

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: ██████████

BOARD DATE: 20 February 2024

DOCKET NUMBER: AR20230007369

APPLICANT REQUESTS: reentry code to be changed from “RE-3” to “RE-1.”
Alternatively, reconsideration of his previous request for a medical discharge.

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

- DD Form 149 (Application for Correction of Military Record)
- Counsel brief in support of application, undated
- Orders 070-138 MD-STARC-ARP, Promotion Officer Candidate E-6, 5 May 2003
- 5 Washington Adventist Hospital documents, 14 October 2003
- Discharge instructions, 14 October 2003
- University of Maryland (MD), Report of Cognitive Evaluation, 22 October 2003
- Record of Disenrollment from Officer Candidate - Type Training, 18 November 2003
- Orders 176-068, 19 November 2003
- NGB Form 22 (Report of Separation and Record of Service), 10 September 2004
- Orders 274-082, 30 September 2004
- University of MD Psychology Assessment Report, 30 July 2015

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20050008061 on 2 March 2006.

2. The applicant states through counsel he enlisted in the Maryland Army National Guard (MDARNG) on 31 July 2002. The applicant had designs of becoming a commissioned officer while in the MDARNG. On 5 May 2003, the applicant was promoted to the rank of Officer Candidate E-6. As part of his requirement to commission, the applicant agreed that he must attend basic training prior to enrolling in State Officer Candidate School (OCS), and that if he failed to complete OCS, he would be ordered to advanced individual training (AIT) or discharged.

a. While the applicant was attending OCS, he was involved in a bicycle accident on 14 October 2003. The accident resulted in significant injuries to the applicant's face. He

sustained a laceration above his right eye, acute maxillary sinus fracture, and injuries to his right shoulder and right knee. Further evaluation determined that the applicant suffered a fracture of the anterior lateral wall of the right maxillary antrum and blood in the right maxillary antrum and the appearance of a fracture of the posterolateral wall of the right maxillary antrum.

b. Shortly following the accident, the applicant began to suffer from an inability to concentrate which had a significant impact on his ability to successfully complete OCS. The applicant was examined by the University of Maryland Department of Psychology on 22 October 2003 and 27 October 2003. The report from these evaluations state that although the applicant reported a history of problems with attention and concentration dating back to junior high school, these issues never led to academic issues in high school, college, or law school. The report also states that although the applicant was never formally tested, he was diagnosed with Attention Deficit Hyper Disorder (ADHD) by a psychiatrist a year prior and was prescribed Dexedrine. The applicant expressed concerns that he would not be able to perform academically and explained that he could concentrate for short periods of time but was easily distracted during both academic and work-related tasks. The applicant stated that he would like to continue utilizing stimulant medications to improve his academic performance and believed he needed academic accommodations to maximize his ability to succeed in school.

c. The psychoeducational testing found that the applicant tested in either the superior range or normal range for each test category, except for processing speed. The report states that the applicant's processing speed results were "significantly below expectations based on general verbal and visual aptitude." The testing found that the applicant did not meet the criteria for ADHD but did meet the criteria for a learning disability, not otherwise specified.

d. After conferring with his chain of command regarding the applicant's struggles, the joint decision was made that the applicant would be separated from OCS due to his medical issues. The applicant was disenrolled from OCS on 18 November 2003 due to a voluntary resignation.

e. Counsel argues a material error was made. It is respectfully submitted that the applicant's chain of command made an error in discretion when they assigned him a RE-3 reentry code. Although waivable, these reentry codes make it extremely difficult for a Soldier to continue with their military career later. Additionally, an RE-3 code is most commonly assigned to Soldiers with significant disciplinary issues that led to their separation. In this instance, the applicant was injured due to a freak accident. He possessed the requisite dedication, personal drive, and character traits to succeed in the Army as an officer. Unfortunately, his lingering physical injuries impeded his ability to complete his coursework at the time, which led to his premature discharge from the Army. The applicant had the potential to recover from his accident enough that he would

be able to reenter the military and continue his service later. Unfortunately, the applicant's chain of command ended that possibility by assigning him a RE-3 reenlistment code.

f. Here, the applicant's chain of command made an error in discretion that has improperly prejudiced the applicant. Not only did he have his military career unceremoniously ended in 2003, but his command ensured that he would not be able to continue serving his country even if he completely recovered from his horrific accident. This decision reeks of a personal bias against the applicant for getting injured during training. The applicant now seeks to rectify this error and correct his military records.

g. Counsel argues material injustice stating the applicant continue to be unjustly stigmatized by his reentry code and separation from the Army. As previously stated, a RE-3 entry code is typically given to Soldiers who had serious defects in their conduct. As such, the assignment of this reentry code tends to impugn an individual's character and cause others to question the reason for their separation from the Army whenever a DD Form 214 is presented. Here, the applicant was not engaged in any misconduct that resulted in his discharge. Nevertheless, the applicant has still experienced undue misjudgment about his Army service because of his separation paperwork. This clearly has caused him unjust treatment and, will continue to hinder him in the civilian world until his records are corrected.

h. Additionally, the applicant continues to have physical limitations because of the accident. He suffers from memory issues, concentration issues, and sleep issues. These problems have adversely impacted every aspect of the applicant's life since his discharge from the Army. Further, the applicant still has lingering issues with his speech when he is overworked or stressed. The applicant has drafted a personal statement wherein he explains that he was unable to find a decent job and he had to file for Chapter 7 bankruptcy in 2004. The bankruptcy was due to the medical and financial hardships he was enduring directly related to his military service.

i. In this scenario, the injustice to the applicant is obvious. He was injured during training at no fault of his own. As a result of these injuries, the applicant lost his future in the Army, had any chance of continuing his service in a different branch taken away, and still suffers from the injuries he received during training. These injuries have reduced the applicant's overall quality of life. He has experienced significant hurdles with employment, and he is unable to enjoy physical hobbies he previously enjoyed. The applicant now petitions this honorable board to correct his military records and remove this indelible stain from his military records.

j. In conclusion, counsel states considering the facts and arguments presented herein, the applicant requests that his military records are changed to correct his military records from a reentry code of "RE-3" to "RE-1." Alternatively, the applicant requests

that his military records are adjusted to reflect that he was medically discharged from the United States Army. The applicant has been the victim of both a material error of discretion and a material injustice. He has lived with these errors for two decades and now finally seeks redress and to restore his honor.

3. The applicant enlisted in the MDARNG on 31 July 2002.

4. DD Form 220 (Active Duty Report) shows the applicant entered active duty on 6 January 2003. He departed from his duty station to home on 13 March 2003.

5. He was promoted to Office Candidate E-6 on 9 May 2003. He entered OCS on 10 May 2003.

6. The applicant provides:

a. Washington Adventist Hospital documents showing he was seen on 14 October 2003 due to a bicycle accident. He suffered lacerations, contusions, and a fracture of the anterolateral wall of the right maxillary antrum (cheekbone/sinus area) and the appearance of a fracture of the posterolateral wall of the right maxillary antrum. The hospital notes also note the applicant was not wearing a helmet.

b. Discharge instructions, 14 October 2003, shows he received facial and scalp contusions, facial bone fracture. His discharge instructions show:

- closed head injury precautions
- suture removal in 7 days
- follow-up with private Ear, Nose and Throat physician in 2-3 days
- take pain medication as needed
- return if problems or worsening symptoms

c. University of Maryland (MD), Report of Cognitive Evaluation, 22 October 2003, shows the following recommendation were made:

1. The applicant meets DSM IV criteria for a learning disability, not otherwise specified, specific to processing speed (315.9). It is recommended that he continue to seek support from Disability Support Services to receive testing accommodations that will maximize his performance. He should receive additional time for completion of assignments and examinations as well as a private testing room.

2. While he has found it helpful to take stimulant medications in the past, he does not meet formal DSM IV criteria for ADHD. It is possible this medication benefit was due to an increase in cognitive processing speed, rather than increased ability to pay

attention. It is recommended that he speak with his physician about the benefits and risks of continuing his medication regimen.

3. He reported insomnia, but it does not appear that he has ever received a formal sleep evaluation. It is recommended that the patient receive a formal sleep evaluation to assess his complaints of chronic insomnia. It is further recommended that he receive a more proactive form of treatment for his sleep problems (rather than "as needed" over the counter remedies, which can be addictive).

7. DD Form 785 (Record of Disenrollment from Officer Candidate – Type Training) shows he was disenrolled on 19 November 2003 due to voluntary resignation. Section IV – Evaluation to be Considered in the Future for Determining Acceptability for Other Officer Training shows highly recommended.

8. He was reduced to specialist E-4 effective 20 November 2003.

9. Orders 274-082, issued by Joint Force Headquarters, Baltimore, MD, on 30 September 2004, shows the applicant was to be discharged from the MDARNG on 30 September 2004 with a reenlistment code of RE-3 and a character of service of uncharacterized.

10. Accordingly, on 30 September 2004, he was discharged from the MDARNG under the provisions of National Guard Regulation (NGR) 600-200 (Enlisted Personnel Management), chapter 8, paragraph 26g (3) (Defective enlistment agreement) with an uncharacterized character of service. His reenlistment eligibility shows RE-3.

11. In the processing of his previous case (AR20050008061) the Board determined the evidence presented did not demonstrate the existence of a probable error or injustice. Therefore, the Board determined that the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned. His request was denied.

12. The applicant provides University of MD Psychology Assessment Report, 30 July 2015, which concludes from the clinical interview, psychoeducational evaluations, and behavioral observations indicate that the applicant does not meet DSM 5 criteria for any diagnoses. However, to ensure that he maintains his current level of achievement, we recommend:

- Continued accommodations at work
- Additional accommodations
- The entire assessment report is available for the boards review

13. During the processing of this case an advisory opinion was received by National Guard Bureau. The advisor recommended disapproval. The discussion of the advisory states:

a. The applicant enlisted in the Maryland Army National Guard on 31 July 2002 and completed basic training in March 2003. He was to commission through the state Officer Candidate School. While the applicant was attending OCS, he was involved in a bicycle accident on 14 October 2003. During treatment for the injuries, he was diagnosed with a learning disability and did not successfully complete OCS. He was disenrolled from OCS on 18 November 2003 for voluntary resignation.

b. The applicant claims that his RE-3 reentry code should be corrected to RE-1 because the RE-3 code is most commonly assigned to Soldiers with significant disciplinary issues that lead to their separation. His separation was due to a medical issue. He claims that he has the potential to recover from this accident and could reenter the military and continue his service later, but the RE-3 reentry code bars him from serving again, or at least makes it extremely difficult because he would need a waiver. He claims that his chain of command made an error using this code and was made based on bias. He has not engaged in any misconduct but his DD Form 214 causes other to question the reason for his separation due to the RE-3 code.

c. According to NGR 600-200, paragraph 6-10, service will be described as uncharacterized if separation processing is initiated while a Soldier is in an entry level status. Additionally, according to AR 601-210, paragraph 3-20, RE-1 code applies to persons completing his or her term of active service who are considered qualified to reenter the U.S. Army. RE-3 code applies to persons who are not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waivable.

d. Based on the applicant's claims and the documents he provided in support of his request; this office recommends disapproval. The applicant was separated effective 30 September 2004 as Uncharacterized/RE-3 by reason of Defective Enlistment. NGR 600-200, paragraph 6-10 advises that all Entry Level Separation be categorize as "Uncharacterized". The memorandum from the Army G-1 clearly defines Entry Level Status regarding the term in AR 635-200 to include a Reserve Component Soldier who is not on active duty or who is serving under a call or order to active duty for 365 days or less begins entry-level status upon enlistment in a Reserve Component. The applicant completed Basic Training in March 2003, as reflected on his DD Form 220, but never finished OCS or attended AIT. Therefore, he remained in an entry level status. In this case, the RE-3 code applies because he was separated for medical reasons, and he will need a waiver when he reenlists.

e. The Army National Guard Enlisted Policy Branch concurs with this recommendation. The Maryland Army National Guard concurs with this recommendation.

f. On 19 January 2024, the advisory was sent to the applicant and given an opportunity to respond to the advisory opinion.

14. Counsel provided a responded to the advisory on 8 February 2024, wherein he states the author of the advisory opinion recommends disapproving the applicant's request to change his reentry code from "RE-3" to "RE-1" because the applicant was discharged with an Entry Level Separation due to medical reasons.

a. Although the advisory opinion accurately notes that the applicant was discharged due to medical reasons, the applicant's ailments were temporary and have long since ceased. The applicant was injured in a bicycle accident while attending OCS. In addition to his physical injuries, he had difficulties concentrating, which impacted his ability to successfully complete OCS. This led the applicant to decide to voluntarily resign his commission.

b. In the instant case, the applicant's injuries occurred many years ago and have long since healed. The Applicant is able and eager to explore the opportunity to serve his country. If he is permitted to reenter the military, he will still be subject to a thorough physical during the MEPS screening process. If the applicant has any lingering medical issues, these conditions will assuredly be discovered during the MEPS process.

c. The applicant's RE-3 reentry code now only serves to improperly stigmatize and prejudice him. The applicant respectfully reasserts his request to correct his reentry code from "RE-3" to "RE-1.". Alternatively, the applicant requests that his military records are adjusted to reflect that he was medically discharged from the United States Army. The Applicant has been the victim of both a material error of discretion and a material injustice. He has lived with these errors for two decades and now finally seeks redress and to restore his honor.

15. By regulation, AR 601-210 (Regular Army and Army Reserve Enlistment Program), Table 3-1 included a list of the Regular Army RE codes:

- RE-1 applies to Soldiers completing their term of active service who are considered qualified to reenter the U.S. Army; they are qualified for enlistment if all other criteria are met
- RE-3 applies to Soldiers who are not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waivable. They are ineligible for enlistment unless a waiver is granted

16. By regulation, AR 635-40 governs the evaluation of physical fitness of Soldiers who may be unfit to perform their military duties because of physical disability. The unfitness is of such a degree that a Soldier is unable to perform the duties of his office, grade, rank or rating in such a way as to reasonably fulfill the purposes of his employment on active duty. In pertinent part, it states that the mere presence of an impairment does not, of itself, justify a finding of unfitness because of physical disability. In each case, it is necessary to compare the nature and degree of physical disability present with the requirements of the duties the Soldier reasonably may be expected to perform because of his or her office, grade, rank, or rating.

17. 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 (AHLTA), the VA electronic medical record (JLV), the electronic Physical Evaluation Board (ePEB), the Medical Electronic Data Care History and Readiness Tracking (MEDCHART) application, and 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 through counsel a change in his reentry code from RE-3 to RE-1 or alternatively, he is in essence requesting referral to the Disability Evaluation System DES. Counsel states the while the applicant was attending Officer Candidate School (OCS) that seriously injured in a bicycle accident on 14 October 2003 and it was the injuries from this accident which led to the applicant's involuntary separation for failure to complete the required training in the time allotted by regulation. However, in his self-authored letter, the applicant states that he was a student at the University of Maryland at the time of the injury.

c. The Record of Proceedings details the applicant's military service and the circumstances of the case. The applicant's Report of Separation and Record of Service (NGB Form 22) shows he enlisted in the Maryland Army National Guard (MDARNG) on 31 July 2002 and was discharged from the MDARNG on 30 September 2004 under authority provided in paragraph 8-26g(3) of NGR 600-200, Enlisted Personnel Management (1 March 1997): "Defective enlistment agreement. Includes soldiers unable to attend IADT [Initial Active Duty for Training] within the allowed maximum time. RE 1 or RE 3 as appropriate."

d. Civilian medical documentation from providers in Maryland shows the applicant sustained multiple injuries on 14 October 2003 when he "fell of bike and over a wall, was not wearing a helmet." Injuries included a maxillary sinus fracture, two-centimeter

fascial laceration, a closed head injury, and contusions over the right shoulder and right knee.

e. He underwent cognitive evaluation on 23 and 27 October. The provider found he had no psychiatric conditions and despite a processing speed in the low average range, his general intellectual functioning was intact and in the high average to superior range. The report notes:

“...did not experience significant academic problems in high school, college, or law school. Although he does not recall his exact GPA, he believes he maintained a "B average" throughout both high school and college ... Mr. [Applicant] is currently employed by the Navy as an engineer in the Radar Division ...

“Thus, the current evaluation indicates that the patient does not meet DSM-IV criteria for bipolar disorder (I or II), a depressive disorder, or an anxiety disorder. The current cognitive evaluation revealed Mr. Latter's general intellectual functioning to be intact and in the high average to superior range.”

f. The applicant voluntarily disenrolled from OCS on 19 November 2003 with the Officer signing the form marking the box indicating he “Highly Recommended” the applicant “be considered in the future for determining acceptability for other officer training.”

g. As noted above, the applicant's injuries were incurred while the applicant was a student at a civilian university and not in a qualified duty status. There is no evidence the applicant had a service incurred medical condition which would have failed the medical retention standards of chapter 3, AR 40-501 prior to her discharge. Thus, there was no cause for referral to the Disability Evaluation System.

h. NGR 600-200 8-26g(3) states the commander has a choice of either RE 1 or RE 3 when separating a Soldier under this paragraph. While the applicant desires an RE 1, he was not fully medically qualified to reenlist at that time due to his sinus fracture nor had he completed Initial Entry Training and so RE 3 was the more appropriate code at that time.

i. Paragraph 3-22 of AR 601-210, Regular Army and Army Reserve Enlistment Program (28 February 1995), is titled U.S. Army Reentry Eligibility (RE) Codes

“ ... Applicants should be advised that these codes are not to be considered derogatory in nature, they simply are codes used for identification of an enlistment processing procedure.

RE-1.

(1) Applies to: Person completing their term of active service who are considered qualified to reenter the U.S. Army.

(2) Eligibility: Qualified for enlistment if all other criteria are met.

RE-3.

(1) Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waivable.

(2) Eligibility: Ineligible unless a waiver is granted.

j. An uncharacterized discharge is given to individuals who separate prior to completing 180 days of military service, or when the discharge action was initiated prior to 180 days of service. This type of discharge does not attempt to characterize service as good or bad.

k. For the reserve components, an uncharacterized discharge is applied to Soldiers who are discharged prior to completing Initial Entry Training (IET). There are two phases in IET: Basic Combat Training (BCT) and Advanced Individual Training (AIT). Because the applicant had not completed IET, he was in an entry level status at the time of her discharge and so received an uncharacterized discharge.

l. It is the opinion of the Agency Medical Advisor that neither a change in his reentry code nor a referral of his case to the Disability Evaluation System is warranted.

BOARD DISCUSSION:

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 request, supporting documents, evidence in the records, and published DoD guidance for liberal consideration of discharge upgrade requests.

a. The applicant enlisted in the MDARNG on 31 July 2002 and completed basic training in March 2003. He was to commission through the state OCS and while he was attending OCS, he was involved in a bicycle accident on 14 October 2003. During treatment for the injuries, he was diagnosed with a learning disability and did not successfully complete OCS. He was disenrolled from OCS on 18 November 2003 for voluntary resignation and separated from the ARNG effective 30 September 2004 as Uncharacterized/RE-3 by reason of Defective Enlistment.

b. Regulatory guidance provides that service will be described as uncharacterized if separation processing is initiated while a Soldier is in an entry level status. Additionally,

RE-3 code applies to persons who are not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waivable. An uncharacterized discharge is given to individuals who separate prior to completing 180 days of military service, or when the discharge action was initiated prior to 180 days of service. This type of discharge does not attempt to characterize service as good or bad. Because the applicant had not completed IET, he was in an entry level status at the time of his discharge and so received an uncharacterized discharge.

c. The Board reviewed and agreed with the medical reviewer’s finding the applicant voluntarily disenrolled from OCS on 19 November 2003. His medical conditions were incurred while he was a student at a civilian university and not in a qualified duty status. There is no evidence the applicant had a service incurred medical condition which would have failed the medical retention standards of chapter 3, AR 40-501 prior to her discharge. Thus, there was no cause for referral to the Disability Evaluation System.

d. Based on the totality of the applicant’s case, the Board determined that neither a change in his RE Code nor a referral of his case to the Disability Evaluation System is warranted.

BOARD VOTE:

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

BOARD DETERMINATION/RECOMMENDATION:

1. As for the issue being reconsidered (medical discharge), 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 to amend the decision of the ABCMR set forth in Docket Number AR20050008061 on 2 March 2006.

2. As for the new issue (RE Code), 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.

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[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.

REFERENCES:

1. National Guard Regulation 600-200 (Enlisted Personnel Management), paragraph 8-26 (Discharge from State ARNG and/or Reserve of the Army), in effect at the time, provided the following are reasons, codes and board requirements for administrative discharges from the Reserve of the Army and/or the State ARNG.

a. Specifically, Soldiers separated under paragraph 8-26g (Other designated physical or mental conditions (NGB approval)) who were required to receive (if eligible) an administrative Board if one was requested, and the reentry code for this type of separation was "RE-3."

b. Paragraph 8-6f, provided, an entry level status discharge (uncharacterized separation) as defined in Army Regulation 135-178. No discharge of characterization of service is authorized.

2. Army Regulation 135-178 (Enlisted Administrative Separations) in effect at the time, sets policies, standards, and procedures to ensure the orderly administrative separation of Army National Guard of the United States (ARNGUS) and U.S. Army Reserve (USAR) enlisted soldiers for a variety of reasons.

a. Section III (Characterization or Description of Service on Separation), paragraph 2-7 (Types of characterization or description), provided, at separation, the following types of characterization of service or description of separation are authorized under this regulation:

(1) Separation with characterization of service as Honorable, General (under honorable conditions), or Under Other Than Honorable Conditions.

(2) Separation with an uncharacterized description of service when separated in an entry level status.

b. Paragraph 2-9 (Characterization of Service) provided, an honorable characterization is appropriate when the quality of the soldier's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

c. Paragraph 2-11 (Separation where service is uncharacterized) provided Service will be described as uncharacterized if separation processing is initiated while a soldier is in an entry level status, except characterization under other than honorable conditions is authorized under the reason for separation and is warranted by the circumstances of the case; or the Secretary of the Army, or the Secretary's designated representative, on a case-by-case basis, determines that characterization of service as honorable is clearly warranted by the presence of unusual circumstances involving personal conduct and performance of military duty.

d. Section II (Terms) provides the following definitions of the terms provided in this regulation:

(1) Character of service for administrative separation - A determination reflecting a soldier's military behavior and performance of duty during a specific period of service. The three characters are: Honorable; General (Under Honorable Conditions); and under Other Than Honorable Conditions. The service of soldiers in entry level status is normally described as uncharacterized.

(2) Entry level status -

(a) Upon enlistment, a soldier qualifies for entry level status during (1) The first 180 days of continuous active military service; or (2) The first 180 days of continuous active service after a service break of more than 92 days of active service.

(b) A member of a Reserve component who is not on active duty or who is serving under a call or order to active duty for 180 days or less begins entry level status upon enlistment in a Reserve component. Entry level status for such a member of a Reserve component terminates as follows: (1) 180 days after beginning training if the soldier is ordered to ADT for one continuous period of 180 days or more; or (2) 90 days after the beginning of the second period of ADT if the soldier is ordered to ADT under a program that splits the training into two or more separate periods of active duty.

3. Army Regulation (AR) 601-210 (Regular Army and Army Reserve Enlistment Program), Table 3-1 included a list of the Regular Army RE codes:

- RE-1 applies to Soldiers completing their term of active service who are considered qualified to reenter the U.S. Army; they are qualified for enlistment if all other criteria are met
- RE-3 applies to Soldiers who are not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waivable. They are ineligible for enlistment unless a waiver is granted

4. AR 635-40 governs the evaluation of physical fitness of Soldiers who may be unfit to perform their military duties because of physical disability. The unfitness is of such a degree that a Soldier is unable to perform the duties of his office, grade, rank or rating in such a way as to reasonably fulfill the purposes of his employment on active duty. In pertinent part, it states that the mere presence of an impairment does not, of itself, justify a finding of unfitness because of physical disability. In each case, it is necessary to compare the nature and degree of physical disability present with the requirements of the duties the Soldier reasonably may be expected to perform because of his or her office, grade, rank, or rating.

5. Title 10, U.S. Code, chapter 61, provides the Secretaries of the Military Departments with authority to retire or discharge a member if they find the member unfit to perform military duties because of physical disability. The U.S. Army Physical Disability Agency is responsible for administering the Army physical disability evaluation system and executes Secretary of the Army decision-making authority as directed by Congress in chapter 61 and in accordance with DOD Directive 1332.18 and Army Regulation 635-40 (Disability Evaluation for Retention, Retirement, or Separation).

a. Soldiers are referred to the disability system when they no longer meet medical retention standards in accordance with Army Regulation (AR) 40-501 (Standards of Medical Fitness), chapter 3, as evidenced in a Medical Evaluation Board (MEB); when they receive a permanent medical profile rating of 3 or 4 in any factor and are referred by an Military Occupational Specialty (MOS) Medical Retention Board; and/or they are command-referred for a fitness-for-duty medical examination.

b. The disability evaluation assessment process involves two distinct stages: the MEB and Physical Evaluation Board (PEB). The purpose of the MEB is to determine whether the service member's injury or illness is severe enough to compromise his/her ability to return to full duty based on the job specialty designation of the branch of service. A PEB is an administrative body possessing the authority to determine whether a service member is fit for duty. A designation of "unfit for duty" is required before an individual can be separated from the military because of an injury or medical condition.

Service members who are determined to be unfit for duty due to disability either are separated from the military or are permanently retired, depending on the severity of the disability and length of military service. Individuals who are "separated" receive a one-time severance payment, while veterans who retire based upon disability receive monthly military retired pay and have access to all other benefits afforded to military retirees.

c. The mere presence of a medical impairment does not in and of itself justify a finding of unfitness. In each case, it is necessary to compare the nature and degree of physical disability present with the requirements of the duties the Soldier may reasonably be expected to perform because of his or her office, grade, rank, or rating. Reasonable performance of the preponderance of duties will invariably result in a finding of fitness for continued duty. A Soldier is physically unfit when a medical impairment prevents reasonable performance of the duties required of the Soldier's office, grade, rank, or rating.

6. AR 40-501 provides information on medical fitness standards for induction, enlistment, appointment, retention, and related policies and procedures. Soldiers with conditions listed in chapter 3 who do not meet the required medical standards will be evaluated by an MEB and will be referred to a PEB as defined in Army Regulation 635-40 with the following caveats:

a. U.S. Army Reserve (USAR) or Army National Guard (ARNG) Soldiers not on active duty, whose medical condition was not incurred or aggravated during an active duty period, will be processed in accordance with chapter 9 and chapter 10 of this regulation.

b. Reserve Component Soldiers pending separation for In the Line of Duty injuries or illnesses will be processed in accordance with Army Regulation 40-400 (Patient Administration) and Army Regulation 635-40.

c. Normally, Reserve Component Soldiers who do not meet the fitness standards set by chapter 3 will be transferred to the Retired Reserve per Army Regulation 140-10 (USAR Assignments, Attachments, Details, and Transfers) or discharged from the Reserve Component per Army Regulation 135-175 (Separation of Officers), Army Regulation 135-178 (ARNG and Reserve Enlisted Administrative Separations), or other applicable Reserve Component regulation. They will be transferred to the Retired Reserve only if eligible and if they apply for it.

d. Reserve Component Soldiers who do not meet medical retention standards may request continuance in an active USAR status. In such cases, a medical impairment incurred in either military or civilian status will be acceptable; it need not have been incurred only in the line of duty. Reserve Component Soldiers with non-duty related

medical conditions who are pending separation for not meeting the medical retention standards of chapter 3 may request referral to a PEB for a determination of fitness in accordance with paragraph 9–12.

//NOTHING FOLLOWS//