

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 December 2021

DOCKET NUMBER: AR20210011242

APPLICANT REQUESTS: in effect the following corrections,

- void his retirement order (Orders Number 009-1301 dated 9 January 2018)
- void his DD Form 214 (Certificate of Release or Discharge from Active Duty) ending on 30 June 2018
- extended his enlistment in the Regular Army
- entry and processing through the disability evaluation system

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Department of Veterans Affairs (VA) disability ratings dated 14 January 2021

FACTS:

1. The applicant checked the box identified as "Disability" on his application [Block 11 (Category) of his DD Form 149] dated 12 January 2021. He states in effect that due to his mental health conditions he forgot to extend his enlistment [in the Regular Army]. He states he has post-traumatic stress disorder (PTSD), traumatic brain injury (TBI) and memory loss. He is rated 100 percent disabled for PTSD with TBI based on his combat duties by the VA. [He received the Purple Heart, Army Commendation Medal with "V" Device and Combat Infantryman Badge during his 2005 deployment in support of Operation Iraqi Freedom.] His VA eligibility date for benefits was effective on 1 July 2018, the first day he was placed on the Retired List.

2. The following facts are based on evidence filed within his electronic personnel record.

a. On 30 June 1997 he enlisted in the United States Army Reserve (USAR) Delayed Entry Program. His DD Form 4 (Enlistment/Reenlistment Document –

Armed Forces of the United States) shows he was projected to enter active duty on 16 June 1998. He enlisted for training as an infantryman.

b. He was discharged from the USAR Delayed Entry Program enlisting in the Regular Army on 16 June 1998 for a period of 4 years' active service. He received an incentive bonus for enlisting in the Regular Army.

c. He completed training meeting the infantry qualifications. On 12 April 2001 he was promoted to sergeant (SGT)/pay grade E-5 by Orders Number 102-5.

d. On 18 June 2001 he reenlisted in the Regular Army for a period of 6 years as shown on his DD Form 4 series. He enlisted for a foreign overseas tour to Korea.

e. On or about 8 January 2005 he deployed with his unit to Iraq. He was a member of 3rd Infantry Division, 7th Infantry Regiment.

f. On 1 March 2005 he was promoted to staff sergeant (SSG)/pay grade E-6. Personnel at Fort Stewart, Georgia issued him Orders Number 47-411 dated 16 February 2005 authorizing his promotion based on instructions from the U.S. Army Human Resources Command (AHRC).

g. On 30 May 2005 he received the Purple Heart for wounds received in action in Iraq on 13 May 2005. Permanent Orders Number 150-05 were issued announcing this award. For his heroic actions on this date, he received the Army Commendation Medal with "V" Device by Permanent Order 073-01 published on 14 March 2006. (This award is not shown on his DD Form 214. By regulation, it will be administratively added to his DD Form 214 without board action. See "Administrative Note(s).") He also received the Combat Infantryman Badge.

h. On or about 28 December 2005 he returned to the continental United States. The Defense Finance and Accounting Service (DFAS) confirmed his deployment dates from 8 January 2005 through 28 December 2005. This deployment period is missing from his DD Form 214. By regulation, it will be administratively corrected without Board action. See "Administrative Note(s)."

i. He received a DA Form 2166-8 (NCO [Noncommissioned Officer] Evaluation Report (NCOER)) for the period from December 2004 through November 2005 covering his deployment to Iraq. Notations made within the narrative summary of this NCOER include:

- He led over 100 raids against enemy targets capturing at least 63 high valued targets.
- After losing one Soldier and being wounded himself due to a vehicular born improvised explosive device, he returned to duty setting the examples for others.
- Continuously conducted live fire training exercises keeping his section combat ready.
- Exhibited a hands on type of leadership resulting in his section always being combat ready and highly effective

j. On 16 December 2005 he reenlisted in the Regular Army for a period of 3 years. His DD Form 4/1 shows he had completed 7 years, 5 months and 29 days of total active service on his date of reenlistment.

k. On 28 February 2006 he received the Bronze Star Medal for his meritorious service during his deployment to Iraq by publication of Permanent Orders Number 059-28 issued by the Commanding General, 3rd Infantry Division.

l. On 29 August 2006 after completing the requisite training he received the Drill Sergeant Identification Badge. On or about 16 October 2006 he started serving as a drill sergeant at Fort Jackson, South Carolina.

m. On 4 June 2008 while in a drill sergeant status, he accepted nonjudicial punishment under Article 15, Uniform Code of Military Justice (UCMJ) because he wrongfully grabbed two trainees on three separate dates throwing them to the ground. His actions were a violation of Article 92, UCMJ. He received counseling from a military trial defense attorney prior to accepting nonjudicial punishment. During a closed hearing his battalion commander imposed punishment including reduction to SGT/E-5, suspended to be automatically remitted if not vacated before 1 December 2008; and forfeiture of pay in the amount of \$1,420.00. The applicant did not appeal his punishment.

n. On 20 June 2008 his company commander approved his voluntary request to reenlist in the Regular Army for an indefinite period (emphasis added). He and a government official signed his DD Form 4 series showing he reenlisted for an indefinite period. His rank shown on his DD Form 4 series on this date was SSG/E-6. He had completed 10 years and 3 days of active service. This was his third reenlistment. His DD Form 4/1 (page 1) contains a typed statement that he initialed indicating he understood he was reenlisting for an indefinite period and that he would be allowed to serve in the Regular Army up to his retention control point for SSG/E-6. His retention control point was 30 June 2020.

o. On 7 August 2008 his battalion commander vacated his suspended nonjudicial punishment sentence reducing him to SGT/E-5 because he had used inappropriate language towards multiple trainees. His actions were a violation of Article 92, UCMJ. His date of rank to SGT/E-5 shown on his Enlisted Record Brief was 7 August 2008, the date of the vacation.

p. On 2 October 2008 his brigade commander removed him from the Drill Sergeant Program based on his numerous violations of the UCMJ and his violation of regulations pertaining to his unprofessional conduct with trainees. During the process of administratively removing him from this program, he did receive legal counseling wherein he waived his right to appeal his removal from the program on 12 August 2008.

q. After his removal from the Drill Sergeant Program he was reassigned to 3d Infantry Division at Fort Stewart, Georgia. On 1 August 2009 he was promoted to SSG/pay grade E-6 with publication of Orders Number 254-011 and upon directive of AHRC.

r. On 8 December 2009 he deployed to Iraq to support contingency operations with 3rd Infantry Division.

s. On or about 1 December 2010 he redeployed to the continental United States to Fort Stewart. He received the Army Commendation Medal for this combat tour to Iraq by Permanent Orders 261-008 dated 18 September 2010. He supported Operations Iraqi Freedom 10-11 and New Dawn.

t. He was permanently reassigned to Fort Bliss, Texas. On 11 February 2013 he acknowledged receiving an annual noncommissioned officer evaluation report (NCOER) for the period from 31 January 2012 through 30 January 2013. This evaluation is filed within his personnel record. It shows he was a rear detachment squad leader for Soldiers that did not deploy. He performed duties as the unit movement officer processing and shipping 25 containers of equipment to Afghanistan.

v. Within his official record are multiple NCOERs which will be discussed separately in paragraph 3 of this record of proceedings.

w. On 5 October 2017 he underwent a physical examination. His physical examination documents are not filed in his electronic personnel record. His personnel record was updated on the Soldier Management System maintained by AHRC showing his permanent profile rating was "1" meaning he had no permanent physical profiles that would have restricted or limited him from

performing his soldierly duties under Army Regulation 40-501 (Standards of Physical Fitness).

x. In November 2017 he failed his Army physical fitness test.

y. On 9 January 2018 personnel at Fort Jackson issued him Orders 009-1301 reassigning him to the post transition center for the purpose of out-processing from the Regular Army with a projected retirement date of 30 June 2018. This order shows he was voluntarily retiring based on sufficient length of service (more than 20 years of active service). Within his order is states his retirement was not due to physical disability. His placement on the Retired List was projected as 1 July 2018.

z. As ordered, he honorably retired on 30 June 2018 receiving a DD Form 214 documenting his active service of 20 years and 14 days. The authority for his retirement is Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), chapter 12 with his narrative reason shown as "sufficient service for retirement."

3. His official personnel record contains multiple NCOERs.

a. For the period ending 2 October 2013, he performed squad leader duties in an infantry company in the continental United States (CONUS). He successfully met or exceeded his performance standards. There are no negative comments noted on this NCOER. His rater found him fully capable for promotion and his senior rater indicated his overall performance was successful and his potential was superior to his peers.

b. He continued to meet or exceed his performance standards as an infantry squad leader and instructor at various marksmanship ranges. He received annual NCOERs or change of rater NCOERs. He was continuously recommended for promotion with superior notations by his senior raters. His NCOERs highlight his numerous successful accomplishments during each rating period. He met or exceeded the Army physical fitness and weight standards. There are no annotations showing he had a physical profile.

c. On or about 25 January 2018 he acknowledged receiving his annual NCOER for the period ending on 2 October 2017. This report shows he had a temporary physical profile issued on or about 14 April 2017. His rater stated he failed to meet height and weight standards. He further stated the applicant's profile did not limit his ability to perform all his assigned tasks and duties. He performed his duties in CONUS responding to more than 40 medical evacuations for Soldiers who were in a training status. He was a supervisory instructor for

newly assigned instructors to the unit. He continuously met standards for his various duties and responsibilities. However, his overall performance rating shows he did not meet standards. His senior rater stated he was an above average NCO who displayed potential and had the capability to perform at positions of greater responsibility. His senior rater did recommend him for promotion and advanced schooling.

4. The applicant provides his VA disability ratings with an effective date of 1 July 2018. The following medical conditions were determined to be service connected by the VA with a minimum rating of 10 percent or higher:

- Cervical spondylosis, cervical fusion, cervical disc herniation, status post discectomy with cervical degenerative disc disease rating 10 percent
- Chronic left wrist sprain rating 10 percent
- Chronic right wrist sprain rating 10 percent
- Irritable bowel syndrome (IBS) with diarrhea rating 10 percent
- Lumbar strain rating 10 percent
- Obstructive sleep apnea with chronic bronchitis rating 50 percent
- PTSD with TBI rating 100 percent due to combat
- Right knee strain with shin splints rating 10 percent
- Left knee strain with shin splints rating 10 percent
- Left shoulder strain, shoulder impingement syndrome and degenerative arthritis rating 20 percent
- Radiculopathy, left lower extremity rating 10 percent
- Radiculopathy, right lower extremity rating 10 percent
- Right shoulder strain, shoulder strain impingement syndrome and degenerative arthritis with acromioclavicular joint osteoarthritis rating 20 percent
- Right elbow lateral epicondylitis with spur rating 10 percent
- Right hand strain with index trigger finger rating 10 percent
- Temporomandibular joint dysfunction (TMJ) disorder rating 40 percent
- Tinnitus rating 10 percent

5. As the applicant is requesting, in effect, entry into the disability evaluation system based on his VA disability ratings, an Army Review Boards Agency medical officer reviewed the applicant's application, supporting evidence, his personnel record, service treatment record and VA records through the Joint Legacy Review. From the medical officer's review, he provides a medical opinion for the Board's review. See "Medical Review."

6. Unless reserved for higher authority, the U.S. Army Physical Disability Agency approves disability cases for the Secretary of the Army and issues disposition

instructions for Soldiers separated or retired for physical disability. When an application at the Army Board for Correction of Military Records is referred to the U.S. Army Physical Disability Agency, that agency will review the applicant's record under the legacy disability evaluation system. The Office of the Surgeon General is responsible for evaluating and determining the physical fitness of Soldiers under Army Regulation 40-501 (Standards of Medical Fitness).

7. Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation) prescribes the Army Disability Evaluation System (DES) and sets forth policies, responsibilities, and procedures that apply in determining whether a Soldier is unfit because of physical disability to reasonably perform the duties of his office, grade, rank, or rating. A Soldier who has an approved retirement date for sufficient length of service will not be referred to the Military Occupational Specialty Administrative Retention Review (MAR2). A MAR2 determines if a Soldier should be retained or referred into the DES.

8. The Army rates only conditions determined to be physically unfitting at the time of discharge, which disqualify the Soldier from further military service. The Army disability rating is to compensate the individual for the loss of a military career. The VA does not have authority or responsibility for determining physical fitness for military service. The VA may compensate the individual for loss of civilian employability.

9. Title 38, U.S. Code, sections 1110 and 1131, permit the VA to award compensation for disabilities which were incurred in or aggravated by active military service.

10. Title 38, Code of Federal Regulation, Part IV is the VA's schedule for rating disabilities. The VA awards disability ratings to veterans for service-connected conditions, including those conditions detected after discharge. As a result, the VA, operating under different policies, may award a disability rating where the Army did not find the member to be unfit to perform his duties. Unlike the Army, the VA can evaluate a veteran throughout his or her lifetime, adjusting the percentage of disability based upon that agency's examinations and findings.

11. Army Regulation 635-8 (Separation Processing and Documents) establishes standardized policy for preparing and distributing the DD Form 214. The regulation states that the DD Form 214 is a summary of a Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of active duty service at the time of release from active duty, retirement, or discharge. It states to enter in block 18 (Remarks) the location of all deployments and dates of deployment as follow: "SERVICE IN (NAME OF COUNTRY DEPLOYED) FROM (inclusive dates for example, YYYYMMDD - YYYYMMDD)."

12. Army Regulation 600-8-22 (Military Awards) states the Overseas Service Ribbon was established by the Secretary of the Army on 10 April 1981. Effective 1 August 1981, all members of the Active Army, Army National Guard, and Army Reserve in an active Reserve status are eligible for the award for successful completion of overseas tours. Numerals are used to denote the second and subsequent awards of the Overseas Service Ribbon.

13. MEDICAL REVIEW:

a. The Army Review Board Agency (ARBA) Medical Advisor reviewed the supporting documents and the applicant's medical records in the Armed Forces Health Longitudinal Technology Application (AHLTA) and Joint Legacy Viewer (JLV) and made the following findings and recommendations: While the VA was backdated his behavioral health service connection to the day after separation, in-service medical and personnel records do not support the applicant failed medical retention standards at the time of separation. However, in an abundance of caution, a referral to the Disability Evaluation System (DES) is warranted.

b. The applicant was retired on 30 June 2018 under Chapter 12, Sufficient Service for Retirement, with an Honorable characterization. The applicant is requesting entry into the Disability Evaluation System (DES) with related changes to his orders and DD214. The applicant indicates the VA service connected him for PTSD, TBI, and medical conditions and backdated the conditions to the day after separation thus he should be entered into DES.

c. In May 2008, the applicant was seen after being suspended from Drill Sergeant (DS) duties; he pulled a Private out of formation and pushed her causing her to fall. The applicant justified his actions stating the Soldier was "slow in her reacting to orders all the time ... is a new era of recruits." The applicant reported pre-enlistment fighting in school. While documentation is void of information to support a diagnosis, the provider listed Anxiety Disorder NOS. The applicant followed up in September noting he resumed his DS duties in June; however, was suspended again in August due to cussing and yelling at trainees. The applicant felt he was being punished more severely than other DSs who engaged in the same behavior. In follow up, the applicant discussed marital issues noting anger when his wife tried to talk to him or needed attention; "all women are evil and should shut up." The applicant did not return.

d. In February 2011, the applicant had a PCS screening with negative findings. In July 2016, the applicant met with primary care behavioral health

provider requesting assistance with anger management. The applicant stated while he had chronic difficulties with anger, there had been an increase after smoking cessation. The applicant was referred to behavioral health. During his psychiatric appointment, the applicant noted he decided he needed anger management after his father told him he was an “asshole” during a visit. The applicant acknowledged his wife had been telling him he was “abrupt, negative, and antagonistic,” but he dismissed her. Moreover, the applicant noticed other students in the tech program he was enrolled in tended to respond negatively to him possibly due to his approach. The applicant received medication and reported some improvement. In August, the applicant was seen for headaches after a Soldier broke his jaw. The applicant reported prior concussions from fights as well as a 2005 Humvee rollover after hitting a VBIED; two of which involved loss of consciousness. The applicant was diagnosed with a TBI and started various treatments. The applicant attended psychiatric follow ups continuing to report improvement with medication.

e. In February 2017, the provider diagnosed PTSD although the applicant was still reporting improvement, symptoms were minimal or none, and he was functioning; he did not meet criteria. In March, the applicant noted his 1SG and CO were “fussing” at him for reporting late and taking college classes without permission. The applicant stated he was attempting to complete his mechanics certification before his ETS in 2018. In September, Other Depressive Disorder was added. In November, the applicant reported depression since PCSing to the current duty station, approximately two years, because his new job was more isolating than before; he preferred to work with others. The applicant noted increased anxiety over the prior 6-12 months due to pending ETS and related stressors. The applicant did not receive, request, or require therapy. Throughout, the psychiatrist noted the applicant met medical retention standards.

f. In February 2018, the applicant had a neuropsychological evaluation due to post-concussive headaches and cognitive deficits. The provider diagnosed Mild Neurocognitive Disorder due to TBI, but noted deficits were more likely than not related to behavioral health conditions and stress. In March, the applicant’s provider indicated while neuropsychological testing noted some weaknesses, the applicant “continues to function quite well...he currently demonstrates robust functioning across multiple domains...” to include work. That month, the applicant reported some increasing anxiety, but due to ETS related stressors. The applicant declined therapy to manage stressors.

The applicant is 100% service connected for PTSD, backdated to 01 July 2018. The related Compensation and Pension (C&P) exam is unavailable. In August 2018, the applicant went to behavioral health reporting good results with medication. However, in mid-June he became inconsistent with taking the medication resulting in symptoms returning. The provider noted the applicant denied "active PTSD symptoms" with only twice monthly nightmares which "do not appear to be disruptive to functioning;" the applicant did not meet criteria for PTSD. In January 2019, the applicant was assessed with diagnoses of PTSD and Major Depressive Disorder (MDD); he was already service connected. In March, he started a PTSD program attending various forms of treatment to include individual and group therapy. In May 2020, the applicant reported symptoms were back "to baseline" and he was doing well. In June, the applicant went to the ER reporting the social justice riots and protests had resurfaced trauma symptoms and homicidal ideations. The applicant's medication was adjusted with improvement. In January 2021, the applicant reported worsening symptoms. In May, the applicant had a TBI re-evaluation which determined any cognitive symptoms were unrelated to the history of mTBI, rather related to behavioral health conditions.

g. The applicant's January 2018 NCOER, period ending in October 2017, noted a physical profile that "did not limit his ability to perform all his assigned tasks and duties." Additionally, he "continuously met standards for his various duties and responsibilities." While the raters marked Did Not Meet Standards and Unqualified, this appears to be related to failing height and weight as the comments were complimentary; "an above average NCO who displayed potential and the capability to perform at positions of greater responsibility" recommending promotion and advanced schooling.

h. A July 2018 ERB indicates PULHES of 1's.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined partial relief was warranted. Based upon the available documentation and the findings and recommendation of the medical advisor, the Board concluded there was sufficient evidence to refer the applicant's record to the IDES system for further evaluation to determine whether a change in his disability ratings and/or narrative reason for separation was warranted.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

: : : GRANT FULL RELIEF

█ █ █ GRANT PARTIAL RELIEF

: : : GRANT FORMAL HEARING

: : : DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by referring his records to the Office of The Surgeon General for review to determine if the disability evaluation he received from the Army accurately depicted his conditions as they existed at the time.

a. If a review by the Office of The Surgeon General determines the evidence supports amendment of his disability evaluation records, the individual concerned will be afforded due process through the Disability Evaluation System for consideration of any additional diagnoses (or changed diagnoses) identified as having not met retention standards prior to his discharge.

b. In the event that a formal PEB becomes necessary, the individual concerned will be issued invitational travel orders to prepare for and participate in consideration of his case by a formal PEB. All required reviews and approvals will be made subsequent to completion of the formal PEB.

c. Should a determination be made that the applicant should be retired for disability, these proceedings serve as the authority to issue him the appropriate separation retroactive to his original separation date, with entitlement to all back pay and allowances and/or retired pay, less any entitlements already received.

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to changing the narrative reason for separation.

3. The Board also noted the administrative notes below from the analyst of record and recommended those changes be completed to more accurately reflect the military service of the applicant.

X

[REDACTED]

CHAIRPERSON

[REDACTED]

I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

ADMINISTRATIVE NOTE(S):

Correct his DD Form 214 for the period ending 30 June 2018 as follows:

- a. Remove from Block 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized) the Iraq Campaign Medal with two campaign stars and the Overseas Service Ribbon (2nd Award);
- b. Add to Block 13 the Army Commendation Medal with "V" Device, the Iraq Campaign Medal with three campaign stars and the Overseas Service Ribbon (3rd Award)
- c. Add to Block 18 (Remarks) – "Served in a designated imminent danger pay area//Service in Iraq 20050108-20051228//"

REFERENCES:

1. Title 38, U.S. Code, section 1110 (General - Basic Entitlement): For disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated,

compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

2. Title 38, U.S. Code, section 1131 (Peacetime Disability Compensation - Basic Entitlement): For disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during other than a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

3. Army Regulation 15-185 (Army Board for Correction of Military Records) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The regulation provides that 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.

4. Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation) prescribes the Army Disability Evaluation System (DES) and sets forth policies, responsibilities, and procedures that apply in determining whether a Soldier is unfit because of physical disability to reasonably perform the duties of his office, grade, rank, or rating. It implements the requirements of Title 10, U.S. Code, chapter 61; Department of Defense Instructions (DoDI) 1332.18 (Disability Evaluation System (DES)); DoD Manuel 1332.18 (DES Volumes 1 through 3) and Army Directive 2012-22 (Changes to Integrated Disability Evaluation System Procedures) as modified by DoDI 1332.18.

a. The objectives are to maintain an effective and fit military organization with maximum use of available manpower; provide benefits to eligible Soldiers whose military service is terminated because of a service-connected disability; provide prompt disability evaluation processing ensuring the rights and interests of the Government and Soldier are protected; and, establish the Military Occupational Specialty Administrative Retention Review (MAR2) as an Army pre-DES evaluation process for Soldiers who require a P3 or P4 (permanent profile) for a medical condition that meets the medical retention standards of Army Regulation 40-501.

b. Public Law 110-181 defines the term, physical DES, as a system or process of the DoD for evaluating the nature and extent of disabilities affecting members of the Armed Forces that is operated by the Secretaries of the military departments and is composed of medical evaluation boards, physical evaluation boards, counseling of Soldiers, and mechanisms for the final disposition of disability evaluations by appropriate personnel.

c. The DES begins for a Soldier when either of the events below occurs:

(1) The Soldier is issued a permanent profile approved in accordance with the provisions of Army Regulation 40–501 and the profile contains a numerical designator of P3/P4 in any of the serial profile factors for a condition that appears not to meet medical retention standards in accordance with AR 40–501. Within (but not later than) 1 year of diagnosis, the Soldier must be assigned a P3/P4 profile to refer the Soldier to the DES.

(2) The Soldier is referred to the DES as the outcome of MAR2 evaluation. A Soldier whose request for regular retirement is approved is ineligible for referral to a MAR2. A MAR2 evaluation will retain a Soldier within their military occupational specialty (MOS), recommend reclassification of the Soldier's MOS or refer a Soldier for disability evaluation. The MAR2 refers a Soldier into the DES when the Soldier does not meet the medical requirements of their MOS and they do not qualify for an MOS transfer due to the Soldier's medical limitations.

d. A medical evaluation board is convened to determine whether a Soldier's medical condition(s) meets medical retention standards per Army Regulation 40-501. This board may determine a Soldier's condition(s) meet medical retention standards and recommend the Soldier be returned to duty. This board must not provide conclusions or recommendations regarding fitness determinations.

e. The physical evaluation board determines fitness for purposes of Soldiers' retention, separation or retirement for disability under Title 10, U.S. Code, chapter 61, or separation for disability without entitlement to disability benefits under other than Title 10, U.S. Code, chapter 61. The physical evaluation board also makes certain administrative determinations that may benefit implications under other provisions of law.

f. Unless reserved for higher authority, the U.S. Army Physical Disability Agency approves disability cases for the Secretary of the Army and issues disposition instructions for Soldiers separated or retired for physical disability. When an application at the Army Board for Correction of Military Records is referred to the U.S. Army Physical Disability Agency, that agency will review the applicant's record under the legacy DES process. The Office of the Surgeon

General is responsible for evaluating and determining the physical fitness of Soldiers under Army Regulation 40-501 (Standards of Medical Fitness).

g. Effective 19 January 2017, the DES legacy process will be used for Army Veterans referred to the DES by the Army Board for Correction of Military Records (ABCMR). The Secretary of the Army or designee approves requests for legacy processing on a case-by-case basis. The VA Form 21-0819 will not be used, to include cases referred by the ABCMR when the applicant does not have an active status in the U.S. Army. The VA will not conduct the examination upon which the MEB findings are based. Instead, the MEB convening authority will assign a physician or physicians to conduct the required examination(s). The examinations will meet the minimum criteria of the VA medical examinations. Medical conditions evaluated during the DES will solely consist of those conditions for which a P3/P4 profiles was approved and any other conditions which the physician conducting the MEB finds individually or in combination are not likely to meet medical retention standards. Cases referred by the ABCMR address conditions in the context of their status at the time of the Veteran's separation.

5. Army Regulation 40-501 (Standards of Medical Fitness) provides information on medical fitness standards for induction, enlistment, appointment, retention, retirement and related policies and procedures. Chapter 3 describes the various medical conditions and physical defects which may render a Soldier unfit for further military services. These medical conditions and physical defects, individually or in combination, are those that significantly limit or interfere with the Soldier's performance of duty; may compromise or aggravate the Soldier's health or well-being, if they were to remain in the military Service such as frequent clinical monitoring; may compromise the health or well-being of other Soldiers; and may prejudice the best interest of the Government if the individual were to remain in the military Service. Soldiers who do not meet the required medical standards will be evaluated by a medical evaluation board.

6. Army Regulation 635-200 implements DODI 1332.14 (Enlisted Administrative Separations dated 27 January 2014 incorporating Change 6, effective 1 September 2021) and DODI 1332.30 (Commissioned Officer Administrative Separations effective 11 May 2018 with Change 2 effective 22 May 2020). It is applicable to the Active Army, the Army National Guard/Army National Guard of the United States and the U.S. Army Reserve. This regulation sets policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance. It provides the authority for separation of Soldier upon expiration of term of service or fulfillment of active duty obligation. Chapter 4

provides for the separation of Soldier upon the expiration of their service obligations. Paragraph 4-4 (effective 19 December 2016) provides instructions for separating Soldiers serving on indefinite enlistments/re-enlistments who desire a voluntary separation, must submit their request through their special court-martial convening authority to the Commander, U.S. Army Human Resources Command. A Soldier will indicate the reason(s) for voluntary separation. If requests are approved, Soldiers will be separated under the provisions of this chapter, as they are considered to have fulfilled their active duty service obligation. A Soldier will receive a character of service of honorable, unless in an entry-level status and their service is then uncharacterized.

7. Army Regulation 600-8-22 (Military Awards) states the Iraq Campaign Medal is awarded to members who have served in direct support of Operation Iraqi Freedom (OIF). The Iraq Campaign Medal period of eligibility is on or after 19 March 2003 to a date yet to be determined. A bronze service star is authorized for wear with this medal for participation in each credited campaign. Approved campaigns include:

- Liberation of Iraq (19 March 2003-1 May 2003)
- Transition of Iraq (2 May 2003-28 June 2004)
- Iraqi Governance (29 June 2004-15 December 2005)
- National Resolution (16 December 2005-9 January 2007)
- Iraqi Surge (10 January 2007-31 December 2008)
- Iraqi Sovereignty (1 January 2009-31 August 2010)
- New Dawn (1 September 2010-31 December 2011)

//NOTHING FOLLOWS//