

IN THE CASE OF: [REDACTED]

BOARD DATE: 11 January 2024

DOCKET NUMBER: AR20230003787

APPLICANT REQUESTS: completion of Line of Duty (LOD) investigation for injuries sustained as a member of the [REDACTED] Army National Guard while conducting training at Fort Jackson, SC.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- DA Form 2173, Statement of Medical Examination and Duty Status
- Chronological Records of Medical Care
- Multiple Sick Call Slips
- DD Form 2216-E, Hearing Conservation Data
- DD Form 2215-E, Reference Audiogram

FACTS:

1. The applicant states she has two line of duty (LOD) injuries from the Army from 2020. She lost her hearing, and she has shoulder injuries. She has all medical documentation to provide evidence of this from her time down at Fort Jackson, SC. Once she was transferred to her unit at the 254th in Seagirt NJ, LOD paperwork was done incorrectly or not at all, so she lost coverage/treatment. She moved from Army to Air Guard in June of 2021 and her old Army injuries continue to come up and stop her from doing her regular work. Her Air Force team stated she needs to have her LOD's updated on the Army side appropriately so that she can get medical/TRICARE coverage for this hearing loss and shoulder issue. SFC (Sergeant First Class) [REDACTED] of the 254th IR in Seagirt, NJ, was negligent in his responsibilities to create LOD's for her and many other Soldiers under his watch/care. She is now ineligible for coverage for the injuries she sustained in the LOD in 2020 during her time in the Army. She wants all LOD's to be created and uploaded into all systems so that she can get TRICARE coverage for these injuries whether or not she is on active duty orders.

2. Review of the applicant's service records shows:

a. She enlisted in the [REDACTED] Army National Guard ([REDACTED] ARNG) for 8 years on 21 February 2020, with a medical waiver, in grade specialist (SPC)/E-4. She agreed to serve 6 years in the Selected Reserve and 2 years in the Individual Ready Reserve.

b. She entered active duty on 27 May 2020 and completed basic combat training. She was released from active duty on 7 August 2020. She was issued a DD Form 220, Active Duty Report, for this period of service.

c. She was assigned to the 2nd Battalion, 254th Regiment, Sea Girt, NJ. She was also either attached or assigned to the 508th Military Police Company, Teaneck, NJ.

d. The facts and circumstances surrounding her discharge are not available. However, on 23 June 2021, [REDACTED] ARNG (154th Quartermaster Company) published Orders 0001244070.00 separating her from the ARNG on 16 June 2021, in accordance with National Guard Regulation (NGR) 600-200 (Enlisted Personnel Management). The order does not list the reason for the separation.

e. Her records do not contain, and she does not provide, an NGB Form 22 (Report of Separation and Record of Service). However, NGB Form 23A, ARNG Current Annual Statement, shows she completed 1 year, 3 months, and 26 days of qualifying service.

3. The National Guard Bureau (NGB) provided an advisory opinion on 1 December 2023 in the processing of her case. An NGB advisory official restated her request for completion of Line of Duty (LOD) investigation for injuries sustained while conducting training at Fort Jackson, SC, and recommended approval.

a. Soldier requests initiation and completion of LOD investigation and determination per Army Regulation (AR) 600-8-4, Personnel-General - Line of Duty Policy, Procedures, and Investigations, dated 15 April 2004, section 5-4, to establish entitlement to medical care.

b. On 3 August 2020, [Applicant] was seen at a Fort Jackson, SC, Troop Medical Center (TMC) due to experiencing left shoulder pain, and numbness of both hands related to a ruck march while at basic training. Additionally, Soldier claims to have had an injury related to hearing while at a gun range at basic training.

c. AR 600-8-4, section 1-12, states that the CG, TRADOC (Training and Doctrine Command) will ensure LODs are initiated and completed for injury, illness, disease, or death on all initial entry training, advanced training, or reclassification Soldiers. AR 600-8-4 dated 15 April 2004, Section 2, paragraph 2-2 establishes the requirements for conducting line of duty investigation. It states that an LOD investigation will be conducted for all Soldiers, regardless of component, if the Soldier experiences a loss of duty time for a period of more than 24 hours and if the injury, illness, or disease is of

lasting significance which would need to be determined by military physician, physician assistant, or nurse practitioner.

d. Documents provided by the Soldier show that a DA Form 2173 was initiated by the company commander due to her left shoulder injury sustained while ruck marching at Fort Jackson. Additional medical documents also show that the Soldier was examined by medical physician at the TMC. Further medical visits to the TMC show that the Soldier's pain has continued to increase since the initial pain started, in addition to numbness on both arms and hands. Physician recommended following up with her medical provider once she returns to her Army National Guard unit.

e. Based on the evidence presented, this office supports the Soldier's claim to have her injuries be found in the line of duty. The injuries are related to her time in a period of active duty while in basic training at Fort Jackson, SC. As the Soldier is currently a member of the Air National Guard and not in the Army National Guard, this office recommends the Army Review Boards Agency make determination on the Soldier's LOD so that the determination can be added to her medical records.

f. The recommendation to support the Soldier's claim falls in line with AR 600-8-4 dated 15 April 2004, Section 2, paragraph 2-2 which is explained above. Additionally, the documents provided by the Soldier showed that an LOD was initiated, but not completed.

g. The Soldier's request for an LOD should be exempt from the current Personnel Policy Memorandum 17-022, and AR 600-8-4 which establishes a timeline (180 days) for Soldier's to request an LOD investigation.

h. The official recording of the investigation would provide the Department of Veterans Affairs whether the Soldier is eligible or ineligible for medical care as per the Soldier's claim.

i. The opinion of this office was coordinated with the assistance of the Army National Guard Bureau Line of Duty section.

4. The applicant was provided with a copy of this advisory opinion. She responded by email indicating she is in agreement with the advisory's information shared/opinion shared.

5. By regulation (AR 600-8-4), an injury, illness, or disease diagnosed while serving on active duty or in a duty status does not mean that the injury, illness, or disease was incurred while serving on active duty or that an EPTS condition was service aggravated. An expert medical opinion from an appropriate provider is required and must address when the condition was incurred if the condition existed prior to the current military

service and whether the condition was service aggravated. The mere fact that the Soldier was in an “authorized status” (duty, pass, leave, and so forth) does not necessarily support a determination of ILD in and of itself.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is warranted.

2. The Board concurred with the conclusion of the advisory official that the applicant incurred injuries while on active duty for training that warranted favorable LOD determinations, which, unfortunately, were not completed. The Board determined the applicant’s record should be corrected to show findings of “in line of duty – not due to own misconduct” for the left shoulder injury and hearing loss she incurred during her active duty training at Fort Jackson, SC.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
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■	■	■	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army and Army National Guard records of the individual concerned be corrected by showing she received findings of “in line of duty – not due to own misconduct” for the left shoulder injury and hearing loss she incurred while serving on active duty for training at Fort Jackson, SC, during the period 27 May 2020 through 7 August 2020.

4/1/2024

X

CHAIRPERSON

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.

REFERENCES:

Army Regulation 600–8–4, Personnel-General, Line of Duty Policy, Procedures, and Investigations, prescribes policies, procedures, and mandated tasks governing line of duty determinations of Soldiers who die or sustain certain injuries, illnesses, or diseases.

a. Paragraph 2-2, Requirements for line of duty investigations. LOD investigations determine duty status at the time of incident and whether misconduct was involved and, if so, to what degree. Additionally, LOD investigations may be required to determine an EPTS condition, and, if so, determine service aggravation. An LOD investigation will be conducted for all Soldiers, regardless of Component if the Soldier experiences a loss of duty time for a period of more than 24 hours and—

(1) The injury, illness, or disease is of lasting significance (to be determined by a physician, physician assistant, or nurse practitioner) (see para 5–4b for other guidance).

(2) There is a likelihood that the injury, illness, or disease will result in a permanent disability.

(3) If an RC Soldier requires follow-on care for an injury, illness, or disease incurred during a period of active duty.

b. An injury, illness, or disease diagnosed while serving on active duty or in a duty status as outlined in AR 638–8 does not mean that the injury, illness, or disease was incurred while serving on active duty or that an EPTS condition was service aggravated. An expert medical opinion from an appropriate provider is required and must address when the condition was incurred if the condition existed prior to the current military service and whether the condition was service aggravated. If an LOD determination has been made during a period of prior military service and the same condition arises in a subsequent period of military service, the prior determination will remain unchanged unless intervening events exist.

c. Paragraph 3–4. Line of duty determination: The final determination of an informal LOD investigation will only result in a determination of “ILD” except for EPTS. The mere fact that the Soldier was in an “authorized status” (duty, pass, leave, and so forth) does not necessarily support a determination of ILD in and of itself.

//NOTHING FOLLOWS//