

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 21 February 2025

DOCKET NUMBER: AR20230011030

APPLICANT REQUESTS: reconsideration of his previous request for medical discharge and correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to show:

- In item 4a (Grade, Rate or Rank) 4b (Pay Grade) to specialist/SPC/E-4
- In item 27 (Reentry Code) a more favorable code
- He is authorized backpay and allowances
- appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Statement
- DD Form 214
- Combat Related Special Compensation (CRSC) Information
- 59 Pages of Medical Documents

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 AR20160009640 on 6 November 2018.

2. The applicant states:

a. He believes he should have been medically discharged. His rank is incorrect due to time in grade and service he should have been discharged as an SPC/E-4. He was never given a proper medical discharge examination during his expiration term of service (ETS). He only had seven days to ETS. he feels that he has lost out on benefits that he should have/be entitled to. Due to this error he has to go through years of fighting Veterans affairs (VA) to receive proper compensation. He would prefer to appear in person but is unable to afford the expenses. He lists post-traumatic stress disorder as related to his request.

b. He provides a self-authored statement, undated he states, in effect, he was discharged for heat stroke and he's lucky to be alive! He wanted a medical board (MEB) for heat stroke but the said go to the VA. The Army gave him \$4700.00. His VA rating is 100% from 1999. In 2015 he wanted to fix this, and he had not looked at this all in his VA or CRSC which he also filed for in 2015.

c. Please fix this from 1999. It felt wrong from the time he left and went to the VA and sent paperwork as soon as possible (ASAP). It was not heatstroke only. He was a test paratrooper. He was maxed out with paratrooper stuff he cannot talk about. He is a combat Veteran. He did his job every day broken hurt or sad he did it. He was well over the 10% he was broken, and he was hazed all the time. It is all with the VA.

d. He gave all the paperwork for it. He was sent to the Panama Canal with a P3 profile (a nondeployable profile) and to Joint Readiness Training Center (JRTC) in October 1978. He received Uniform Code of Military Justice (UCMJ) in Panama and "smoke" over his profile in Panama.

e. His rank should be SPC/E-4 and he should have gotten E-4 pay the last 2 months. He lost a third of his GI Bill and he received \$4700.00 severance pay in July 1999. It has taken him 20 years of paperwork and deleted medical records! He has copies.

3. A review of the applicant's service record shows:

a. He enlisted in the Regular Army on 11 June 1997.

b. Standard Form 93 (Report of Medical History), (date illegible), for the purpose of enlistment into the Army shows the applicant was in good health and taking no medications. He had foot trouble. He had had bilateral ankle sprains-right in 1989 and left in 1991.

c. The available record is void of a separation packet containing the specific facts and circumstances surrounding the applicant's discharge processing.

d. Orders 160-0339, 9 June 1999 shows the applicant was reassigned to the transition point and after processing, discharged effective date 7 July 1999. He was authorized disability severance pay in the grade of private 2/E-2. His percentage of disability was 10%.

- disability was based on injury or disease received in the line of duty (LOD) as a direct result of armed conflict or caused by an instrumentality of war and incurred in the LOD during a war period: No
- disability resulted from combat related injury: No

e. He was honorably discharged on 7 July 1999 in the rank of private first class/E-3. His DD Form 214 shows he was discharged under the provisions of Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation) for due to disability, severance pay. He received severance pay of \$4716.00. He completed 2 years and 27 days of net active service this period. It also shows:

- Item 4a (Grade, Rate or Rank) 4b (Pay Grade) private first class/E-3
- item 27 (Reentry Code) 3

4. In a previous case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20160009640 on 6 November 2018 a Medical Advisory was done on 5 March 2018, the ARSA Senior Medical Advisor provided an advisory opinion. He states:

a. A limited review of the VA's records through the Joint Legacy Viewer shows 22 VA-listed problems, including dysthymic disorder, anxiety state, post-traumatic stress disorder (PTSD) unspecified, other depressive episodes, cervicgia (neck pain), chronic lower back pain, leg joint pain, right knee pain, left ankle/foot pain, osteoarthritis, gout, urticaria, rash, tobacco use, cannabis use, and others. The applicant is currently VA service connected at 80% overall PTSD at 70%; lumbosacral or cervical strain at 40%; limited motion of ankle at 10%.

b. The available record does not reasonably support that PTSD or another boardable behavioral health condition existed at the time of his military service.

c. The applicant did not meet medical retention standards for a history of heat stroke, in accordance with chapter 3, Army Regulation 40-501 (Standards of Medical Fitness).

d. The applicant met medical retention standards for back pain, left ankle pain, right ankle pain, and other physical, medical, dental/and or behavioral conditions in accordance with Chapter 3, Army Regulation 40-501.

e. His conditions were duly considered during his medical separation processing.

f. A review of the available documentation found no evidence of a medical disability or condition which would support a change to the discharge in this case.

g. The applicant was provided a copy of the medical advisory for the opportunity to respond. He did not respond.

h. Therefore, the Board determined the evidence presented does not demonstrate the existence of a probable error or injustice. In addition, the Board noted the overall

merits of this case are insufficient as a basis for correction of the records of the individual concerned.

6. The Office of the Under Secretary of Defense for Military Personnel Policy provided guidance for processing CRSC appeals. This guidance stipulated that in order for a condition to be considered combat-related, there must be evidence of the condition having a direct, causal relationship to war or the simulation of war or caused by an instrumentality of war.

7. By regulation, (AR 15-185), the ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

8. MEDICAL REVIEW:

a. Background: The applicant is requesting reconsideration of his prior request for medical discharge and correction of his DD Form 214. He contends PTSD as related to his request. This opine will narrowly focus on his request for medical discharge and will defer all other requests to the Board.

b. The specific facts and circumstances of the case can be found in the ABCMR Record of Proceedings (ROP). Pertinent to this advisory are the following:

- Applicant enlisted in the Regular Army on 11 June 1997.
- Orders 160-0339, dated 9 June 1999, show the applicant was reassigned to the transition point and after processing was discharged with effective date 7 July 1999. He was authorized disability severance pay in the grade of private 2/E-2. His percentage of disability was 10%.
- Applicant was honorably discharged on 7 July 1999 in the rank of private first class/E-3. His DD Form 214 shows he was discharged under the provisions of Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation) for disability, severance pay, with corresponding separation code JFL and RE code 3. He received severance pay of \$4716.00. He completed 2 years and 27 days of net active service this period.

c. Review of Available Records: The Army Review Board Agency's (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant states, he was discharged for heat stroke and he's lucky to be alive. He wanted a medical board (MEB) for heat stroke but "they said go to the VA". The Army gave him \$4700.00. His VA rating is 100% from 1999. In 2015 he wanted to fix this, but he had not looked at this in his VA or CRSC which he also filed for in 2015. He believes he should have been medically discharged. His rank is incorrect

due to time in grade and service he should have been discharged as an SPC/E-4. He was never given a proper medical discharge examination during his expiration term of service (ETS). He only had seven days to ETS. He feels he lost out on benefits he should have been entitled to. Due to this error, he has gone through years of fighting Veteran's Affairs (VA) to receive proper compensation.

d. Due to the period of service no active-duty electronic medical records were available for review. The applicant provides hardcopy documentation showing he was issued a permanent profile due to heat stroke. On 12 May 1998, a medical screening notes possible lumbosacral strain with follow-up medical appointments on 19 and 21 May 1998. The applicant was seen by medical on 2 July 1998, the note indicates he was treated the previous day in the emergency room due to "heat injury". He was provided with a follow-up appointment on 24 September 1998 with lab work showing he was screened repeatedly. The applicant did not provide medical documentation supporting any behavioral health condition during active duty. In a previous case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20160009640 on 6 November 2018, a medical advisory was provided on 5 March 2018. The advisory opinion states: the available record does not reasonably support PTSD or another boardable behavioral health condition existed at the time of his military service; the applicant did not meet medical retention standards due to a history of heat stroke, in accordance with chapter 3, Army Regulation 40-501 (Standards of Medical Fitness); and the applicant met medical retention standards for back pain, left ankle pain, right ankle pain, and other physical, medical, dental/and or behavioral conditions in accordance with Chapter 3, Army Regulation 40-501.

e. The VA's Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is 80% service connected, including 70% for non-combat related PTSD. The applicant initially sought behavioral health support over 15 years post-military service, in December 2014, related to distress over the holidays following his divorce from his wife. The applicant's distressed appeared to resolve when he was provided a medical marijuana card since he reported feeling less stressed. He once again sought behavioral health services in May 2015 due to escalating anxiety. During his intake appointment he reported three negative experiences during military service including: harassment by a squad leader; a parachute accident resulting in back injury; and an episode of heatstroke. He was diagnosed with PTSD on 28 July 2015. On 30 June 2016, he participated in a C and P evaluation and was diagnosed with PTSD. The applicant's electronic record shows ongoing treatment related to his diagnosis of PTSD, depression, and cannabis dependence. His most recent encounter in December 2024 shows the applicant opted to pause behavioral health services, the note indicates his depression is in partial remission and he no longer meets diagnostic criteria for PTSD at this time.

f. Based on the information available, it is the opinion of the Agency Behavioral Health Advisor that there is insufficient evidence, at this time, to support a referral to the IDES process. Contrary to the applicant's statement, he was provided with a medical disability discharge due to heat stroke and was compensated. The available medical record does not evidence any behavioral health condition during active duty. Although the applicant has been 70% service connected for PTSD, VA examinations are based on different standards and parameters; they do not address whether a medical condition met or failed Army retention criteria or if it was a ratable condition during the period of service. Therefore, a VA disability rating would not imply failure to meet Army retention standards at the time of service. A subsequent diagnosis of PTSD through the VA is not indicative of an injustice at the time of service. Furthermore, even an in-service diagnosis of PTSD is not automatically unfitting per AR 40-501 and would not automatically result in the medical separation processing. Based on the documentation available for review, there is no indication that an omission or error occurred that would warrant a referral to the IDES process.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Not applicable.

(2) Did the condition exist or experience occur during military service? Not applicable.

(3) Does the condition or experience actually excuse or mitigate the discharge? Not applicable.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board found that relief was/was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the available documentation failing to reflect the applicant was promoted to the rank of SPC/E4 during his period of military service, as well as the findings and recommendation of the medical review, the Board concluded there was insufficient evidence of an error or injustice warranting the requested changes to the applicant's military record.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:XXX	:XXX	:XXX	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.

//SIGNED//

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:

1. Section 1556 of Title 10, USC, 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.

2. Title 38 USC, section 1110 (General-Basic Entitlement) states 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.

3. Title 38 USC, section 1131 (Peacetime Disability Compensation - Basic Entitlement) states 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.

4. Army Regulation 635-40 (Personnel Separations Disability Evaluation for Retention, Retirement, or Separation), in effect at the time, establishes the Army Disability Evaluation System 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. Only the unfitting conditions or defects and those which contribute to unfitness will be considered in arriving at the rated degree of incapacity warranting retirement or separation for disability. Once a determination of physical unfitness is made, all disabilities are rated using the Department of Veterans Affairs Schedule for Rating Disabilities (VASRD).

a. Chapter 3-2 states disability compensation is not an entitlement acquired by reason of service-incurred illness or injury; rather, it is provided to Soldiers whose service is interrupted and who can no longer continue to reasonably perform because of a physical disability incurred or aggravated in military service.

b. Chapter 3-4 states Soldiers who sustain or aggravate physically unfitting disabilities must meet the following line-of-duty criteria to be eligible to receive retirement and severance pay benefits:

(1) The disability must have been incurred or aggravated while the Soldier was entitled to basic pay or as the proximate cause of performing active duty or inactive duty training.

(2) The disability must not have resulted from the Soldier's intentional misconduct or willful neglect and must not have been incurred during a period of unauthorized absence.

c. The percentage assigned to a medical defect or condition is the disability rating. The fact that a Soldier has a condition listed in the VASRD does not equate to a finding of physical unfitness. An unfitting, or ratable condition, is one, which renders the Soldier unable to perform the duties of their office, grade, rank, or rating in such a way as to reasonably fulfill the purpose of their employment on active duty. There is no legal requirement in arriving at the rated degree of incapacity to rate a physical condition which is not in itself considered disqualifying for military service when a Soldier is found unfit because of another condition that is disqualifying. Only the unfitting conditions or defects and those which contribute to unfitness will be considered in arriving at the rated degree of incapacity warranting retirement or separation for disability.

5. Title 10, USC, 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.

a. Soldiers are referred to the disability system when they no longer meet medical retention standards in accordance with AR 40-501 (Standards of Medical Fitness), chapter 3, as evidenced in an MEB; when they receive a permanent medical profile rating of 3 or 4 in any factor and are referred by a Military Occupational Specialty 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 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 or not 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.

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. Title 38, USC, permits the VA to award compensation for a medical condition which was incurred in or aggravated by active military service. The VA, however, is not required by law to determine medical unfitness for further military service. The VA, in accordance with its own policies and regulations, awards compensation solely on the basis that a medical condition exists and that said medical condition reduces or impairs the social or industrial adaptability of the individual concerned. Consequently, due to the two concepts involved, an individual's medical condition, although not considered medically unfitting for military service at the time of processing for separation, discharge, or retirement, may be sufficient to qualify the individual for VA benefits based on an evaluation by that agency. The VA can evaluate a veteran throughout his or her lifetime, adjusting the percentage of disability based upon that agency's examinations and findings.

7. Army Regulation 600-8-4 (Line of Duty Policy, Procedures, and Investigations) prescribes policies and procedures for investigating the circumstances of disease, injury, or death of a Soldier providing standards and considerations used in determining LOD status.

a. A formal LOD investigation is a detailed investigation that normally begins with DA Form 2173 completed by the medical treatment facility and annotated by the unit commander as requiring a formal LOD investigation. The appointing authority, on receipt of the DA Form 2173, appoints an investigating officer who completes the DD Form 261 and appends appropriate statements and other documentation to support the determination, which is submitted to the General Court Martial Convening Authority for approval.

b. Paragraph 1-7a states the worsening of a pre-existing medical condition over and above the natural progression of the condition as a direct result of military duty was considered an aggravated condition. Commanders must initiate and complete LOD investigations, despite a presumption of Not in the Line of Duty, which can only be determined with a formal LOD investigation.

c. Paragraph 2-6 states an injury, disease, or death is presumed to be in LOD unless refuted by substantial evidence contained in the investigation. LOD determinations must be supported by substantial evidence and by a greater weight of evidence than supports any different conclusion. The evidence contained in the investigation must establish a degree of certainty so that a reasonable person is convinced of the truth or falseness of a fact.

8. PTSD can occur after someone goes through a traumatic event like combat, assault, or disaster. The Diagnostic and Statistical Manual of Mental Disorders (DSM) is published by the American Psychiatric Association (APA) and provides standard criteria and common language for the classification of mental disorders. In 1980, the APA added PTSD to the third edition of its DSM nosologic classification scheme. Although controversial when first introduced, the PTSD diagnosis has filled an important gap in psychiatric theory and practice. From a historical perspective, the significant change ushered in by the PTSD concept was the stipulation that the etiological agent was outside the individual (i.e., a traumatic event) rather than an inherent individual weakness (i.e., a traumatic neurosis). The key to understanding the scientific basis and clinical expression of PTSD is the concept of "trauma."

9. PTSD is unique among psychiatric diagnoses because of the great importance placed upon the etiological agent, the traumatic stressor. In fact, one cannot make a PTSD diagnosis unless the patient has actually met the "stressor criterion," which means that he or she has been exposed to an event that is considered traumatic. Clinical experience with the PTSD diagnosis has shown, however, that there are individual differences regarding the capacity to cope with catastrophic stress. Therefore, while most people exposed to traumatic events do not develop PTSD, others go on to develop the full-blown syndrome. Such observations have prompted the recognition that trauma, like pain, is not an external phenomenon that can be completely objectified. Like pain, the traumatic experience is filtered through cognitive and emotional processes before it can be appraised as an extreme threat. Because of individual differences in this appraisal process, different people appear to have different trauma thresholds, some more protected from and some more vulnerable to developing clinical symptoms after exposure to extremely stressful situations.

10. The fifth edition of the DSM was released in May 2013. This revision includes changes to the diagnostic criteria for PTSD and acute stress disorder. The PTSD diagnostic criteria were revised to take into account things that have been learned from scientific research and clinical experience. The revised diagnostic criteria for PTSD include a history of exposure to a traumatic event that meets specific stipulations and symptoms from each of four symptom clusters: intrusion, avoidance, negative alterations in cognitions and mood, and alterations in arousal and reactivity. The sixth criterion concerns duration of symptoms, the seventh criterion assesses functioning, and the eighth criterion clarifies symptoms as not attributable to a substance or co-occurring medical condition.

11 On 3 September 2014, the Secretary of Defense directed the Service Discharge Review Boards (DRB) and Service Boards for Correction of Military/Naval Records (BCM/NR) to carefully consider the revised post-traumatic stress disorder (PTSD) criteria, detailed medical considerations and mitigating factors when taking action on applications from former service members administratively discharged UOTHC and who

have been diagnosed with PTSD by a competent mental health professional representing a civilian healthcare provider in order to determine if it would be appropriate to upgrade the characterization of the applicant's service.

12. On 25 August 2017, the Office of the Undersecretary of Defense for Personnel and Readiness issued clarifying guidance for the Secretary of Defense Directive to DRBs and BCM/NRs when considering requests by veterans for modification of their discharges due in whole or in part to: mental health conditions, including PTSD; Traumatic Brain Injury; sexual assault; or sexual harassment. Boards are to give liberal consideration to veterans petitioning for discharge relief when the application for relief is based in whole or in part to those conditions or experiences. The guidance further describes evidence sources and criteria and requires Boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

13. The Under Secretary of Defense (Personnel and Readiness) issued guidance to Service DRBs and Service BCM/NRs on 25 July 2018 [Wilkie Memorandum], regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. BCM/NRs may grant clemency regardless of the court-martial forum. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which may be warranted on equity or relief from injustice grounds.

a. This guidance does not mandate relief, but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, Boards shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

b. Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

14. Title 10, U.S. Code, section 1201, provides for the physical disability retirement of a member who has at least 20 years of service or a disability rating of at least 30 percent. Title 10, U.S. Code, section 1203, provides for the physical disability separation of a member who has less than 20 years of service and a disability rating of less than 30 percent.

15. Title 26 U. S. Code, section 104 states, in pertinent part, that for purposes of this subsection, the term “combat-related injury” means personal injury or sickness which is incurred as a direct result of armed conflict, while engaged in extra hazardous service, or under conditions simulating war; or which is caused by an instrumentality of war.

16. Army Regulation 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.

a. 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.

b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

17. Title 10, U.S. Code, section 1413a, as amended, established CRSC. CRSC provides for the payment of the amount of money a military retiree would receive from the VA for combat-related disabilities if it were not for the statutory prohibition for a military retiree to receive a VA disability pension. Payment is made by the Military Department, not the VA, and is tax free. Eligible members are those retirees who have 20 years of service for retired pay computation (or 20 years of service creditable for Reserve retirement at age 60) and who have disabilities that are the direct result of armed conflict, especially hazardous military duty, training exercises that simulate war, or caused by an instrumentality of war. CRSC eligibility includes disabilities incurred as a direct result of:

- armed conflict (gunshot wounds, Purple Heart, etc.)
- training that simulates war (exercises, field training, etc.)
- hazardous duty (flight, diving, parachute duty)
- an instrumentality of war (combat vehicles, weapons, Agent Orange, etc.)

18. Army Regulation 635-5 (Personnel Separations-Separation Documents) prescribed the separation documents prepared for Soldiers upon retirement, discharge, or release from active military service or control of the Army. It established the standardized policy for the preparation of the DD Form 214. The DD Form 214 is a synopsis of the Soldier's most recent period of continuous active service. The general instructions stated all available records would be used as a basis for preparation of the DD Form 214. The information entered thereon reflects the conditions as they existed at the time of

separation. It states for item 4a (Grade, Rate or Rank) 4b (Pay Grade) enter the grade or rank at the time of separation.

19. The SPD/RE Code Cross Reference Table provides instructions for determining the RE Code for Active Army Soldiers and Reserve Component Soldiers. This cross-reference table shows the SPD code and a corresponding RE Code.

20. Army Regulation 601-210 (Active and Reserve Components Enlistment Program) covers eligibility criteria, policies, and procedures for enlistment and processing into the Regular Army, U.S. Army Reserve, and Army National Guard. Table 3-1 provides a list of RE codes:

- RE-1 Applies to persons immediately eligible for reenlistment at time of separation
- RE-2 Applies to persons not eligible for immediate reenlistment
- RE-3 Applies to persons who may be eligible with waiver-check reason for separation
- RE-4 Applies to persons who are definitely not eligible for reenlistment

//NOTHING FOLLOWS//