

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 August 2024

DOCKET NUMBER: AR20230003977

APPLICANT REQUESTS:

- Be put on 60-day Medical Retention Determination Point (MRDP) Orders
- Completion of a final out physical
- Change his narrative reason for separation
- In effect, reinstatement of his security clearance
- Payment of monetary losses
- Reinstatement on active duty
- All promotions and compensations that were denied for erroneous reasons

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

- 3 x DD Forms 293 (Application for the Review of Discharge)
- Inspector General (IG) Action Request Form, 5 February 2014
- IG Action Request Form, 11 March 2014
- Security Clearance Verification, 23 December 2014
- DA Form 268 (Report to Suspend Favorable Actions (Flag)), 22 September 2016
- DA Form 268, 3 November 2017
- Letter from Office of the IG, 26 April 2019
- Centralized Intake Cover Sheet

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.
2. In regards to the applicant's request to, in effect, reinstate his security clearance, this is not before the purview of the Board. Therefore, this issue will not be discussed further in the record of proceedings.
3. The applicant indicated on his DD Form 293, 3 April 2023, the Board action requested was a change to his narrative reason for separation with the comment

"whistleblower reprisal-revoke". It is unclear what document he is requesting to have corrected. His DD Form 214 shows his narrative reason for separation was for completion of his required active-duty service and that he is eligible for reenlistment in the Army. His U.S. Army Reserve (USAR) discharge orders do not include the reason for separation. Furthermore, there is no documentation showing he was a whistleblower or received reprisal from being a whistleblower. Therefore, this issue will not be discussed further in the record of proceedings.

4. The applicant states, in his three applications:

a. He is asking the Board for 60-day MRDP orders at the Fort Benning Warrior Transition Battalion to receive the final out physical required for Soldiers transitioning to civilian status. He currently lives in Fort Mitchell, so no travel would be required. He expects to receive Judge Advocate General support this time.

b. The command was not authorized to override his college midterm schedule to complete the commander's responsibilities and threaten Uniform Code of Military Justice if he did not do their assigned tasks, while they did nothing unit related.

c. The command was not authorized to flag him for the reasons they claimed in accordance with Army Regulation 600-8-2 (Suspension of Favorable Personnel Actions (Flags)). The command ensured funding for schools for themselves at the expense of him stagnating with an illegal flag.

d. His last Congressional response instructed him to take any further questions to his reserve unit. An AR 15-6 investigation was started. Command Sergeant Major (CSM) R- is not allowed to conduct police investigations as a CSM, that is done with an AR 15-6 investigation and an appointed officer.

e. He is asking the Board for monetary losses sustained on active duty while he was ostracized of regulatory guidance. The IG office at Schofield Barracks lied to Congress in response to a Congressional inquiry. The IG office at Fort Shafter attempted to help him, while he was enduring whistle blower reprisal at Fort Benning, and his voice was silenced.

f. If this cannot be resolved, during 60-day orders, then he would like to be reinstated on active duty. He would like all promotions and compensations afforded that were denied to him for erroneous reasons.

g. With his records corrected and commanders reeducated on what is lawful/unlawful harassment, his clearance should be reengaged for making decisions on incorrect and inappropriate information, based on reprisal without any truth.

5. The applicant provides the following documents:

a. IG Action Request Form, opened on 5 February 2014 and closed on 10 June 2014 states, in pertinent part:

(1) Stated Allegation: on 21 February 2014, the 25th Infantry Division IG office received a referred case from the U.S. Army Pacific (USARPAC) IG office. The case was one of several submitted by the applicant. This case was in reference to the applicant not receiving a certificate of nonavailability (CNA) to reside off post, when he arrived to Schofield Barracks, HI in early 2010.

(2) Discussion: The applicant said the living space he was being moved into did not meet the minimum standard of acceptable space for a person of his grade, at the time (sergeant). He therefore signed a lease for quarters off post and then submitted paperwork to receive a CNA. The applicant's battalion level commander stopped the process and did not submit the request any higher through the request chain to the approving authority. The applicant felt he did not receive due process, when the paperwork was stopped and wanted to receive the basic allowance for housing he thought he should have received from May to December 2010.

(3) The preponderance of credible evidence indicated the applicant was not authorized to receive a CNA due to pre-deployment guidance to personnel residing off post. Also, the command did not have to submit the applicant's request for a CNA to the approval authority because of the guidance put out by the complainant's command. The entire form is available for the Board's review.

b. IG Action Request Form, opened and closed on 11 March 2014, states in pertinent part, the applicant contacted the USARPAC Assistant IG via email about the handing of his case by the 25th Infantry Division IG. The applicant was not satisfied with the decision to close his case due to the measurement of his room received by a Single Soldier Barracks noncommissioned officer (NCO) which the applicant viewed to be incorrect. He also stated the IG would not address how or what was done about the previous IG visits he made to the 25th Infantry Division IG office. That was not recorded and he wanted to know if he had a case for discrimination for another Soldier he was aware of that received an exception to policy for residing off post that was submitted and approved, after his request was stopped by the chain of command. The IG emailed the applicant and provided him information for how to complete a Freedom of Information Act request for his case notes. The IG explained cases for discrimination would be completed through his local equal opportunity office and the IG reassured him that issues regarding insufficient IG support were reported through the appropriate channels. The entire form is available for the Board's review.

c. Memorandum for Record, Security Clearance Verification, 23 December 2014, states the applicant's secret security determination was in the process and nothing further was required by the applicant.

d. A DA Form 268, 22 September 2016, shows he was not on active duty and was flagged for a security violation. There is no information regarding what the security violation was.

e. DA Form 268, 3 November 2017, shows he was not on active duty and was flagged for a security violation. There is no information regarding what the security violation was.

f. Letter from the Office of the IG, 26 April 2019, states

(1) They had received the applicant's request for action to the Department of Defense (DoD) Hotline on 3 January 2019. They requested a formal IG action request from the applicant on 8 April 2019 to clarify and specify what he was asking the IG to do. To date, they had not received an IG Action Request. They had received emails from him on three occasions. Those emails had attachments relating to a variety of matters. One email provided background regarding a housing issue worked by the 25th Infantry Division IG in 2014. In a second email he referred to a flag he considered illegal imposed on him by the 1001st Civil Affairs and Psychological Operations Company Commander while he was assigned to the 1st Training Brigade in January 2018. Also attached were documents related to a criminal allegation against him while he was assigned to the Warrior Transition Unit at Fort Benning, Georgia during the 2014 time frame. A third email provided an attachment, which was a memorandum from the Commander, 1001st Civil Affairs and Psychological Operations Company, notifying him of administrative changes made to a commander's report of separation.

(2) The IG would not investigate matters that had already been addressed. Also it is not appropriate for the IG to handle matters which have their own means of redress. The issue of the commander's flag had previously been addressed in an IG case. The separation action by the commander was not subject to IG review. Accordingly, they had closed his case and would take no further action.

6. The applicant's service record contains the following documents:

a. DA Form 4 (Enlistment/Reenlistment Document) shows he enlisted in the Regular Army (RA) and entered active duty on 28 September 2005. He remained in the RA through immediate reenlistment.

b. A memorandum of reprimand, 25 February 2008, shows he was reprimanded for driving under the influence of alcohol on or about 11 November 2007. On 4 March 2008,

he acknowledged receipt of the reprimand and elected not to submit matters. His battalion and brigade commanders recommend the reprimand be filed in his official military personnel file (OMPF). His company commander recommended the reprimand be filed locally. On 10 April 2008, the issuing authority ordered the reprimand be filed in his OMPF.

c. His Enlisted Record Brief shows on 1 March 2014, he was assigned as the Operations NCO of the Warrior Transition Unit at Fort Benning.

d. Orders 351-2210, published by Headquarters, United States Army Garrison, Fort Benning, 17 December 2014, honorably discharged the applicant, while assigned to the Warrior Transition Unit, from the Regular Army effective 4 April 2015. He was required to either undergo a physical examination prior to separation or have a completed DD Form 2697 (Report of Medical Assessment) prior to his expiration term of service (ETS).

e. Request for Reserve Component Assignment Orders, 29 December 2014, shows he had accepted assignment with the 1001st Civil Affairs and Psychological Operation Company, a U.S. Army Reserve (USAR) unit upon completion of his active service, unless sooner authorized. His terminal leave start date was 4 January 2015 and his ETS was 4 April 2015. He had a remaining military service obligation of 6 years.

f. DD Form 4 shows he enlisted in the USAR on 29 December 2014.

g. DD Form 214 shows he was honorably transferred from the Regular Army to the 1001st Civil Affairs and Psychological Operation Company on 4 April 2015. He was released from active duty for completion of required active service under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), chapter 4, in the rank of staff sergeant/E6. He completed 9 years, 6 months and 7 days of net active service this period. He had service in Iraq from 28 June 2010 through 22 June 2011 and from 21 June 2006 through 21 September 2007. His DD Form 214 shows he had a reentry code of 1, which makes him fully eligible to reenlist in the Army.

h. Orders 18-274-00011, published by Headquarters, 99th Readiness Division (USAR), 1 October 2018, honorably discharged him from the USAR on 1 October 2018. There was no indication on the orders the purpose of his discharge.

i. The applicant's service record is void of DA Forms 268 (Report to Suspend Favorable Personnel Actions).

j. The applicant's service record is void of an IG investigation or an AR 15-6 investigation. There is no evidence that he made a whistleblower complaint or that there was reprisal against him due to the complaint.

k. There is no information in his service record regarding his service in the USAR, other than his discharge order, or why he was discharged from the USAR.

l. There is no indication in the available records that he was recommended or selected for promotion to a higher grade than staff sergeant/E6.

m. The applicant's service record is void of an out-processing physical examination or a DD Form 2697.

n. It is unclear what monetary compensation the applicant believes he is entitled to while on active duty.

5. On 16 May 2023, the U.S. Army IG responded to a request from the Army Review Boards Agency for information regarding records pertaining the applicant. The IG provided records of IG requests from the applicant between 2014 and 2019, all of which are available for the Board's review. However, the IG action requests pertinent to the applicant's request to the Board are as follows:

a. An IG Action Request form opened on 21 February 2019 and closed on 29 March 2019, shows the problem area was flagging action, hostile work environment, and open door policy. The applicant was assigned to 1st Training Brigade, Civil Affairs and Psychological Operations Command and alleged Captain (CPT) A- G- and Colonel (COL) R- created a hostile working environment, improperly flagged him, and impeded his progress to see the commanding general through the open-door policy. The IG could not find the applicant in the Defense Personal Property System or the Global Address List. The complaint was not being referred for any senior official or reprisal matter. It was related to another case in their system and the case had been sent for peer review. The case was referred to U.S. Army Forces Command and accepted. There is no information regarding the disposition of the case.

b. An IG Action Request form opened on 29 March 2019 and closed on 3 April 2019 shows the problem was flagging action, hostile work environment, and open-door policy. The applicant was assigned to 1st Training Brigade, Civil Affairs and Psychological Operations Command and alleged CPT A- G- and COL R- created a hostile working environment, improperly flagged him, and impeded his progress to see the commanding general through the open door policy. The IG could not find the applicant in the Defense Personal Property System or the Global Address List. The complaint was not being referred for any senior official or reprisal matter. It was related to another case in their system and the case had been sent for peer review. The case was reviewed and determined it should be referred to USAR Command (USARC) IG.

c. An IG Action Request form opened on 1 April 2019 and closed on 2 April 2019 shows the problem was flagging action, hostile work environment, and open-door policy.

(1) The applicant was assigned to 1st Training Brigade, Civil Affairs and Psychological Operations Command and alleged CPT A- G- and COL R- created a hostile working environment, improperly flagged him, and impeded his progress to see the commanding general through the open-door policy.

(2) The USARC IG accepted the case and reviewed the complaint along with subsequent documentation. The IG conducted further analysis and determined the case should be referred to US Army Civil Affairs and Psychological Operations Command (USACAPOC) IG for appropriate disposition as the applicant was previously assigned to 1001st Civil Affairs Company. The case was accepted by USACAPOC IG. Lieutenant Colonel (LTC) U- the USACAPOC IG accepted the case.

(3) The interactive Personnel Electronic Records Management System showed the applicant was discharged on 1 October 2018. CPT A- G- was assigned to USAR Control Group effective 1 August 2018 and COL R- was unable to be identified based on the information provided.

(4) On 2 April 2019, the USARC IG sent an email to the applicant informing him his case had been referred to the USACAPOC IG office for action.

(5) On 7 April 2019, the applicant responded stating, LTC U- said everything was fine and there was no conspiracy the first time he spoke to her. And now the IG had chosen to send his case to a known sexist liberal that didn't care about the rights of men. Good job. One more open feminist/sexist to deal with in his journeys through the DoD. Garbage sexist personnel are still sexist personnel. You liberals are garbage on purpose, not accident. [LTC U-] is well aware of the paperwork that stops all this, lets see what she lies about this time. The DoD is a sexist organization that cherishes ignoring the rights of individuals as long as they are men. LTC U- cannot handle a spot correction flag and have them removed before they move onto the next phase of separation. She is a sexist and he needed a less politically driven human to handle American civil rights. He had the same as her as far as rights. He did not care about political affiliations, but they better get his rights correct.

(6) On 8 April 2019, the USARC IG sent an email to the applicant stating they had received his email correspondence from 7 April 2019. As previously stated, if he had questions in reference to his case, he could follow up with the USACAPOC IG office.

(7) On 8 April 2019, the applicant called the USARC IG to discuss his concerns with USACAPOC working his case. The IG conducted teaching and training on the DoD IG referral process in reference to all IG cases. She further explained why and how the current case was referred to USARC and later referred to the USACAPOC IG. The applicant went on to explain that he filed several complaints with DoD IG and seemed

confused about why the current case was referred to USACAPOC IG. The IG re-explained why USACAPOC was the appropriate office to action the current complaint. The applicant informed the USARC IG of previous issues and incidences surrounding why his security clearance was revoked (supposedly related to a rape allegation not properly removed from his record prior to leaving the active component). He believes steps were not properly followed in reference to the Sexual Harassment/Assault Response and Prevention (SHARP) incident, USAR Separation, and security clearance rebuttal process. He also mentioned he previously went to the Fort Benning IG related to the SHARP incident and Fort Shafter IG reference a housing issued. The USARC IG attempted to determine what he wanted from the USARC IG since he called knowing his case was referred to USACAPOC. He still did not provide a clear answer, but eventually agreed to give USACAPOC IG a change to do the right thing (by his standards).

(8) On 8 April 2019, the USARC IG contacted Mr. K-, USACAPOC IG office, to discuss the applicant's issues/allegation. Mr. K- explained he had spoken with the applicant, but still did not get a clear answer as to what he wanted from the IG. The DoD hot line was not very clear with identifying issues and allegations. The USARC IG shared a summary of her conversation with the applicant and Mr. K- stated he would provide an IG Action Request form for the applicant to complete to hopefully be more specific when presenting issues/allegation. Mr. K- stated if the form did not provide that information, his office would prepare to close the case.

(9) Email from the applicant to USARC IG, 10 April 2019 forwarded to USACAPOC IG, states SHARP command denies the applicant was sexually assaulted because the resources already were given to the female and she had received disability compensation before court findings (general bias) USACAPOC SHARP just wrote nothing down and said it was too old and it is what it is because it has been reviewed. That is not the truth, but that was their claim. Hopefully the IG would catch their pattern of ostracizing. How about trying this, ask him what he had attempted thus far, then tell him where to go. Unfortunately, there is no any internal SHARP complaint process because it is perfect and incorruptible. All admin actions go through the IG per SHARP's website.

(10) On 10 April 2019 the USARC IG responded stating in response to his email reference desiring to make a SHARP statement, matters that are SHARP related are not IG appropriate. He was given the point of contact for the USACAPOC SHARP office.

(11) Email from Mr. K-, 12 April 2019 to USARC IG states the applicant had not responded to an email sent on 8 April 2019 wherein Mr. K- requested an IG request form from the applicant explaining the allegations and issues. The applicant would be given another week then the case would be closed.

d. An IG Action Request form opened on 1 April 2019 and closed on 26 April 2019 shows the problem was flagging action. The IG was Mr. K- USACAPOC IG.

(1) The applicant, formerly a Troop Program Unit staff sergeant assigned to 1st Civil Affairs and Psychological Operations Training Brigade, USACAPOC, used the DoD IG hotline on 3 January 2019 to complain about his former commander's actions against him.

(2) His complaint was not clear; it referred to a hostile environment in the 1st Training Brigade. He identified CPT G-, the company commander, as the responsible official. Telephonic conversation with the applicant indicated he was very upset that the USACAPOC IG had received the case. He made a number of derogatory comments about the IG office, the IG community in general, and the USACAPOC staff.

(3) He did not submit an IG Action Request form and made no consent for them to use his personal information or evidence he sent emails which referred to issues in his past to include criminal allegations against him in 2014. He also provided background regarding an IG case he made to the 25th Infantry Division office in 2014 regarding a problem he was having with military housing. He also sent an email indicating that his issue was the flag and separation action against him by the commander of the 1st Training Brigade in January 2018. The IG advised him they would not be able to work issues that were not timely and that they would not reinvestigate issues that had already been decided. He had a previous IG assistance case regarding his flag. The IG working that case researched the matter and provided the commander input regarding the flag and separation action. The commander decided to separate him administratively under Army Regulation 135-17[8] (Enlisted Administrative Separations), chapter 14 (Separation for Other Reasons). In this case, there were no further actions appropriate for the IG. He was afforded the opportunity for a board and for an appeal. The IG closed that case. In this case the IG found no new or different issues. It was not appropriate for them to keep the case open. The IG prepared a written response to the applicant and closed the case on 26 April 2019. The entire case is available for the Board's review.

e. The IG investigations do not substantiate or unsubstantiate the applicant's claims. They did not provide an investigation regarding the applicant being a whistleblower or that there was reprisal due to his whistleblower status.

6. Based on the applicant's assertion he did not receive a separation physical and the IG investigations indicating his request for MRDP Orders, the medical staff at ARBA will provided a medical review for the Board's consideration.

7. MEDICAL REVIEW:

a. The Army Review Boards Agency (ARBA) Medical Advisor was asked to review this case. Documentation reviewed included the applicant's ABCMR application and accompanying documentation, the military electronic medical record (EMR: AHLTA and/or MHS Genesis), the VA electronic medical record (JLV), the electronic Physical Evaluation Board (ePEB), the Medical Electronic Data Care History and Readiness Tracking (MEDCHART) application, and/or the Interactive Personnel Electronic Records Management System (iPERMS). The ARBA Medical Advisor made the following findings and recommendations:

b. The applicant has applied to the ABCMR requesting to be placed on 60-day MRDP orders to he may "receive the 'Final Out' physical required for all Soldiers transitioning to civilian status."

c. The Record of Proceedings details the applicant's military service and the circumstances of the case. His DD 214 for the period of Service under consideration shows he entered the regular Army on 28 September 2005 and was honorably discharged on 4 April 2015 at the completion of his required active service under authority provided in chapter 4 of AR 635-200, Active Duty Enlisted Administrative Separations (17 December 2009).

d. Paragraph 8-24 of AR 40-501, Standards of Medical Fitness (23 August 2011), is titled "Separation and retirement examinations." Paragraph 8-24a:

"a. AC [active component] and AGR [active guard reserve] Personnel (Title 10 or 32) Soldiers separating from the Army will be given a medical interview using DD Form 2697. The interview will be conducted by a physician, physician assistant, or nurse practitioner to document any complaints or potential service-related (incurred or aggravated) illness or injury. The Soldier must acknowledge with his or her signature in block 19 of the form that the information provided is true and complete. This form will be filed in the health record."

e. The then senior noncommissioned officer's discharge orders were published on 17 December 2014 with 4 April 2015 as his date of discharge unless changed or rescinded. Bullet (E) directed the then senior noncommissioned officer:

"(E) YOU ARE REQUIRED TO EITHER UNDERGO A PHYSICAL EXAMINATION PRIOR TO SEPARATION OR HAVE A COMPLETED DD FORM 2697 (REPORT OF MEDICAL ASSESSMENT) PRIOR TO ETS."

f. The EMR shows the then senior noncommissioned officer had access to and utilized Army health facilities after the publication date on his discharge orders but failed to obtain a separation health interview or examination in the 109 days between publication of his orders and his date of discharge.

g. It is the opinion of the ARBA medical advisor that the applicant had adequate time in which to obtain a separation health examination or interview following the publication of his discharge orders, that he failed to obtain this as directed by his orders, and that his request for such an examination more than 9 years after his separation should therefore be denied.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the request and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's request, available military records and medical review, the Board concurred with the advising official finding the applicant had adequate time in which to obtain a separation health examination or interview following the publication of his discharge orders. The opine noted the applicant failed to obtain this as directed by his orders, and that his request for completion of a final out physical examination more than 9 years after his separation should therefore be denied.

2. The Board determined there is insufficient evidence to support the applicant's request to be put on 60-day Medical Retention Determination Point (MRDP) Orders and that reinstatement on active duty is without merit. The Board concluded there was insufficient evidence of an error or injustice which would warrant a change in the applicant's narrative reason for separation. Furthermore, the Board found the highest rank held by the applicant was staff sergeant, the applicant's record is void any promotion consideration or orders promoting the applicant to a higher rank that supports his contentions for compensations that were denied for erroneous reasons. The Board noted, there is no evidence of any monetary losses as indicated by the applicant. Based on the preponderance of evidence, the Board denied relief.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
■	■	■	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

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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:

1. Title 10, U.S. Code, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. Army Regulation (AR) 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity, which is that what the Army did was correct. The ABCMR is

not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

3. AR 635-200 (Active Duty Enlisted Administrative Separations), 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. It states:

a. Commanders will ensure that Soldiers initiated for separation under this regulation who are required to obtain a physical examination obtain such.

b. Chapter 4 is (Separation for Expiration of Service Obligation), a Soldier will be separated upon expiration of enlistment or fulfillment of service obligation. Personnel who are physically unfit for retention but who were accepted for, or continued in, military service will not be separated because of ETS unless processing for separation because of physical disability is waived. There is no provision for a physical examination for Soldiers who ETS from the Army.

4. AR 635-8 (Separation Processing and Documents), prescribes the separation documents that must be prepared for Soldiers upon retirement, discharge, or release from active-duty service or control of the Active Army. It establishes standardized policy for preparing and distributing the DD Form 214. The entry in Block 28 (Narrative Reason for Separation) is based on regulatory or other authority and can be checked against the cross reference in AR 635-5-1 (Separation Program Designator Codes).

5. AR 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD code to be entered on the DD Form 214. It identifies SPD code KBK as the appropriate code to assign to enlisted Soldiers who are discharged under the provisions of chapter 4 of AR 635-200, separated due to completion of required active service.

6. AR 601-210 (Regular Army and Reserve Components Enlistment Program) table 3-1 (U.S. Army reentry eligibility codes) states:

a. RE-1: Applies to: Person completing his or her term of active service who is considered qualified to reenter the U.S. Army.

b. RE-3: Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation or disqualification is waiverable.

c. RE-4: Applies to: Person separated from last period of service with a nonwaiverable disqualification.

d. RE-4R: Applies to: A person who retired for length of service with 15 or more years active federal service.

7. AR 40-501 (Standards of Medical Fitness) governs medical fitness standards for enlistment, induction, and appointment and for retention and separation, including retirement. It states Soldiers who have on or more condition(s) that do not meet medical retention standards are referred to a medical evaluation board/physical evaluation board after attaining the MRDP. The MRDP is when the Soldier's progress appears to have medically stabilized; the course of further recovery is relatively predictable; and where it can be reasonably determined that the Soldier is most likely no capable of performing the duties required of his military occupational specialty, grade, or rank.

8. AR 600-8-2 (Suspension of Favorable Personnel Actions (Flag)) prescribes Army policy for the suspension of favorable personnel actions (Flag) function of the military personnel system. It states (Circumstances requiring a nontransferable Flag) A Soldier flagged under the provisions of this paragraph may not be reassigned to another unit unless specifically authorized by this regulation. Examples of circumstances requiring nontransferable Flags include, but is not limited to:

- Commander's investigation
- Law enforcement investigation
- Adverse actions
- Involuntary separation or discharge
- Pending removal or consideration for removal from a command, promotion, or school selection list
- Referred Officer Evaluation Report or Relief for Cause Noncommissioned Officer Evaluation Report
- Security violation which include repetitive security violations, matters related to investigation of national security crimes, or revoked or denied security clearance

9. Title 31, U.S. Code, section 3702, also known as the Barring Statute, prohibits the payment of a claim against the Government unless the claim has been received by the Comptroller General within 6 years after the claim accrues. Among the important public policy considerations behind statutes of limitations, including the 6-year limitation for filing claims contained in this section of Title 31, U.S. Code, is relieving the Government of the need to retain, access, and review old records for the purpose of settling stale claims, which are often difficult to prove or disprove.

10. Title 10, U.S. Code, section 1556 requires the Secretary of the Army to ensure that an applicant seeking corrective action by the Army Review Boards Agency (ARBA) be

provided with a copy of any correspondence and communications (including summaries of verbal communications) to or from the Agency with anyone outside the Agency that directly pertains to or has material effect on the applicant's case, except as authorized by statute. ARBA medical advisory opinions and reviews are authored by ARBA civilian and military medical and behavioral health professionals and are therefore internal agency work product. Accordingly, ARBA does not routinely provide copies of ARBA Medical Office recommendations, opinions (including advisory opinions), and reviews to Army Board for Correction of Military Records applicants (and/or their counsel) prior to adjudication.

//NOTHING FOLLOWS//