

IN THE CASE OF: [REDACTED]

BOARD DATE: 3 October 2024

DOCKET NUMBER: AR20230011679

APPLICANT REQUESTS:

- reconsideration of her previous request to amend her DD Form 214 (Certificate of Release or Discharge) by changing her narrative reason for separation and removing all associated separation codes pertaining to her Expeditious Discharge Program (EDP) discharge
- a video/telephonic appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Two Letters from Department of the Army, Headquarters, 21st Support Command to the Applicant's Counsel
- Letter from the Office of Civilian Health and Medical Program of the Uniformed Services, 6 March 1994
- Itemized List of Medical Treatments

FACTS:

1. Incorporated herein by reference are military records, as were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20180016309 on 29 July 2019.

2. The applicant states she is asking the Board to conduct a comprehensive review of her case. The memoranda and counseling statements currently in her service record were supposed to have been removed, per the Equal Opportunity officer; however, her command wrongfully used those documents against her. She annotated post-traumatic stress disorder (PTSD) and sexual assault/harassment as issues/conditions related to her request.

a. The applicant argues, in her initial consideration, the Board did not fully evaluate all of the facts, and the Board's decision did not align with what actually occurred. Her command improperly separated her under the EDP; "the substance of the EDP is

arbitrary, capricious, and unlawful, as well as having absurd justifications...." The Record of Proceedings (ROP) cited two paragraphs from Army Regulation (AR) 635-200 (Personnel Separations – Enlisted Personnel): paragraph 5-3 (Secretarial Authority) and paragraph 5-31 (EDP). The applicant contends:

(1) "With a significant investment in recruiting and training a Soldier, Commanders must provide reasonable and convincing evidence of a Soldier's 'poor attitude, lack of motivation, lack of self-discipline, inability to adapt socially or emotionally, or failure to demonstrate promotion potential' and be able to provide why the Soldier is not a candidate for rehabilitation or has not benefited from rehabilitative measures."

(2) "In this case, the Commander used the EDP program to cover-up the misconduct of his subordinate staff that created a hostile working environment. He provided no reasonable justification to support the basis for the discharge under the EDP. The absurd justifications provided by the commander are not sufficient to support the EDP that was allowed to occur." When actions of military personnel are arbitrary, capricious and unlawful and are the 'proximate cause' of the elements that are used to support an EDP, the EDP cannot and should not be sustained.

b. The applicant summarizes her service history; she maintains she performed "at or above an acceptable level receiving awards"; however, during her tenure, she was subjected to sexual advances by her immediate supervisors. When she rejected these unsolicited and unwanted sexual advances, she was repeatedly singled out and subjected to minor infractions [bolstering] the appearance that she was a substandard Soldier. These actions created a hostile working environment.

(1) After mediation, and at the direction of the EEO office, the majority of the infractions fabricated by her supervisors who had sexually harassed her were directed to be removed from her record. It had been determined and agreed that there was no reasonable justification to sustain the infraction...after she filed an EEO complaint and a complaint with the Office of the Inspector General (IG), fault-finding from her direct supervisors intensified.

(2) The applicant subsequently learned she was going to have twins, and throughout her pregnancy, she suffered medical complications. Despite her physical condition, her leadership never provided any relief and instead did things that created overwhelming stress. She later went into pre-term labor and medical authority transported her to a civilian hospital for advanced care; ultimately, her twin daughters were born 3-months' premature with little chance of survival. The entire experience was extremely emotional and devastating.

(3) Immediately after undergoing an emergency caesarian, and while still feeling from the effects of the anesthesia, Sergeant (SGT) [REDACTED] delivered the applicant's separation papers to her. To discharge the applicant, her commander had used a recent change to AR 635-200, dated 1 April 1982, which eliminated the requirement to obtain a Soldier's consent for an EDP separation.

c. The applicant notes her successful completion of initial entry training and states she arrived at West Point, her new duty station, in April 1980. By January 1981, she had requested a meeting with Sergeant First Class (SFC) [REDACTED] her noncommissioned officer in charge (NCOIC), and announced her intentions to be named the unit's Soldier of the Quarter; in February 1981, she appeared before the Soldier of the Quarter board and they selected her.

(1) The applicant then details events occurring on and after 14 June 1982, when she was experiencing complications in her pregnancy and receiving what she describes as inadequate care from her military doctors. She quotes a statement made in the ROP from her previous case, where it stated, "[h]er medical records show that on 14 June 1982, she was six and half months pregnant with twins and in good condition upon release from the emergency room,"; she maintains that statement contradicted what her military medical records showed and what the Board relied upon; as such, it "should not have been afforded any credence."

(2) The applicant argues that her medical records also reflect that just 6 days later, she required emergency transport to a Neonatal Care Unit at [REDACTED] hospital; her condition was so dire, she had to undergo an emergency Caesarian. Her military doctors failed to perform the required tests that would have shown the amniotic rupture that led to the emergency Caesarian.

d. The applicant declares that she does not agree with the Board's earlier decision.

(1) The applicant points out that she "endured unlawful acts, harassment, nitpicking, a hostile work environment after making complaints of sexual harassment." "It is unconscionable that [she] failed to receive the protections afforded her as a member of the Military...."

(2) The applicant continues, "...the Board of Corrections summed up [her] military career in seven pages with statements that were not supported by the information [she] provided....The fabricated incidents from Sergeant First Class (SFC) [REDACTED] and SGT [REDACTED] are noted in [her] complaint. [She] was forced to remain in an intolerable and precarious working environment that served to be toxic and extremely stressful, contributing to her premature emergency delivery of her twin daughters, where one of her daughters later died."

(3) "On October 23, Applicant documented in detail her exchanges with SGT [REDACTED]. On January 6, 1981, she would do the same for SFC [REDACTED]. Applicant filed a complaint with the West Point Staff Judge Advocate (SJA). In this complaint, Applicant delineated verbal and sexual harassment, unfair treatment, numerous unreasonable counseling statements, the hostility and toxicity of her working environment, and the addition of 30-days' extra duty after reporting the harassment she had been subjected (to)."

(4) After this, the applicant prepared a document that detailed all of her allegations and gave it to Sergeant Major (SGM) [REDACTED] and Captain (CPT) [REDACTED] following their review, SGM [REDACTED] and CPT [REDACTED] directed that six counseling statements be discarded and the 30-days' extra duty be discontinued. For some unknown reason, both SGM [REDACTED] and CPT [REDACTED] were later removed from working on her case, and the applicant was instead assigned an NCO from the EEO office. While the applicant continued working with the SJA's office, her NCOIC's hostility only escalated. Although her coworkers knew what was going on, the applicant was unable to obtain witness statements to substantiate her claims because everyone was afraid of retaliation.

(5) "Following Applicant's disclosure of the unwanted sexual advances, there was a campaign by the Military supervisors to discredit Applicant. Applicant was subject to nitpicking, being singled out to bolster the justification for EDP. From October 1981 through June 1982, these Military supervisors would cover-up allegations of sexual misconduct by falsely characterizing Applicant as an (1) ineffectiveness as a Soldier, (2) having unsatisfactory job performance, (3) having a miserable attitude, (4) being carelessness of the job, (5) being carelessness in handling hazardous materials, and (6) not being in proper uniform."

(6) Prior to entering the military, the applicant had worked successfully as a dental assistant and surgical assistant; in spite of her qualifications, her command mischaracterized her in an effort to cover up their own misconduct. Statements made by SFC [REDACTED] which alleged that the applicant had not properly handled and removed hazardous material, were false and meant to discredit the applicant and maintain the cover up.

(7) The applicant argues, "Although (she) acknowledges receipt of documents recommending her for the EDP program, given to her by Colonel [REDACTED] subsequent to her disclosure of sexual harassment...the facts used to support the EDP warrant a second look. It was woefully unfair to not have a vigorous investigation of the facts. (She) attempted to avail herself of the avenues of justice available to her at that time by filing with the JAG and EEO's Office. (She) provided details of her disparate treatment. Having now learned of the injustice women received in the Military, it would be a miscarriage of justice not to review Applicant's case."

e. The applicant offers the following details regarding sexual harassment she endured:

(1) After initially working at the Army hospital for Dr. [REDACTED] the command reassigned her to the dental clinic in June 1980; there, SGT [REDACTED] was her NCOIC.

(2) "After the reassignment to the clinic, my professional working relationship with SGT [REDACTED] started to break down. (She) was constantly reassigned without any notice, and SGT [REDACTED] failed to relay pertinent information to the other supervisors, which caused problems in the clinic with coverage and in the unit. (She) began to document these occurrences...." In August, SGT [REDACTED] gave her a day off but failed to inform the dental clinic staff; later, "SGT [REDACTED] he changed his story to command."

(3) In July 1980, former staff sergeant [REDACTED] was promoted to SFC, and he became the dental clinic's new NCOIC, replacing SGT [REDACTED]. "Initially, SFC [REDACTED] and the Applicant had a good working relationship. He was complimentary of Applicant's work ethics, performance and professional appearance. Applicant started to observe that SFC [REDACTED] would frequent areas of the clinic she worked even though his office was upstairs. Applicant observed SFC [REDACTED] frequently staring in her direction. Applicant then was subjected to SFC [REDACTED] advances when he showed up at the NCO club after work hours while Applicant was with co-workers. SFC [REDACTED] then showed up at Applicant's barracks. SFC [REDACTED] would also make impromptu appearances while Applicant was on CQ duty and would question the Sergeant who was working with Applicant. Applicant left would conduct rounds of the barrack to avoid interacting with SFC [REDACTED]"

f. The applicant closes by expressing the trauma she experienced just prior to and after the premature birth of her twins, the subsequent death of her grandmother, and the heartbreaking loss of one of her babies. With regard to her requested relief, she rhetorically asks, "What does relief or compensation look like after one's life was torn apart by the tragic loss of a child? After a career derailed as a result of standing up for oneself for inappropriate conduct to hold those responsible for the indefensible acts they committed...." She states, after such a great sacrifice, she is asking the Board for justice.

3. The applicant provides documentation reflecting the medical debt she incurred after her release from the hospital.

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

a. On 9 January 1980, the applicant enlisted in the Regular Army

b. Effective 1 May 1981, the applicant's chain of command promoted her to specialist four (SP4)/E-4. In or around October 1981, CPT [REDACTED] prepared a

memorandum for record (MFR), in which he stated, during the month of October 1981, the applicant had been his dental assistant and, although she was intelligent, had completed formal training, and had clinical experience, he found her duty performance to be unsatisfactory. CPT [REDACTED] went on to explain that the applicant had a miserable attitude towards her job, had no concern for the patients, and showed a lack of respect for the dental officers. In addition, she constantly failed to follow instructions and was careless with hazardous materials. CPT [REDACTED] concluded, "My efforts to counsel [applicant] have proven to be a waste of time."

c. On 4 November 1981, the applicant submitted a DA Form 4187 (Personnel Action), wherein she requested to attend training for MOS 91K (Environmental Health Specialist). On 10 November 1981, her NCOIC (SFC [REDACTED]) wrote a letter of recommendation, endorsing the applicant's training request. SFC [REDACTED] stated, "This recommendation is made in an attempt to provide better job satisfaction for the service member. It is my opinion that if retained in her present MOS, she will not re-enlist and would thus reflect negative(ly) on the (unit's) re-enlistment objectives...."

d. On 14 November 1981, SFC [REDACTED] issued the applicant a counseling statement for reporting at 1005 when she was originally told to report at 0730. On 4 December 1981, SFC [REDACTED] completed a statement, explaining that, on 14 November 1981, the applicant had been 2 1/2 hours late for formation. SFC [REDACTED] discussed the applicant's tardiness with the DENTAC Commander, and they decided the applicant should perform 15-days' extra duty.

e. On 15 December 1981, SFC [REDACTED] counseled the applicant in writing because, after initially being granted permission to remain [REDACTED] to take care of a car problem, she had failed to call SFC [REDACTED] to provide a status update.

f. On 14 January 1982, SGM [REDACTED] awarded a letter of appreciation to the applicant following her selection as MEDDAC (U.S. Army Medical Department Activity) Soldier of the Month.

g. On 18 February and again on 4 March 1982, the applicant's NCOIC issued the applicant counseling statements. The first statement concerned the applicant's improper labeling of sterile packages and improper handling of sterilized instruments. The second resulted from the applicant's spouse, not the applicant, calling SFC [REDACTED] to report the applicant was at the hospital.

h. On 17 March 1982, SGM [REDACTED] awarded the applicant a letter of appreciation for her participation in the MEDDAC Soldier of the Quarter competition. On or about 5 April 1982, SFC [REDACTED] counseled the applicant for being late for duty.

i. On 8 April 1982, SFC [REDACTED] and Colonel (COL) [REDACTED] jointly signed a counseling statement pertaining to the applicant's failure to report for duty on the previous day. The applicant explained that that morning, she and her husband had left for work in their car but lost control of the vehicle; the local police towed the car. The applicant called the unit and spoke to a specialist. After about 10 minutes, she called again for either SFC [REDACTED] or COL [REDACTED] but neither were available; the specialist suggested the applicant call later for SFC [REDACTED] and that was when the applicant's husband got on the phone and said, if the unit did not believe the applicant's story, they could call the local police.

j. On 20 April 1981, SFC [REDACTED] prepared an MFR because the applicant had entered the clinic without wearing her headgear; when confronted, the applicant replied she was just walking in from her car. SFC [REDACTED] reminded her that he had previously told her that, if she was in uniform, she needed to wear her headgear; (on that earlier occasion, the applicant was walking to the bus without her headgear and, when she did comply with his instructions to put on her hat, he ordered her to stop and he placed the hat on her head).

k. On 20 May 1982, the Post Dental Clinic Officer in Charge (OIC) wrote an MFR, stating that, over the past 8 months, the applicant had held a variety of positions in the clinic, and the OIC had received numerous complaints about the applicant's performance from dental officers, dental assistants, and the clinic NCOIC. He added, "Attempts to place her in other areas of responsibility have resulted in less than acceptable performance."

l. On 21 May 1982, the DENTAC commander (COL [REDACTED]) advised the applicant, via memorandum, that he was initiating separation action against her, under the provisions of paragraph 5-31, AR 635-200; he further indicated he would be recommending her for a general discharge under honorable conditions. The commander stated, "Since October 1981, your duty performance within the Post Dental Clinic has been steadily deteriorating, having been counseled on numerous occasions in regards to reporting in late, improper sterilization technique, and a general non-caring attitude while assigned to a treatment area involving direct patient contact." He went on to cite the applicant's previous counseling statements.

m. On or about 25 May 1982, the applicant acknowledged the commander's notification and indicated she was submitting statements in her own behalf. On 4 June 1982, the applicant prepared a memorandum for the Commander, DENTAC.

(1) The applicant stated SFC [REDACTED] had acted unfairly toward her, and that she had not been given the chance to prove she could be a good Soldier. Instead, she was verbally abused, disrespected, and denied the ability to advance in her military career. The applicant declared that she did not agree with her commander's separation

recommendation and would not accept such a separation until the reason for this action had been thoroughly investigated.

(2) The applicant expressed her desire to continue her military service, and she asked the commander for the opportunity to work for a different supervisor. She maintained that, if the commander allowed her another month, he would "realize that the 'problems' cited are being exaggerated and are the result of personality/leadership difficulties."

(3) The applicant ended her statement with, "Should this discharge...be approved against my wishes, I would prefer that the discharge be for pregnancy."

n. On 7 June 1982, Specialist Five [REDACTED] prepared a letter of support for the applicant, stating, in April 1982, the command had loaned the applicant to a sub-post dental clinic for one day and, during that period, the applicant's duty performance was outstanding and her attitude was pleasant.

o. On 8 June 1982, the DENTAC commander submitted his separation recommendation and advocated that the applicant receive a general discharge under honorable conditions. On a date prior to 28 June 1982, the separation authority approved the DENTAC commander's separation recommendation and directed the applicant's honorable character of service and her transfer to the U.S. Army Reserve (USAR). On 28 June 1982, orders honorably released the applicant from active duty and transferred her to the USAR.

p. The applicant's DD Form 214 shows she completed 2 years, 5 months, and 20 days of active service. It also shows in:

- Item 13 (Decorations, Medals, Badges, Citations, and Campaign Ribbons Awarded or Authorized) – Army Service Ribbon and two marksmanship qualification badges
- Item 25 (Separation Authority) – Paragraph 5-31h (1) (EDP – Separation Authority), AR 635-200
- Item 26 (Separation (SPD) Code) – "LGH"
- Item 27 (Reenlistment (RE) Code) – RE-3
- Item 28 (Narrative Reason for Separation) – Expeditious Discharge Program (EDP)

q. On 28 January 1987, the applicant petitioned the Army Discharge Review Board (ADRB), requesting a personal appearance and stating her arguments would be presented at the hearing. On or around September/October 1991, the applicant agreed to appear before an ADRB Travel Panel in November 1991. On 21 October 1991, the ADRB advised the applicant that, due to the overwhelming response, they would not be



able to hear the applicant's case; however, she could opt to wait for the next travel panel, request to appear at a Washington, D.C. hearing, or ask for a records-only review. On 18 March 1982, the applicant withdrew her request.

r. On 25 September 2018, the applicant requested, in effect, that the Board change her reason for separation, along with other applicable entries.

(1) The applicant argued her command gave her the separation papers while she was in the hospital, and she never had to chance to state her case. Additionally, the Board would not find her signature on any of the separation documents.

(2) On 29 July 2019, after considering the applicant's statement; her record of service; the counseling statements and laudatory documents in her records; the contents of the separation packet, to include her acknowledgement; her pregnancy, and the reason for her separation, the Board determined the evidence was insufficient to warrant any corrections.

5. The EDP allowed commanders to separate Soldiers who demonstrated they could not or would not meet Army standards. This policy applied to Soldiers who had completed at least 6 months but not more than 36 months of continuous active service, and it stipulated that the Soldiers had to voluntarily accept the separation. The separation authority was authorized to issue either an honorable or under honorable conditions (general) character of service.

a. On 1 April 1982, the Army released Interim Change 4 to AR 635-200; the change announced the elimination of the requirement to obtain a Soldier's consent for an EDP separation.

b. On 1 May 1982, the Army issued Change 5 to AR 635-200; the change showed a 1 June 1982 effective date, and it reinstated the requirement for commanders to obtain the Soldier's consent prior to separating him/her under the EDP.

6. AR 15-185 (ABCMR), currently in effect, states an applicant is not entitled to a hearing before the Board; however, the request for a hearing may be authorized by a panel of the Board or by the Director of ABCMR.

## 7. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting reconsideration of her previous request to amend her DD Form 214 by changing her narrative reason for separation. 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: 1) The applicant enlisted in the Regular Army on 9 January 1980; 2) There were multiple

negative counseling statements regarding the applicant's performance and attitude between May 1981-May 1982; 3) On 28 June 1982, orders honorably released the applicant from active duty and transferred her to the USAR. Her narrative reason for separation was Expeditious Discharge Program.

b. The Army Review Boards Agency (ARBA) Behavioral Health Advisor reviewed the supporting documents and the applicant's available military service records. The VA's Joint Legacy Viewer (JLV) was also examined.

c. The applicant asserts she experienced sexual harassment and discrimination and PTSD while on active service. There is insufficient evidence the applicant reported or was diagnosed with a mental health condition including PTSD while on active service.

d. A review of JLV provided sufficient evidence the applicant has been diagnosed with service-connected PTSD in 2021 by the VA. Specifically, the applicant attributed her symptoms to her difficulties with her leadership but more significantly the traumatic premature birth of her twin daughters while on active service. She has been awarded 50% disability for PTSD at this time.

e. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is sufficient evidence to support the applicant had a condition or experience that partially mitigates her discharge.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant asserts she experienced sexual harassment and discrimination which impacted her discharge. In addition, she reported experiencing PTSD on active service. The applicant has been diagnosed with service-connected PTSD in 2021 by the VA related to her report of a hostile working environment and her traumatic premature birth of her twins while on active service.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts she experienced sexual harassment and discrimination which impacted her discharge. In addition, she reported experiencing PTSD on active service. The applicant has been diagnosed service-connected PTSD in 2021 by the VA related to her report of a hostile working environment and her traumatic premature birth of her twins while on active service.

(3) Does the condition experience actually excuse or mitigate the discharge? Partially, there is sufficient evidence beyond self-report the applicant was experiencing significant occupational problems while on active service. There were multiple reports of this difficulty. In addition, she did experience a traumatic premature birth of twins, which in combination have been identified as traumatic and resulting in PTSD. It is unclear when her difficulty adapting to the military started, and it is unlikely the applicant was

experiencing PTSD when her difficulty with her performance began. However, individuals experiencing trauma and sexual harassment/discrimination can have the natural sequelae behavior of erratic behavior. Therefore, there is some mitigatable behavior.

#### BOARD DISCUSSION:

1. The Board found the available evidence sufficient to consider this case fully and fairly without a personal appearance by the applicant.
2. The Board carefully considered the applicant's request, supporting documents, evidence in the records, a medical review, and published Department of Defense guidance for liberal consideration of requests for changes to discharges. The Board considered the applicant's statement, her record of service, the frequency and nature of her misconduct, and the reason for her separation. The Board considered the applicant's PTSD claim and the review and conclusions of the ARBA Behavioral Health Advisor. The applicant provided no evidence of post-service achievements or letters of reference in support of a clemency determination.
3. A majority of the Board found insufficient evidence of in-service mitigating factors and concurred with the conclusion of the medical advising official regarding the behavior that led to her discharge being only partially mitigated by PTSD. Based on a preponderance of the evidence, a majority of the Board determined the reason for the applicant's separation and the associated codes were not in error or unjust.
4. The member in the minority also concurred with the conclusion of the medical advising official but found the partial mitigation of the applicant's behavior by PTSD supports relief when an additional factor is considered. Although there was a brief period when a Soldier did not need to consent to discharge under EDP, that requirement had been reinstated prior to the separation authority's approval of the applicant's discharge. The record shows no document where the applicant provided her consent to discharge under EDP, and the member in the minority found this failure of due process along with mitigation by PTSD is a basis for correcting the record. Based on a preponderance of the evidence, the member in the minority determined the reason for the applicant's discharge should be changed to Secretarial authority.

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 that the overall merits of this case are insufficient as a basis to amend the decision of the ABCMR set forth in Docket Number AR20180016309 on 29 July 2019.

3/29/2025

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. Title 10, USC, section 1556 (Ex Parte Communications Prohibited) 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 applicant's (and/or their counsel) prior to adjudication.

2. AR 635-200, made effective 1 March 1978, prescribed policies and procedures for enlisted administrative separations.

a. Paragraph 5-3 (Secretarial Authority) states, the separation of enlisted personnel is the prerogative of the Secretary of the Army and will be effected only by his/her authority. Except as delegated by these regulations or by special Department of the Army directives, the discharge or release of any enlisted member of the Army for the convenience of the Government will be at the Secretary's discretion and with the type of discharge as determined by him/her. Such authority may be given either in an individual case or by an order applicable to all cases specified in such orders.

b. Paragraph 5-31 (Expeditious Discharge Program (EDP)) stated commanders could discharge Soldiers who demonstrated they could not or would not meet Army standards. This policy applied to Soldiers who had completed at least 6 months but not more than 36 months of continuous active service, and it stipulated that the Soldiers had to voluntarily accept the separation. The separation authority was authorized to issue either an honorable or under honorable conditions (general) character of service.

(1) On 1 April 1982, the Army released Interim Change 4 to AR 635-200; the change announced the elimination of the requirement to obtain a Soldier's consent for an EDP separation.

(2) On 1 May 1982, the Army issued Change 5 to AR 635-200, showing an effective date of 1 June 1982 effective date; it reinstated the requirement for commanders to obtain the Soldier's consent prior to separating him/her under the EDP.

3. AR 635-5 (Separation Documents), in effect at the time, prescribed policies and procedures for DD Form 214 preparation. The regulation stated the narrative reason for separation was tied to the Soldier's regulatory separation authority and directed DD Form 214 preparers to AR 635-5-1 (Separation Program Designators (SPD)) for the appropriate entries in item 28 (Narrative Reason for Separation).

4. AR 635-5-1, in effect at the time, stated Soldiers separated in accordance with paragraph 5-31h (1), AR 635-200 were to receive an SPD of "LGH" and have, "Expeditious Discharge Program (EDP)" entered in item 28 of their DD Form 214.

5. AR 601-210 (Regular Army and Army Reserve Enlistment Program), in effect at the time, stated the following:

a. Table 4-11 (Armed Forces Reenlistment Eligibility Codes – Regular Army Reenlistment Eligibility Codes) stated:

- RE-1 – qualified for reentry into the Army

- RE-3 – not fully qualified for reentry at the time of separation, but the disqualification can be waived
- RE-4 – non-waivable disqualification for reentry into the Army

b. Appendix C (Waivable Moral and Administrative Disqualifications) stated in Line X that former Army members separated under the EDP required a waiver to reenter the Regular Army.

6. AR 15-185, currently in effect, states:

a. The ABCMR decides cases on the evidence of record; it is not an investigative body.

(1) The ABCMR begins its consideration of each case with the presumption of administrative regularity (i.e., the documents in an applicant's service records are accepted as true and accurate, barring compelling evidence to the contrary).

(2) The applicant bears the burden of proving the existence of an error or injustice by presenting a preponderance of evidence, meaning the applicant's evidence is sufficient for the Board to conclude that there is a greater than 50-50 chance what he/she claims is verifiably correct.

b. An applicant is not entitled to a hearing before the Board; however, the request for a hearing may be authorized by a panel of the Board or by the Director of ABCMR.

7. On 3 September 2014, the Secretary of Defense directed the Service Discharge Review Boards (DRBs) and Service Boards for Correction of Military/Naval Records (BCM/NRs) to carefully consider the revised PTSD criteria, detailed medical considerations and mitigating factors when taking action on applications from former service members administratively discharged under other than honorable conditions 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.

8. 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 Discharge Review Boards (DRBs) and Board for Correction of Military/Naval Records (BCM/NRs) when considering requests by Veterans for modification of their discharges due in whole or in part to: mental health conditions, including Post Traumatic Stress Disorder (PTSD); Traumatic Brain Injury (TBI); 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.

9. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military DRBs and BCM/NRs 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 type of court-martial. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice.

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, BCM/NRs 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.

//NOTHING FOLLOWS//