet. App. 268 | United States Court of Appeals for Veterans Claims | May 2, 2022 | Cases

Cooper v. McDonough, 38 Vet. App. 1 | United States Court of Appeals for Veterans Claims | Sep 18, 2024 | Cases

Additional recommendations

38 USCS § 7105A | Codes | U.S. Federal

Edit questions

Discard prompt

Confirm

Ask a legal question

Select Jurisdiction

Content: Publ., Crim & Civ.

AI-guided research



New conversation

Terms & Conditions

Privacy Policy

Processing Notice

Cookie Policy



New conversation

Enter conversation terms



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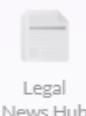
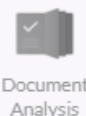
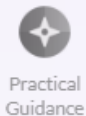
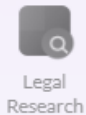
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When is a VA claim processed under the legacy system?

Expanding citations

Show more

Generating response with up-to-date, authoritative and established citations

A VA claim is processed under the legacy system if the initial decision on the claim was issued by the Department of Veterans Affairs (VA) before February 19, 2019, and the claimant has not elected to opt into the modernized review system established under the Appeals Modernization Act (AMA) . [Mattox v. McDonough, 56 F.4th 1369, 12.8 APPEALING AN UNFAVORABLE RATING DECISION IN THE LEGACY SYSTEM, § 19.2.](#) Appellant's election for review of a legacy appeal in the modernized system.. Specifically, the legacy system applies to claims, requests for reopening of previously adjudicated claims, or requests for revision based on clear and unmistakable error, where the VA provided notice of a decision prior to February 19, 2019, unless the claimant has opted into the AMA system through one of the following mechanisms:

1. Election to Opt into the Rapid Appeals Modernization Program (RAMP): RAMP was a pilot program that allowed claimants with pending legacy appeals to voluntarily opt into the AMA system before February 19, 2019, by withdrawing their legacy appeal and selecting either the higher-level review or supplemental claim lane . [Mattox v. McDonough, 56 F.4th 1369, 12.8 APPEALING AN UNFAVORABLE RATING DECISION IN THE LEGACY SYSTEM, Aviles-Rivera v. McDonough, 35 Vet. App. 268.](#)

2. Election to Opt into the AMA After Receiving a Statement of the Case (SOC) or Supplemental Statement of the Case (SSOC): A claimant with a legacy appeal could opt into the AMA system after receiving an SOC or SSOC issued on or after February 19, 2019, by filing a review option under the AMA within the time allowed for filing a substantive appeal. [12.8 APPEALING AN UNFAVORABLE RATING DECISION IN THE LEGACY SYSTEM](#)

Summarize case law authority

More suggested tasks Prompt Tips

Ask a legal question

Select Jurisdiction

Content: Publ., Crim & Civ. AI-guided research



New conversation



New conversation

Enter conversation terms



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View FAQs

Submit feedback



When is a VA claim processed under the legacy system?

Expand All

Content supporting AI-generated response:

Mattox v. McDonough, 56 F.4th 1369 | United States Court of Appeals for the Federal Circuit | Jan 9, 2023 | Cases

12.8 APPEALING AN UNFAVORABLE RATING DECISION IN THE LEGACY SYSTEM | 1 Veterans Benefits Manual 12.8 | Practical Guidance | Treatises | U.S. Federal

§ 19.2. Appellant's election for review of a legacy appeal in the modernized system. | Administrative Codes | U.S. Federal

Aviles-Rivera v. McDonough, 35 Vet. App. 268 | United States Court of Appeals for Veterans Claims | May 2, 2022 | Cases

§ 3.2400 Applicability of modernized review system. | Administrative Codes | U.S. Federal

Cooper v. McDonough, 38 Vet. App. 1 | United States Court of Appeals for Veterans Claims | Sep 18, 2024 | Cases

38 USCS § 5104C | Codes | U.S. Federal

38 USCS § 7105 | Codes | U.S. Federal

38 USCS § 7105A | Codes | U.S. Federal

Related materials

Cases (15)

View all

Summarize case law authority

More suggested tasks

Prompt Tips

Ask a legal question

Select Jurisdiction

Content: Publ., Crim & Civ.

AI-guided research



New conversation



Drafting mode

Download

Save and Exit

Draft an email to a client asking to schedule a time to...



Email or Letter (Nov 11th 2025)

AI Changes



How does it work?

Subject: Scheduling a Meeting to Prepare for Your Upcoming Hearing

Dear [Client's Name],

I hope this message finds you well. I am writing to discuss your upcoming hearing before the Board of Veterans Appeals, scheduled for (insert date and time of the hearing). It is important that we meet beforehand to thoroughly prepare and ensure everything is in order.

Could you please let me know your availability in the coming days so we can schedule a convenient time to meet? Additionally, please let me know if you prefer to meet in person, over the phone, or virtually.

Feel free to reach out to me directly at (insert contact information) or reply to this email with your preferred time and method for the meeting.

I look forward to hearing from you soon and working together to prepare for your hearing.

Best regards,
[Your Full Name]
[Your Position]
[Your Law Firm Name]
[Your Contact Information]

Draft an email to a client asking to schedule a time to meet and prepare for their upcoming hearing before the Board of Veterans Appeals.

JO



Response completed



Your draft is now complete. Select text to edit or analyze, or type directly in the editor.

AI-generated content must be reviewed for accuracy. Unlinked citations in your response indicate sources that could not be verified in our database.



Soften tone



Make more assertive



Convert to plain language

your selected passage:

Drafting Tools

Generate a draft



Select Jurisdiction



New conversation



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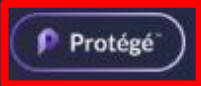
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Mattox v. McDonough

Federal Circuit Court of Appeals January 9, 2023 56 F.4th 1369

Back Document Citing Decisions 32 History 3 Other Citing Sources 26 Table of Authorities 11

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- Summary
- Headnotes

- Counsel
- Judges
- Opinion

Footnotes

Mattox v. McDonough

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Law School Case Brief

United States Court of Appeals for the Federal Circuit

January 9, 2023, Decided

2021-2175

Reporter

56 F.4th 1369* | 2023 U.S. App. LEXIS 393

| 2023 WL 125247

LARRY W. MATTOX, Claimant-Appellant v. DENIS MCDONOUGH, SECRETARY OF VETERANS AFFAIRS, Respondent-Appellee

Prior History: Appeal from the United States Court of Appeals for Veterans Claims in No. 19-5212, Judge

My Conversations
Mattox v. McDonough, 56 F.4th 1369

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Mattox v. McDonough, ...

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Multiple legal-tuned models: GPT-4o, GPT-4.1, Claude 3.7, Claude 4, fine-tuned GPT-4o-mini, & fine-tuned Mistral, applies best model for use case. The latest models are assessed continuously.				

Data as of August 2025.

What is a model?

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🔔 Prompt Tips

Ask a legal question

📍 Jurisdiction: 9th Circuit 📄 Content: Publ., Crim & Civ. AI-guided research 🗨️ Prompt suggestions 🗣️ | 🔄



My Conversations

Protégé | General AI | GPT-4o

Hi Julianne, what would you like to explore today?

GPT-4o

Explore new ideas, brainstorm - you decide.

Attach Files



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My Conversations

You work for a veterans legal clinic on discharge upgrade and VA benefits cases. ...

You work for a veterans legal clinic on discharge upgrade and VA benefits cases. List five events where you could advertise your pro bono services in San Diego, California.

JO



Response completed



Protégé | General AI | GPT-4o

This is an AI-generated response with a legal-aware persona, built within the trusted LexisNexis® ecosystem. It draws from a broad range of sources—including the open web—and includes Shepard's® citation checks.

Here are five events in San Diego, California where a veterans legal clinic could effectively advertise pro bono services related to discharge upgrades and VA benefits. All events are recent and include details on timing and location based on current information.

1. VVSD Stand Down Resource Event – Liberty Station (August 8–9, 2025)

- **What:** A two-day resource event organized by Veterans Village of San Diego, offering services including legal assistance, VA benefits navigation, healthcare, housing, employment support, and more. libertystation.com
- **Why ideal:** Direct access to veterans seeking legal support and VA benefits, especially vulnerable populations.
- **How to participate:** Clinics can set up an information booth, offer brief consultations, or join the legal assistance

GPT-4o

Explore new ideas, brainstorm – you decide.



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- **How to participate:** Clinics can set up an information booth, offer brief consultations, or join the legal assistance teams.

2. Disabled Veterans Resource Fair – County Operations Center (October 22, 2025)

- **What:** Hosted by the San Diego County Assessor/Recorder/County Clerk's office, this fair brings together >30 agencies (e.g., DMV, Social Security) to deliver same-day services, including property tax workshops for disabled veterans. [timesofsandiego.com](https://www.timesofsandiego.com)
- **Why ideal:** Attracts disabled veterans who may need guidance on VA benefits and discharge upgrades in addition to property tax issues.
- **How to participate:** Offer informational materials, consultations, or presentations on legal rights regarding discharge upgrades and VA benefits.

3. Senior & Veterans Resource Fair – Imperial Beach (May 3, 2025)

- **What:** A free event at Veterans Park featuring various agencies sharing information for older adults and veterans. [sdmts.com](https://www.sdmts.com)
- **Why ideal:** Engages veterans who might benefit from pro bono legal services, particularly senior vets who often need discharge reviews or benefit assistance.
- **How to participate:** Host an outreach table, offer printed guides, and connect with veterans directly.

4. Veterans Job Fair – Liberty Station Conference Center (Date unspecified 2025)

- **What:** A job fair organized by RecruitMilitary featuring networking opportunities, employers, and a pre-event seminar on maximizing veteran benefits conducted by DAV. [davva.gov](https://www.davva.gov)

GPT-4o

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Web search



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4. Veterans Job Fair – Liberty Station Conference Center (Date unspecified 2025)

- **What:** A job fair organized by RecruitMilitary featuring networking opportunities, employers, and a pre-event seminar on maximizing veteran benefits conducted by DAV.va.gov
- **Why ideal:** Veterans exploring employment may be unaware of how discharge status affects benefits; the event’s educational component offers a synergy for legal outreach.
- **How to participate:** Set up a hospitality or informational corner, distribute benefit-claim checklists, or offer mini consultations.

5. GI Film Festival – Museum of Photographic Arts, Balboa Park (May 7–9, 2025)

- **What:** An annual festival showcasing military and veteran-themed films, illuminating service members’ experiences.en.wikipedia.org
- **Why ideal:** Draws veterans and supporters in a civic, cultural setting; offers a less formal venue for outreach and awareness building.
- **How to participate:** Sponsor a discussion panel, distribute brochures during intermissions, or partner with organizers to offer legal info in festival programs.

Summary Table

Event Name	Date	Location	Target Audience
Stand Down Resource Event	August 8–9, 2025	Liberty Station	Veterans in crisis

GPT-4o

Explore new ideas, brainstorm – you decide.



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Web search



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Summary Table

Event Name	Date	Location	Target Audience
Stand Down Resource Event	August 8-9, 2025	Liberty Station	Veterans in crisis
Disabled Veterans Fair	October 22, 2025	Kearny Mesa (County Center)	Disabled veteran
Senior & Veterans Fair	May 3, 2025	Imperial Beach	Senior veterans
Veterans Job Fair	2025 (TBD)	Liberty Station Conference Center	Veterans/job see
GI Film Festival	May 7-9, 2025	Balboa Park	Veterans, familie

These events provide diverse opportunities—from high-stakes resource fairs to community cultural gatherings—to engage veterans in need of legal support. To maximize impact, prepare tailored materials highlighting pro bono services focused on discharge upgrades and benefits, and coordinate with event organizers in advance to secure outreach space.

Let me know if you'd like assistance drafting outreach materials or contacting event coordinators!

This response is exploratory and not based on LexisNexis® content; please review it carefully.

GPT-4o

Explore new ideas, brainstorm - you decide.



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New conversation

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California



Parallel Search >
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Parallel Search NEW

Enter a sentence or legal concept to find cases with conceptually similar sentences. Parallel Search understands synonyms and relationships between words and ideas, so it finds relevant cases even if they do not use your exact words.

Search the way you think
Find a case that says...

Parallel Search tips

California

E.g., "Planting a garden doesn't satisfy the requirements of squatter's rights"



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Boolean instructions

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Sort: Relevance ▾

 [Bussey v. Driscoll](#)

United States Court of Appeals, Ninth Circuit. • March 12, 2025 • 131 F.4th 756 • 2025 WL 779688 • Cited 3 times

OPINION. This case presents two competing imperatives for the United States Army. Both Congress and the Army have made extensive efforts to address the "scourge" of sexual misconduct in the military. See, e.g., *Klay v. Panetta*, 758 F.3d 369, 376 (D.C. Cir. 2014) (acknowledging Congress's efforts). **On the other hand, seeking to address the previously unacknowledged impact of Post-Traumatic Stress Disorder ("PTSD") on veterans, Congress has instructed the Army Board for Correction of Military Records ("Board") to review discharge upgrade requests with "liberal consideration" to whether PTSD "potentially contributed to the circumstances resulting in" discharges. 10 U.S.C. S 1552(h)(2)(B).** The statute covers cases in which sexual misconduct precipitated the discharge.

 [Kelly v. United States](#)

United States Court of Appeals, Federal Circuit. • May 30, 2023 • 69 F.4th 887 • 2023 WL 3702398 • Cited 32 times

"Liberal Consideration" Policy. **On September 3, 2014, the Secretary of Defense issued guidance to the various military branches' Record Correction Boards directing "liberal consideration" for requests for discharge upgrade where the service member suffered from Post-Traumatic Stress Disorder ("PTSD") or related mental conditions.** Memorandum from Secretary of Defense Charles Hagel to Secretaries of the Military Departments (Sept. 3, 2014). Under this guidance, a service member suffering from mental health issues could present evidence to mitigate a finding of misconduct, if the evidence existed at the time of discharge and might have mitigated the misconduct. See SECNAV M-5420.1. In such instances, the military board assessing the characterization of discharge must afford the service member liberal consideration. J.A. 1476-78. "(T)his liberal consideration applies not only to upgrades to the character of a discharge, but also to requests for changes to the narrative reason for separation." *LaBonte II*, 43 F.4th at 1374. Changes to the narrative reason for separation can be granted on equity, injustice, or clemency grounds. *Id.* (citing Memorandum from Under Secretary of Defense Robert Wilkie to Secretaries of the Military Departments (July 25, 2018)).

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- Search & Summarize Rutter
- Search & Summarize O'Connor's
- Claims Explorer

Search & Summarize Rutter; Search & Summarize O'Connor's

- Scope of Training/RAG: Rutter or O'Connor's content only
 - No primary law
 - Limited to areas of law covered in these practice guides
- Similar to Search & Summarize Practical Law (previously called Ask Practical Law AI)
- Not available through CoCounsel (yet)

Westlaw AI Assisted Research

- RAG with cases, statutes, and regulations
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Jurisdiction:

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Jurisdiction: California

+ New research



J Are there any restrictions on the ability of a landlord to terminate a tenancy in a mobile home park in California?

Jan 14, 2025 04:35 PM

AI In California, the Mobilehome Residency Law (MRL) extensively regulates the termination of tenancies in mobile home parks. The MRL provides specific grounds and procedural requirements that must be met for a landlord to terminate a tenancy.

1. Grounds for Termination: The MRL specifies that a tenancy can only be terminated for reasons listed in the statute. These include failure to comply with local ordinances or state laws, conduct that constitutes a substantial annoyance to other residents, and failure to comply with reasonable park rules and regulations ([Andrews v. Mobile Aire Estates, 125 Cal.App.4th 578 \(2005\)](#)) [1].
2. Notice Requirements: The landlord must provide written notice to the homeowner, specifying the reason for termination with specific facts. This notice must be given in the manner prescribed by Section 1162 of the Code of Civil Procedure and must include a period of not less than 60 days for the homeowner to sell or remove the mobile home from the park ([West's Ann.Cal.Civ.Code § 798.55](#)) [2].
3. Specificity of Notice: The notice must be factually specific, detailing the date, place, witnesses, and circumstances concerning the reason for termination. A general statement or reference to the statutory language is insufficient ([Adamson Companies v. Zipp, 163 Cal.App.3d Supp. 1 \(1984\)](#)) [3].
4. Protection from Eviction: The MRL provides unique protections to mobile home owners due to the high cost and difficulty of moving mobile homes. The law aims to provide stability and predictability in mobile home park residency, recognizing the long-term nature of such tenancies ([Canyon View Ltd. v. Lakeview Loan Servicing, LLC, 42 Cal.App.5th 1096 \(2019\)](#)) [4].
5. Procedural Requirements: If a homeowner fails to comply with park rules, the management must first provide a seven-day notice to cure the violation before serving a 60-day termination notice. The management must wait the full seven days before serving the termination notice ([Simandle v. Vista de Santa Barbara Associates, LP, 178 Cal.App.4th 1317 \(2009\)](#)) [5].

6. Local Ordinances: The MRL allows park management to seek injunctive relief against homeowners who violate park rules. This includes obtaining

+ Start new research

Ask a follow-up question about this response

California ⓘ

The above response is AI-generated and may contain errors. It should be verified for accuracy.

Was this response helpful? Yes No

Researching causes of action? Use [Claims Explorer](#)

Reviewing statutes and regulations across jurisdictions? Use [AI Jurisdictional Surveys](#)

Cases, statutes, and regulations

1. [Andrews v. Mobile Aire Estates](#)

Court of Appeal, Second District, Division 3, California. • January 04, 2005 • 125 Cal.App.4th 578 • 22 Cal.Rptr.3d 832

"...b. The Mobilehome Residency Law expressly authorizes mobilehome park owners to take necessary steps to preserve the quiet enjoyment of mobilehome park tenants. The authorized grounds for termination of a mobilehome park tenancy are enumerated in Civil Code section 798.56, which provides in relevant part: "A tenancy shall be terminated by the management only for one or more of the following reasons: (a) Failure of the homeowner or resident to comply with a local ordinance or state law or regulation relating to mobilehomes within a reasonable time after the homeowner receives a notice of noncompliance from the appropriate governmental agency. () (b) Conduct by the homeowner or resident, upon the park premises, that constitutes a substantial annoyance to other homeowners or residents.) . () (d) Failure of the homeowner or resident to comply with a reasonable rule or regulation of the park that is part of the rental agreement or any amendment thereto." (Italics added.)..."

"...b. The Mobilehome Residency Law expressly authorizes mobilehome park owners to take necessary steps to preserve the quiet enjoyment of mobilehome park tenants. The MRL is an extensive statutory scheme governing mobilehome park tenancies. It addresses a host of issues, ranging from the required contents of rental agreements (Civ.Code, S 798.15) and exemption from local rent control measures (Civ.Code, S 798.17), to tree trimming (Civ.Code, S 798.37.5) and pets (Civ.Code, S 798.33)..."

2. [§ 798.55. Protection from actual or constructive eviction; termination or refusal to renew; grounds; notice; title search costs; residents remaining after notice; waiver](#)

CA CIVIL § 798.55

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Ask a follow-up question about this response

California	<input type="text"/>	
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Administrative decisions and guidance

THE HONORABLE DAS WILLIAMS

July 23, 2013 • 96 Ops. Cal. Atty. Gen. 29 • 13 Cal. Daily Op. Serv. 7921

"...Office of the Attorney General State of California Opinion No. 11-703 July 23, 2013 THE HONORABLE DAS..."

"...opinion on the following question: If the management of a mobilehome park has enacted rules and regulations generally prohibiting mobilehome owners from renting their mobilehomes, is park management bound by these same rules and regulations? CONCLUSION With the possible exception of rentals to park employees under appropriate circumstances that satisfy certain statutory requirements, if the management of a mobilehome..."

"...adopt the definitions of key terms as provided in the Mobilehome Residency Law (MRL), [FN1] a comprehensive statutory scheme enacted in..."

"...years of legislative work to address the unique features of mobilehome parks. [FN2] Under the MRL, a "mobilehome" is "a structure designed for human habitation and for being..."

THE HONORABLE BILL LEONARD

August 06, 1991 • 74 Ops. Cal. Atty. Gen. 122 • 1991 WL 495467

"...Office of the Attorney General State of California Opinion No. 90-938 August 6, 1991 THE HONORABLE BILL LEONARD MEMBER OF THE CALIFORNIA SENATE THE HONORABLE BILL LEONARD, MEMBER OF THE CALIFORNIA SENATE, has requested an opinion on the following question: May a mobilehome park owner, by means of rental agreement, rule, or regulation, prohibit..."

"...display by tenants of political signs in the windows of mobilehomes? CONCLUSION A mobilehome park owner may not, by means of rental

[+ Start new research](#)

Ask a follow-up question about this response

California



Landlord's Rights and Remedies (Commercial Lease) (CA)

Practice notes • Maintained • California

A Practice Note discussing the common rights and remedies available to a commercial landlord in California. This Note also provides practical guidance for negotiating and enforcing a landlord's rights and remedies for a tenant default under a California commercial lease.

"...Automatically, when the term expires, if the tenancy is for a fixed term and the landlord has not accepted further rent (Cal. Civ. Code §§ 1933 and 1945). In this case, the landlord does not need to give notice to terminate the tenancy (Cal. Civ. Proc. Code § 1161(1))...."

"...However, the landlord may not recover unpaid pre- termination rent unless the landlord also serves a three-day notice under Section 1161(2) of the California Code of Civil Procedure (Castle Park No. 5 v. Katherine, 91 Cal. App. 3d Supp. 6, 10 (1979)). A landlord that wants to recover back rent must bring both of the following:..."

"...After the landlord gives 30 days' notice to the tenant if the tenancy is month-to-month or at will (Cal. Civ. Code §§ 789 and 1946). The parties can agree in the lease to terminate a periodic or month-to-month tenancy on shorter notice but at least seven days before the scheduled end of the term (Cal. Civ. Code § 1946)...."

"...The landlord did not accept further rent after the fixed term expired. If the landlord accepts further rent after the fixed term expires, the lease converts to a month-to-month tenancy, and the landlord must deliver notice under Section 1946 of the California Civil Code...."

Manufactured Homes (Leasing): State Comparison Chart

Checklists • Law stated as of 01-Jul-2024 • Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, National/Federal, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming

A Chart providing a state-by-state overview of manufactured home leasing issues. This Chart covers manufactured home park landlord and tenant acts, rental

+ Start new research

Ask a follow-up question about this response

California



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Additional secondary sources

A. Introduction

California Practice Guide--Landlord-Tenant • Cal. Prac. Guide Landlord-Tenant Ch. 11-A

[11:1] When a mobilehome owner leases space in a mobilehome park, the tenancy relationship with park management is governed by special statutes, differing in many respects from general landlord-tenant law. As will be seen, the applicable law regulates the rental agreement and rental rates and charges, termination of the tenancy and eviction procedures, as well as purchase and sale of mobilehomes in a park, operation of mobilehome parks, and conversion of mobilehome parks to other uses. 1. [11:2] Applicable Law: These are the significant statutes governing mobilehome tenancies: a. [11:3] Mobilehome Residency Law (MRL): The Mobilehome Residency Law (MRL, Civ.C. § 798 et seq.) is the primary statutory scheme affecting mobilehome tenancies. It governs the relationship between homeowners and mobilehome park management (owners and their agents), the rental agreement, park rules and regulations, fees and charges, homeowner meetings, termination of mobilehome tenancies, transfer of...

"...It governs the relationship between homeowners and mobilehome park management (owners and their agents), the rental agreement, park rules and regulations, fees and charges, homeowner meetings, termination of mobilehome tenancies, transfer of mobilehomes and mobilehome parks..."

"...People v. Beaumont Investment, Ltd. (2003) 111 CA4th 102, 115-116, 3 CR3d 429, 440 (citing text) (construing terms under San Jose mobilehome park ordinance)] e. [11:29] " Tenancy ": A mobilehome park " tenancy " covered by the MRL means "the right of a homeowner to the use of a site within a mobilehome..."

"...As will be seen, the applicable law regulates the rental agreement and rental rates and charges, termination of the tenancy and eviction procedures, as well as purchase and sale of mobilehomes in a park, operation of mobilehome parks, and conversion of mobilehome parks..."

"...Civ.C. §§ 799.41, 798.3(b)] Compare—RVs in mobilehome parks: However, the MRL does apply to RVs in a mobilehome park which meet specified occupancy criteria (Civ.C. § 798.3); see ¶ 11:14.1 ff. b. [11:5] Other state statutes affecting mobilehomes and parks: This Chapter focuses primarily on the Mobilehome..."

§ 27:38. Termination of mobilehome tenancies—Grounds for termination

Miller and Starr California Real Estate 4th • 8 Cal. Real Est. § 27:38 (4th ed.)

+ Start new research

Ask a follow-up question about this response

California ⓘ	<input type="text"/>	↗
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Current awareness

Co-tenancy provisions and conditional payment terms — enforceable only where reasonable?

Practitioner Insights Commentaries • 2022 WL 2711715

Patrick R. Tira of Tira Law APC analyzes a recent split among California appeals courts over the enforceability of co-tenancy provisions that reduce rent if shopping center occupancy does not meet specified conditions.

"...California..."

"...The Boca Park court observed that parties negotiate co- tenancy provisions based on "the relative value of the property to [the tenant] dependent on various states of tenancy and occupancy in the Shopping Center."..."

"...In 2015, the California Court of Appeal, 5th District, decided Grand Prospect. There, the co- tenancy provision allowed the tenant to withhold rent for up to one year and then terminate the lease after one year, if a specified anchor tenant failed to open for business...."

"...Patrick R. Tira of Tira Law APC analyzes a recent split among California appeals courts over the enforceability of co- tenancy provisions that reduce rent if shopping center occupancy does not meet specified conditions...."

Effort to evict tenant creates debt landlord can't oust in bankruptcy

WESTLAW Bankruptcy Daily Briefing • 2024 WL 1864337

A California landlord who shut off the utilities to force her tenant to abandon his apartment cannot discharge \$9,800 in statutory damages assessed against her by a bankruptcy judge in her Chapter 7 case.

"...A California landlord who shut off the utilities to force her tenant to abandon his apartment cannot discharge \$9,800 in statutory damages assessed against her by a bankruptcy judge in her Chapter 7 case...."

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California ⓘ	<input type="text"/>	↗
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Are there any presumptions in favor of the government in military discharge upgrade...

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▼ Research steps

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Ask a follow-up question about this response



Are there any presumptions in favor of the government in military discharge upgrade petition cases?



Research report Enhance Sources (32)

Summary

Yes, there are significant presumptions in favor of the government in military discharge upgrade petition cases in both federal and state jurisdictions. Federal law establishes a presumption of administrative regularity that requires petitioners to overcome the government's actions by a preponderance of the evidence. However, this general presumption is substantially modified for cases involving post-traumatic stress disorder (PTSD) or traumatic brain injury (TBI) related to combat or military sexual trauma, where federal law mandates liberal consideration that effectively shifts the presumption in favor of veterans. State courts generally lack jurisdiction over military discharge matters due to federal exhaustion requirements.

Federal Statutory Framework and Regulatory Presumptions

The federal statutory framework governing military discharge upgrade petitions is established under 10 U.S.C. § 1553, which creates Discharge Review Boards to review discharge characterizations [10 USCA § 1553](#). The statute itself does not explicitly create presumptions favoring the government, but implementing regulations establish clear evidentiary presumptions in the government's favor.

Federal regulations explicitly establish a presumption of administrative regularity that favors the government. Under 32 C.F.R. § 581.3(e)(2), the Army Board for Correction of Military Records "begins its consideration of each case with the presumption of administrative regularity" and places "the burden of proving an error or injustice by a preponderance of the evidence" on the applicant [32 CFR § 581.3](#). Similarly, Navy regulations under 32 C.F.R. § 723.3(e)(2) provide that boards "rely on a presumption of regularity to support the official actions of public officers" and require applicants to overcome this presumption [32 CFR § 723.3](#). The Department of Defense's uniform standards under 32 C.F.R. § 70.8(b)(vi) establish that "there is a presumption of regularity in the conduct of governmental affairs" which "can be applied in any review unless there is substantial credible evidence to rebut the presumption" [32 CFR § 70.8](#).

Federal Court Application of Administrative Presumptions

Federal courts consistently apply and enforce these administrative presumptions when reviewing military discharge upgrade denials. The Court of Federal Claims has repeatedly held that plaintiffs must overcome the presumption of regularity that attaches to military board actions. In *Johnson v. United States*, the court stated that a "Plaintiff must also overcome the presumption of regularity which attaches to the actions of the ABCMR" [Johnson v. United States, 125 Fed.Cl. 575 \(2016\)](#). This principle has been consistently applied across multiple circuits and federal courts.

The Federal Circuit established in *Bickley v. United States* that there is "the presumption of regularity



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Are there any presumptions in favor of the government in military discharge upgrade petition cases?



PTSD and TBI Exception Creating Counter-Presumptions

A significant statutory exception to the general government presumption exists for cases involving PTSD or TBI related to combat or military sexual trauma. Under 10 U.S.C. § 1552(h)(2)(B), boards must "review the claim with liberal consideration to the claimant that post-traumatic stress disorder or traumatic brain injury potentially contributed to the circumstances resulting in the discharge or dismissal or to the original characterization of the claimant's discharge or dismissal" [10 USCA § 1552](#).

Recent federal appellate decisions have clarified that this liberal consideration standard effectively creates a presumption favoring veterans. In *Bussey v. Driscoll*, the Ninth Circuit held that "'Liberal consideration' requires the Board to resolve doubts on the § 1552(h)(2) inquiry in favor of the veteran" [Bussey v. Driscoll, 131 F.4th 756 \(2025\)](#). The Federal Circuit in *Doyon v. United States* held that the liberal consideration standard under 10 U.S.C. § 1552(h) applies retroactively to pending applications [Doyon v. United States, 58 F.4th 1235 \(2023\)](#).

The Court of Federal Claims in *Thomas v. United States* found that boards violated their statutory obligations when they "did not treat Dr. Waters's diagnosis as persuasive evidence that Mr. Thomas suffered from PTSD during his military service, as the Kurta Memo requires" and failed to "determine whether there was 'clear evidence' in the record to rebut the conclusions Dr. Waters and the VA reached, as the Kurta Memo also requires" in applying liberal consideration [Thomas v. United States, 175 Fed.Cl. 47 \(2025\)](#). These decisions demonstrate that the liberal consideration standard operates as a counter-presumption that shifts the analytical framework in favor of veterans with qualifying mental health conditions.

Administrative Procedure Act Review Standards

When federal courts review military discharge upgrade denials under the Administrative Procedure Act, they apply the arbitrary and capricious standard from 5 U.S.C. § 706 [5 USCA § 706](#). However, this review occurs within the framework of the administrative presumptions discussed above. Courts will not disturb board decisions unless they are "arbitrary, capricious, contrary to law, or unsupported by substantial evidence" [Chambers v. U.S., 417 F.3d 1218 \(2005\)](#).

The D.C. District Court in *Roberts v. Harvey* affirmed that boards "did not violate the Administrative Procedure Act by presuming administrative regularity in former armed servicemember's discharge procedure" where the servicemember failed to present evidence of regulatory violations [Roberts v. Harvey, 441 F.Supp.2d 111 \(2006\)](#). However, courts have found that boards err when they misapply the presumption of regularity. In *Jenkins v. Speer*, the D.C. District Court held that while "the presumption therefore supports that both Mr. Jenkins and Captain Hyder signed the chapter 10 discharge form," it "did not compel a determination that the advice referred to in the form actually occurred" [Jenkins v. Speer, 258 F.Supp.3d 115 \(2017\)](#).

Jurisdictional Framework and State Court Exclusion



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Ask a follow-up question about this response



Arguments and Rebuttals

Arguments Supporting Government Presumptions

1. Administrative Efficiency and Military Expertise

- Military boards possess specialized expertise in evaluating service member conduct and military regulations that civilian courts lack.
- Presumption of regularity promotes efficient resolution of discharge upgrade cases without requiring extensive re-litigation of underlying facts.
- Courts should defer to military administrative expertise absent clear evidence of error or procedural violations.

Anticipated Rebuttals

- Liberal consideration standard demonstrates Congress recognized that traditional deference was insufficient for veterans with service-connected mental health conditions.
- Administrative expertise does not justify presumptions that effectively immunize military decisions from meaningful review.

2. Legal Precedent and Regulatory Framework

- Federal regulations explicitly establish presumption of administrative regularity with clear statutory authority.
- Consistent federal court application demonstrates settled law requiring petitioners to overcome government presumptions.
- Administrative Procedure Act review standards incorporate deferential presumptions as standard administrative law principles.

Anticipated Rebuttals

- Jenkins v. Speer demonstrates that presumptions can be misapplied beyond their proper scope.
- Recent statutory amendments creating liberal consideration show legislative intent to limit traditional presumptions in specific circumstances.

3. Separation of Powers and Military Autonomy

- Constitutional separation of powers principles require judicial restraint in reviewing military administrative decisions.



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Arguments Against Government Presumptions

1. Due Process and Fundamental Fairness

- Discharge characterization affects fundamental rights to veterans' benefits, employment opportunities, and social standing requiring meaningful procedural protections.
- Presumptions that effectively prevent substantive review violate due process requirements for fair administrative hearings.
- Veterans deserve neutral adjudication rather than proceedings tilted toward upholding original discharge decisions.

Anticipated Rebuttals

- Preponderance of evidence standard provides reasonable opportunity for veterans to present their cases.
- Administrative review boards include civilian members and follow established procedural safeguards.

2. Legislative Intent and PTSD/TBI Recognition

- Congress specifically mandated liberal consideration standard recognizing inadequacy of traditional presumptions for veterans with service-connected mental health conditions.
- Legislative history demonstrates Congressional concern about systematic under-recognition of combat-related mental health impacts on military conduct.
- Statutory evolution shows movement away from blanket government presumptions toward more individualized consideration.

Anticipated Rebuttals

- Liberal consideration applies only to specific subset of cases involving combat-related PTSD or TBI.
- General presumption of regularity remains appropriate for cases not involving qualifying mental health conditions.

3. Evolving Understanding of Military Mental Health

- Advances in understanding of PTSD, TBI, and military sexual trauma demonstrate systematic errors in historical discharge determinations.
- Government presumptions perpetuate outdated approaches that failed to recognize service-connected mental health conditions.



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Cases on Both Sides

Cases Supporting Government Presumptions

[Johnson v. United States, 125 Fed.Cl. 575 \(2016\)](#) — The Court of Federal Claims held that plaintiffs seeking military record corrections must overcome the presumption of regularity attaching to board actions. The court emphasized that this presumption requires clear and convincing evidence of board error, establishing a high evidentiary bar for successful challenges.

[Roberts v. Harvey, 441 F.Supp.2d 111 \(2006\)](#) — The D.C. District Court ruled that military boards did not violate the Administrative Procedure Act by presuming administrative regularity in discharge procedures. The court found that absent specific allegations of regulatory violations, boards properly relied on presumptions favoring the validity of military administrative actions.

[Miller v. United States, 119 Fed.Cl. 717 \(2015\)](#) — The Court of Federal Claims reaffirmed that plaintiffs challenging military board decisions must overcome presumptions of regularity through cogent and clearly convincing evidence. The court applied these standards to require detailed evidence of administrative errors before disturbing military board determinations.

Cases Limiting Government Presumptions

[Jenkins v. Speer, 258 F.Supp.3d 115 \(2017\)](#) — The D.C. District Court held that military boards erred by applying presumption of regularity beyond its proper scope to assume legal advice occurred when evidence showed only signatures on forms. The court clarified that presumptions support document authenticity but cannot establish the substance of undocumented actions.

[Bussey v. Driscoll, 131 F.4th 756 \(2025\)](#) — The Ninth Circuit ruled that liberal consideration requires resolving doubts about PTSD's contribution to discharge circumstances in favor of veterans. The court held that this standard creates a more veteran-favorable analytical framework for qualifying mental health cases.

[Albino v. United States, 78 F.Supp.3d 148 \(2015\)](#) — The D.C. District Court found that an officer overcame the presumption of administrative regularity through clear and convincing evidence of procedural errors in evaluation preparation. The court emphasized that presumptions can be rebutted when sufficient contrary evidence demonstrates administrative irregularities.

Practical Implications

Veterans seeking discharge upgrades must navigate a complex legal framework where traditional government presumptions create significant evidentiary burdens, requiring comprehensive documentation and often professional legal assistance to overcome administrative presumptions. The liberal consideration standard for PTSD and TBI cases represents a meaningful shift that substantially improves prospects for veterans with combat-related mental health conditions, but requires careful



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Recent Developments

Recent federal court decisions have significantly clarified and expanded the liberal consideration standard for veterans with service-connected mental health conditions. [Bussey v. Driscoll, 131 F.4th 756 \(2025\)](#) established that liberal consideration requires affirmatively resolving doubts in favor of veterans, while [Thomas v. United States, 175 Fed.Cl. 47 \(2025\)](#) found that boards violated their statutory obligations by failing to properly apply liberal consideration standards to PTSD cases.

The Federal Circuit's decision in [Kelly v. United States, 69 F.4th 887 \(2023\)](#) addressed the retroactive application of liberal consideration policies in the context of disability retirement determinations following discharge upgrades. Multiple Department of Defense memoranda issued between 2014 and 2018 established liberal consideration requirements even before statutory codification, with courts now recognizing these policy directives as part of the evolving legal framework for discharge upgrade cases.

Class action litigation exemplified by [Kennedy v. Whitley, 539 F.Supp.3d 261 \(2021\)](#) has addressed systemic failures in implementing liberal consideration standards, resulting in settlements requiring comprehensive review of previously denied cases involving PTSD, TBI, and military sexual trauma. These developments demonstrate ongoing evolution in how courts interpret and enforce the liberal consideration requirements, with clear trends toward more veteran-favorable interpretations of the statutory standards.

Related Issues

- **Military disability retirement claims** - Veterans often pursue disability retirement concurrently with discharge upgrades, as characterization of service affects eligibility for medical benefits and the liberal consideration standard applies to both types of relief.
- **Veterans' benefits eligibility under 38 U.S.C. § 5303** - Discharge characterization directly determines eligibility for VA benefits, making upgrade petitions critical for accessing healthcare, disability compensation, and educational benefits.
- **Administrative exhaustion requirements** - Federal courts strictly enforce exhaustion of military administrative remedies before judicial review, with specific procedural requirements for Discharge Review Board and Board for Correction of Military Records proceedings.
- **Military Whistleblower Protection Act claims** - Discharge upgrade cases frequently involve allegations of retaliation for protected disclosures, with military boards required to consider potential reprisal as grounds for relief under 10 U.S.C. § 1034.

Administrative Decisions and Guidance

Military discharge upgrade petitions involve administrative review processes where the burden and presumptions at play can vary depending on the reviewing body and procedural context. The Board

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constitutes a bar to receipt of VA benefits unless and until the discharge is upgraded by the appropriate military review board. VA decisions confirm that the burden of proof lies with the veteran or claimant to establish entitlement to a discharge upgrade, as discharges are presumed valid. Administrative bodies demand evidence such as procedural error, disproportionality, or mitigating circumstances to rebut this presumption and improve the characterization of service [Bd. Vet. App. Bd. Vet. App. 0622268](#). These principles are consistent with federal military administrative law and do not expressly create presumptions favoring the government, but they do establish a baseline assumption of legitimacy for original discharge characterizations.

Commentary on This Question

Military discharge upgrade petitions are administratively reviewed by boards such as Discharge Review Boards (DRBs) and Boards for Correction of Military Records (BCMRs), which examine the type and nature of discharges to correct errors or remove injustices. These boards operate under statutory authority (e.g., 10 U.S.C.A. § 1552) and their decisions are generally considered final and conclusive, though courts recognize instances where judicial relief is appropriate. The review process is discretionary, and the boards are not always required to hold formal hearings unless regulations mandate them. Petitioners bear the burden of producing substantial evidence to overcome a presumption that military officers properly discharged their official duties. Courts have upheld the presumption that military personnel decisions, including discharge characterizations, are presumed correct absent compelling evidence of error or injustice. This presumption against upgrading discharges means petitioners must submit persuasive evidence for relief, as the military's original findings maintain a strong default status in administrative and judicial reviews. Instances where courts found board decisions arbitrary or capricious often involve failure to consider all pertinent circumstances, such as post-service diagnoses affecting behavior at discharge or misapplication of standards for upgrade eligibility.

In federal judicial review, courts inquire whether military decisions fall within statutory and constitutional authority but defer to military expertise, emphasizing exhaustion of administrative remedies before judicial intervention. Habeas corpus petitions may provide relief in narrow circumstances, such as unlawful detention or wrongful denial of discharge on grounds like conscientious objection, but courts generally avoid substituting their judgment for military discretion in discharge characterizations. Ultimately, no express statutory presumption in favor of the government in discharge upgrade petitions is specified, but a practical presumption arises from the deference courts and boards accord military decisions, thereby placing a significant evidentiary burden on petitioners seeking upgrades. [CJS ARMEDSERV § 119](#), [92 A.L.R. Fed. 333](#), [FEDPROC § 5:436](#), [HSASUM APP E](#)

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Filters coming soon

1. [§ 1553. Review of discharge or dismissal](#)

10 USCA § 1553

AI Document Summary

Establishing Discharge Review Boards to review discharge characterizations with authority to change discharges or issue new discharges based on board findings

2. [§ 581.3 Army Board for Correction of Military Records.](#)

32 CFR § 581.3

AI Document Summary

Establishing presumption of administrative regularity for Army Board for Correction of Military Records proceedings and placing burden of proof on applicants

Supporting section

...(e) Actions by the ABCMR Director and staff- (2) Burden of proof. The ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence....

3. [§ 723.3 Application for correction.](#)

32 CFR § 723.3

AI Document Summary

Creating presumption of regularity for Board for Correction of Naval Records to support official actions of public officers

4. [§ 70.8 Discharge review procedures.](#)

32 CFR § 70.8

AI Document Summary

Establishing Department of Defense uniform standard for presumption of regularity in discharge review proceedings



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Coast Guard member stated that by reason of prior religious training and his developing beliefs he was conscientiously opposed to participation in war in any form and his sincerity was

Additional Sources

These sources are not cited in your report, but can provide context that may be helpful.

30. [Uniformed Services Employment and Reemployment Rights Act \(USERRA\) Appeals Before the MSPB](#)

Practice Note • Maintained • National/Federal

Practical Law resource summary

A Practice Note describing the procedures for federal employees and applicants filing appeals under the Uniformed Services Employment and Reemployment Rights Act (USERRA) before the Merit Systems Protection Board (MSPB). This Practice Note explains the primary protections USERRA provides against employment discrimination based on military service. It outlines the two main types of USERRA cases—discrimination and reemployment—and discusses the different paths for seeking redress, including filing a complaint with the Department of Labor's Veterans'

31. [Military Service Discrimination Under USERRA](#)

Practice Note • Maintained • National/Federal

Practical Law resource summary

A Practice Note discussing the Uniformed Services Employment and Reemployment Rights Act (USERRA) and its prohibition of employment discrimination based on past, present, or prospective military service. This Note addresses individual and employer coverage under USERRA, theories of liability, defenses, and remedies. This Note is based on federal law. State or local law may impose additional or different requirements.

32. [Military Service Leave: Best Practices Checklist](#)

Checklist • Maintained • National/Federal

Practical Law resource summary

A Checklist outlining best practices and key issues for private employers to consider when an employee requests military service leave and seeks reemployment following military service leave under the Uniformed Services Employment and Reemployment Rights Act (USERRA). This Checklist addresses federal law. State or local law may impose additional or different requirements but this document will be useful and relevant to employers in every state. For



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Research report Enhance Sources (32)

Enhance your report by answering any of the optional questions below to get a more tailored analysis of your legal issue.

What specific type of military discharge characterization are you seeking to upgrade (other than honorable, bad conduct discharge, dishonorable discharge, or general under honorable conditions)?

Dishonorable discharge

Do you have any documented diagnoses or treatment records for PTSD, traumatic brain injury, or other mental health conditions that may be related to your military service?

Yes, there is documented treatment for PTSD related to military sexual trauma.

What specific military administrative boards have you already petitioned (Discharge Review Board, Board for Correction of Military Records, or both), and what were their decisions?

There has been no petitions filed yet. We will be filing a petition with the Discharge Review Board.

What branch of military service were you in, and what time period did your service cover?

Navy, 2002-2005

Are there any specific procedural errors or regulatory violations you believe occurred during your original discharge proceedings that you can document?

No

Your answers will be locked once submitted.



Westlaw AI Deep Research

+ Start new research

V2: Are there any presumptions in favor of the government in military discharge upgrade petition cases?



JO Julianne Odin • Nov 11, 5:38 PM

Enhance "Are there any presu..." based on the answers to supplemental questions.

Westlaw • Nov 7, 11:25 AM

V2: Are there any presumptions in favor of the government in military discharge upgrade...

▶ Research contents

▼ Research steps

- ✔ Researching federal statutory framework governing military discharge review and upgrade procedures, focusing on 10 U.S.C. § 1553 and implementing regulations in 32 C.F.R. Part 70
 - Found comprehensive federal statutory framework: 10 U.S.C. § 1553 establishes Discharge Review Boards with authority to review and modify discharges. Key finding: 10 U.S.C. § 1552(h) mandates liberal consideration for PTSD cases related to military sexual trauma, requiring boards to give presumptive consideration to mental health contributions to discharge circumstances.
- ✔ Analyzing Department of Defense Instruction 1332.28 and Navy regulations establishing presumptions and standards for discharge upgrade petitions involving PTSD from military

Ask a follow-up question about this response



Research report Enhance Sources (31)

Summary

Yes, there are traditionally strong presumptions favoring the government in military discharge upgrade cases. However, for Navy dishonorable discharge cases involving PTSD related to military sexual trauma, the liberal consideration standard under 10 U.S.C. § 1552(h) fundamentally transforms these presumptions. While federal regulations establish a presumption of administrative regularity that normally requires veterans to prove error or injustice by a preponderance of evidence, the liberal consideration framework mandates that boards "resolve doubts in favor of the veteran" and treat veteran testimony as sufficient to establish PTSD existence. This creates a veteran-favorable evidentiary standard that effectively overrides traditional government presumptions in qualifying PTSD cases, though the presumption of regularity remains the baseline for other types of discharge upgrade petitions.

Federal Statutory Framework for Navy Discharge Review

The statutory framework governing Navy discharge upgrade petitions operates under two primary statutes that create distinct review processes with different presumptive standards. Under 10 U.S.C. § 1553, the Navy Discharge Review Board has authority to review and modify discharge characterizations within fifteen years of separation [10 USCA § 1553](#). This statute establishes the initial administrative review process where veterans can seek relief from unfavorable discharge characterizations.

For cases that cannot be resolved through the Discharge Review Board process, 10 U.S.C. § 1552 authorizes the Board for Correction of Naval Records to correct military records where necessary to remedy errors or injustices [10 USCA § 1552](#). This statute includes the critical liberal consideration provisions in subsection (h) that fundamentally alter the evidentiary framework for PTSD cases related to military sexual trauma.

The liberal consideration standard applies when a former service member's claim "is based in whole or in part on matters relating to post-traumatic stress disorder or traumatic brain injury as supporting rationale" and the PTSD "is related to combat or military sexual trauma, as determined by the Secretary concerned" [10 USCA § 1552](#). Under these circumstances, boards must "review the claim with liberal consideration to the claimant that post-traumatic stress disorder or traumatic brain injury potentially contributed to the circumstances resulting in the discharge or dismissal or to the original characterization of the claimant's discharge or dismissal" [10 USCA § 1552](#).

Traditional Government Presumptions Under Federal Regulations

Westlaw CoCounsel

- Additional Skills
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 - Review, Compare, and Summarize
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Julianne - 06:22 PM

Are there any presumptions in favor of the government in military discharge upgrade petition cases?

CoCounsel - 06:22 PM

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Evaluating AI-Generated Content

Usage: “Did I use the right tool?”	Input: “Did I use an effective prompt?”	Output: “Did the tool give an acceptable response?”
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Adapted from Mary Ann Naumann, Re-Engineering Research: Integrating Generative AI & Prompt Engineering into Information Literacy Programs (June 30, 2024).

Final Gen AI Reminders

- Follow all policies and rules on when and how you can use gen AI.
- When required, disclose what tool you used and what you used it for.
- Ask ahead of time if you're not sure whether you should or should not use a tool.
- [LRC Guide to Generative AI Tools for USD Law Students](#)

LRC Reference

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619.260.4612

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Monday: 9am – 6pm

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Julianne Odin

jodin@sandiego.edu

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