

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 July 2024

DOCKET NUMBER: AR20230013204

APPLICANT REQUESTS:

- physical disability retirement in lieu of physical disability separation with severance pay
- promotion to the rank/grade of sergeant (SGT)/E-5
- personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 1059 (Service School Academic Report), 9 January 2020
- Department of Veterans Affairs (VA) Disability Rating printout, 21 October 2021
- VA letter, 23 September 2023

FACTS:

1. The applicant states he was medically discharged for problems with both of his legs, but he also had several other disabilities while in the service and he requests consideration of those disabilities for medical retirement in lieu of a medical discharge. He also requests correction of his rank/grade from rank from corporal (CPL)/E-4 to SGT/E-5, because he was promotable at the time of his discharge and finished the Basic Leader Course (BLC). The Physical Evaluation Board (PEB) only rated him for his leg conditions but did not consider his other disabling conditions. They also did not see his promotable status and his rank is reflected as CPL.
2. The applicant enlisted in the Regular Army on 27 June 2017; he held Military Occupational Specialty (MOS) 91J (Quartermaster and Chemical Equipment Repairer).
3. The applicant had a rotational force deployment to Korea from 6 February 2019 through 30 October 2019.
4. A DA Form 1059 shows the applicant successfully completed the BLC at the U.S. Army Noncommissioned Officer (NCO) Academy, at Joint Base Lewis McChord while in the MOS 91J, from 20 October 2020 through 13 November 2020.

5. A DD Form 4 (Enlistment/Reenlistment Document) shows the applicant reenlisted in the Regular Army on 9 December 2020, for a period of 6 years, for the Army Training Reenlistment Option to reclassify into MOS 17E (Electronic Warfare Specialist).

6. A U.S. Army Human Resources Command (AHRC) memorandum from the Chief, Retention and Reclassification Branch to the applicant's immediate commander, dated 10 December 2020, shows:

a. The applicant was approved for reclassification/reenlistment to MOS 17E and was effectively entered into the Special MOS Alignment Promotion Program (SMAPP). Upon award of his new MOS and NCO Professional Development School (NCOPDS), if required, he was required to provide his local personnel office with the following documents:

- A copy of this memorandum
- MOS orders
- Reclassification Control Number
- A copy of his reenlistment contract validating he met the 36 month service remaining requirement
- copy of a DA Form 1059 validating he meets all NCOPDS requirements for promotion pin-on.
- When he completes the MOS-qualifying training without meeting the NCOPDS requirement, the promotion will be effective the date the NCOPDS requirement has been met.

b. The local personnel office would use these documents as authorization to promote the applicant to the rank/grade of SGT/E-5. His effective date of rank would be the date of his graduation from the 17E MOS producing course and/or BLC, whichever occurs last.

7. The applicant's DA Form 3349 (Physical Profile), DA Form 7652 (Disability Evaluation System (DES) Commander's Performance and Functional Statement), Medical Evaluation Board (MEB) Narrative Summary (NARSUM), DA Form 3947 (MEB Proceedings), and Department of Veterans Affairs (VA) Compensation and Pension (C&P) Exam are not in his available records for review and have not been provided by the applicant.

8. A DD Form 199 (Informal PEB Proceedings) shows:

a. An informal PEB, which convened on 4 August 2021, found the applicant physically unfit, and recommended rating of 20 percent and that his disposition be separation with severance pay.

b. His unfitting conditions were:

(1) Right ankle laxity with instability status post-surgery (MEB diagnosis (Dx) 1), 10 percent. He was found unfit for this condition because his DA Form 3349 functional activity limitations associated with this condition make him unable to reasonably perform his required duties.

(2) Left ankle laxity with instability status post-surgery (MEB Dx 2), 10 percent. He was found unfit for this condition because his DA Form 3349 functional activity limitations associated with this condition make him unable to reasonably perform his required duties.

c. He was found fit for the conditions of MEB Dxs 3-29, because the MEB indicates these conditions meet the retention standards of Army Regulation 40-501 (Standards of Medical Fitness), none are listed on his DA Form 3349 as preventing him from performing any of the functional activities, and there is no evidence to indicate that performance issues, if any, are due to these conditions.

d. His MOS is listed as 91J and his rank as specialist (SPC).

e. The applicant signed the form on 6 August 2021, indicating he concurred with the findings and recommendations of the informal PEB and waived a formal hearing of his case. He also indicated he did not request reconsideration of his VA Ratings.

9. U.S. Army Installation Management Command Orders 222-0002, dated 10 August 2021, discharged the applicant with a disability rating of 20 percent and authorized disability severance pay in the pay grade E-4, effective 20 October 2021. His rank is shown on the orders as CPL.

10. The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was honorably discharged on 20 October 2021, under the provisions of Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation), due to disability, severance pay, non-combat related, with corresponding separation code JEB. He was credited with 4 years, 3 months, and 24 days of net active service. His DD Form 214 shows in:

- Items 4a (Grade, Rate, or Rank) and 4b (Pay Grade) CPL/E-4
- Item 11 (Primary Specialty) shows his MOS as 91J.
- Item 12i (Effective Date of Pay Grade) 2019-06-27
- Item 14 (Military Education) Quartermaster/Chemical Equipment Repairer, 11 weeks, 2017

11. The applicant's Enlisted Record Brief (ERB) dated 21 October 2021, shows:

- his rank was CPL effective 27 June 2019
- his primary MOS was 91J
- he did not have a secondary MOS
- his bonus MOS was 17E and the bonus enlistment eligible date was the future date of 1 December 2026
- promotion points, previous promotion points, promotion sequence number, promotion selection date, and promotion MOS are all blank, indicating he was not in a promotable status

12. Although the applicant successfully completed BLC, there is no evidence of record the applicant ever attended and successfully completed a 17E MOS producing course or was awarded the MOS 17E, whereafter he would be automatically eligible for promotion to the rank/grade of SGT/E-5 through the SMAPP. There is also no evidence of record the applicant was in a promotable status through standard, non-SMAPP channels in his MOS 91J at the time of his discharge.

13. The applicant provided a VA Disability Ratings printout, presumably pertaining to himself, although his name is not on the printout, which shows he has a combined service-connected disability rating of 100 percent, effective 21 October 2021, for the following conditions:

- tinnitus, 10 percent
- cervical statin, 10 percent
- left ankle lateral collateral ligament sprain, 10 percent
- narcolepsy, 20 percent
- left knee patellar chondromalacia, status post correction of tibial torsion, 10 percent
- scar left lower extremity knee and ankle, 0 percent
- obstructive sleep apnea, 50 percent
- persistent depressive disorder with persistent major depressive episode, moderate with anxious distress, 70 percent
- scar right lower extremity knee and ankle, 0 percent
- right knee patellar chondromalacia, status post correction of tibial torsion, 10 percent.
- right ankle degenerative arthritis, 10 percent

14. A VA letter, dated 23 September 2023, shows the applicant has one or more service-connected disabilities with a combine evaluation of 100 percent effective 1 December 2022. He is considered to be totally and permanently disabled due solely to his service-connected disabilities effective 21 October 2021.

15. The Army rates only conditions determined to be physically unfitting at the time of discharge, which disqualify the Soldier from further military service. The Army disability

rating is to compensate the individual for the loss of a military career. The VA does not have authority or responsibility for determining physical fitness for military service. The VA may compensate the individual for loss of civilian employability.

16. 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 is applying to the ABCMR requesting additional medical conditions be determined to have been unfitting for continued service prior to his separation; a corresponding an increase in his military disability rating; and that his disability discharge disposition be changed from separated with severance pay to permanent retirement for physical disability. He states: "I was medically discharged for both leg problems but also I had several disabilities during in service. So, I need to upgrade DOD side disability and need to upgrade as medical discharge as retirement, and I need to upgrade from Corporal rank to Sargent rank too because I have promotable status. Also finished Basic Leadership Courses in US Army. PEBLO looked rated only my both legs problem. Also they didn't see that my promotable status in US Army."

c. The Record of Proceedings details the applicant's service and the circumstances of the case. His DD 214 shows he entered the Regular Army on 27 June 2017 and was discharged with \$21,708.00 of disability severance on 20 October 2021 under provisions provided in paragraph 4-27c(3) of AR 635-40, Physical Evaluation for Retention, Retirement, or Separation (19 January 2017).

d. A Soldier is referred to the Integrated Disability Evaluation System (IDES) when they have one or more conditions which appear to fail medical retention standards reflected on a duty limiting permanent physical profile. At the start of their IDES processing, a physician lists the Soldiers referred medical conditions in section I the VA/DOD Joint Disability Evaluation Board Claim (VA Form 21-0819). The Soldier, with the assistance of the VA military service coordinator, lists all other conditions they believe to be service-connected disabilities in block 8 of section II of this form, or on a separate Application for Disability Compensation and Related Compensation Benefits (VA Form 21-526EZ).

e. Soldiers then receive one set of VA C&P examinations covering all their referred and claimed conditions. These examinations, which are the examinations of record for the IDES, serve as the basis for both their military and VA disability processing. The medical evaluation board (MEB) uses these exams along with AHLTA encounters and other information to evaluate all conditions which could potentially fail retention standards and/or be unfitting for continued military service. Their findings are then sent to the physical evaluation board for adjudication.

f. All conditions, both claimed and referred, are rated by the VA using the VA Schedule for Rating Disabilities (VASRD). The physical evaluation board (PEB), after adjudicating the case, applies the applicable ratings to the Soldier's unfitting condition(s), thereby determining his or her final combined rating and disposition. Upon discharge, the Veteran immediately begins receiving the full disability benefits to which they are entitled from both their Service and the VA.

g. On 19 January 2021, the applicant was referred to the IDES for "Bilateral lower tibial/ankle pain with bilateral ankle instability." The applicant claimed fourteen additional conditions on a separate VA Form 21-526EZ).

h. A medical evaluation board (MEB) determined the two referred conditions failed the medical retention standards of AR 40-501, Standards of Medical Fitness. The MEB determined twenty-seven other medical conditions met medical retention standards. On 7 May 2021, the applicant concurred with the MEB's decision and declined the opportunity to request an Impartial Medical Review (IMR) and/or the opportunity to submit a written rebuttal. His case was forwarded to a physical evaluation board (PEB) for adjudication.

i. On 4 August 2021, the applicant's informal PEB found his "Right ankle laxity with instability status post-Surgery" and "Left ankle laxity with instability status post-Surgery" to be unfitting conditions for continued military service. They found the twenty-seven remaining medical conditions not unfitting for continued service. The PEB applied the Veterans Benefits Administration (VBA) derived ratings of 10% and 10% respectively for a combined military DISABILITY RATING OF 20% and recommended the applicant be separated with disability severance pay. On 6 August 2021, after being counseled by his PEB Liaison Officer (PEBLO) on the PEB's findings and recommendations, the applicant concurred with the PEB's finding, waived his right to a formal hearing, and declined to request a VA reconsideration of his disability ratings.

j. Review of his PEB case file in ePEB along with his encounters in AHLTA revealed no substantial inaccuracies or discrepancies.

k. There is no probative evidence the applicant had any additional medical condition(s) which would have failed the medical retention standards of chapter 3, AR 40-501 prior to his discharge. Thus, there was no cause for referral to the Disability

Evaluation System. Furthermore, there is no evidence that any additional medical condition prevented the applicant from being able to reasonably perform the duties of his office, grade, rank, or rating prior to his discharge.

l. JLV shows he has been awarded numerous VA service-connected disability ratings, including dysthymic disorder (70%), sleep apnea syndromes (50%), and seizure disorder (20%). However, the DES only compensates an individual for service incurred medical condition(s) which have been determined to disqualify him or her from further military service and consequently prematurely ends their career. The DES has neither the role nor the authority to compensate service members for anticipated future severity or potential complications of conditions which were incurred or permanently aggravated during their military service; or which did not cause or contribute to the termination of their military career. These roles and authorities are granted by Congress to the Department of Veterans Affairs and executed under a different set of laws.

m. It is the opinion of the ARBA medical advisor that neither an increase in his military disability rating nor a referral of his case back to the DES is warranted.

BOARD DISCUSSION:

1. The Board determined the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

2. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered.

a. Grade/Promotion: Deny. The Board noted that although the applicant successfully completed BLC, there is no evidence of record he ever attended and successfully completed a 17E MOS producing course or was awarded the MOS 17E, which would have made him eligible for automatic promotion to SGT/E-5 through the SMAPP. There is also no evidence of record the applicant was in a promotable status through standard, non-SMAPP channels in his MOS 91J at the time of his discharge.

b. Disability Retirement: The applicant was referred to the IDES for "Bilateral lower tibial/ankle pain with bilateral ankle instability." An informal PEB found his "right ankle laxity with instability status post-surgery" and "left ankle laxity with instability, status post-surgery" to be unfitting conditions for continued military service. The PEB considered over two dozen remaining medical conditions, but they were not unfitting for continued service. The PEB applied the VA derived ratings of 10% and 10% respectively for a combined military disability rating of 20% and recommended the

applicant be separated with disability severance pay. He was counseled and concurred. The Board found no error or injustice in his disability processing. The Board also reviewed and agreed with the medical official's finding no probative evidence the applicant had any additional medical condition(s) which would have failed the medical retention standards of chapter 3, AR 40-501 prior to his discharge. Furthermore, there is no evidence that any additional medical condition prevented the applicant from being able to reasonably perform the duties of his office, grade, rank, or rating prior to his discharge. Therefore, the Board determined that neither an increase in his military disability rating nor a referral of his case back to the DES is warranted.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

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

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I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. 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 Boards 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, on those conditions or experiences.
2. 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 (DES) and executes Secretary of the Army decision-making authority as directed by Congress in chapter 61 and in accordance with DOD Directive 1332.18 (Discharge Review Board (DRB) Procedures and Standards) and Army Regulation 635-40 (Physical 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 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 (MMRB); 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 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. 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.

3. Army Regulation 635-40 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.

a. 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. 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. A rating is not assigned until the PEB determines the Soldier is physically unfit for duty. Ratings are assigned from the Department of Veterans Affairs (VA) Schedule for Rating Disabilities (VASRD). 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.

4. 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.

5. Military Personnel Message Number 20-332, dated 8 October 2020, Title: Special MOS Alignment Promotion Program (SMAPP) provided:

a. Soldiers serving in the Regular Army (RA) may reclassify into specific critical Military Occupational Specialties (MOS) identified in the SMAPP. Promotion of Soldiers reclassified into a SMAPP-designated MOS will be effective on the date of graduation from the MOS-qualifying school, which occurs after all training phases are completed and the MOS is awarded, provided they are otherwise eligible in accordance with Army Regulation 600-8-19 (Enlisted Promotions and Reductions), 16 May 2019. This message will be cited as authority for promotion in the promotion order.

b. Soldiers applying for entry into the SMAPP:

(1) Must meet qualifications for promotion to the next higher rank, including minimum time in service and time in grade requirements. Soldiers are not required to be a graduate of Noncommissioned Officer Professional Development System (NCOPDS) nor be in a promotable status. Provided they are otherwise eligible in accordance with Army Regulation 600-8-19, paragraph 1-11 (Non-promotable status) (including required NCOPDS). Soldiers will be promoted effective on the graduation date from the MOS-qualifying schools, which occurs after all training phases are completed and the MOS is awarded. When Soldiers complete the MOS-qualifying training without having first met the NCOPDS requirements for promotion as provided for in Army Regulation 600-8-19, paragraph 1-29 (NCOPDS requirement for promotion and conditional promotion), the promotion will be effective the date the NCOPDS requirement is met. See Army Regulation 600-8-19, paragraph 1-35 (Special military occupational specialty alignment promotion) for additional information.

(2) Must be fully eligible for reenlistment, retraining, and voluntary reclassification. Soldiers incur a service remaining requirement (SRR) for attending training. The SRR is calculated from the date the Soldier graduates training and is awarded the MOS. Upon approval of a reclassification request and prior to attending training, Soldiers must reenlist or extend to meet this service remaining requirement.

(3) Must be endorsed by the first LTC/O5 commander in the Soldier's chain of command.

(4) Will receive a memorandum from U.S. Army Human Resources Command (HRC) upon approval of reclassification and entry into the SMAPP. Reclassification is not complete until a reclassification control number (RCN) is issued by HRC; the RCN is required for publishing the MOS order. The notification memorandum and MOS order must be provided to the military personnel directorate at the gaining installation for publication of promotion orders.

c. Critical MOS currently SMAPP designated; for promotion to SGT; MOS 17E, Electronic Warfare Specialist:

(1) Must be a specialist/corporal and meet the minimum qualifications for the MOS prior to submitting reclassification action; Soldier can attend training without the Basic Leadership Course requirement and will be awarded the MOS upon graduation from the course; however, they will not be promoted until the NCOPDS requirement is met and award of MOS 17E.

(2) Soldiers incur a 36-month service remaining requirement upon graduation and award of MOS 17E.

d. In order to remain eligible for this program, Soldiers must graduate training and remain eligible for promotion. Soldiers who do not complete training as scheduled or are disqualified for the new MOS (to include remaining eligible for promotion) will remain in their current PMOS and be reassigned in accordance with the needs of the Army.

6. Army Regulation 600-8-19 (Enlisted Promotions and Reductions), in effect at the time, prescribed the enlisted promotions and reductions function of the military personnel system.

a. Paragraph 1-11 (Non-promotable status, provided Soldiers (Specialist through master sergeant except as noted) are non-promotable to a higher rank when one of the following conditions exists, in part:

(1) Soldier has not completed the required NCOPDS course for the higher rank.

(2) A Soldier is ineligible to reenlist for the following reasons: Absent without leave; Pending or has an approved administrative separation; Pending security clearance eligibility determination when it is required for the Soldier's primary military occupational specialty (PMOS); Lack of a qualifying Army Physical Fitness Test (APFT) (not applicable to Soldiers affected by paragraphs 1-18, 1-19, 1-20, and 1-22); Approved retirement; Field or HQDA bar to continued service; Has an approved

declination of continued service statement (DCSS); and/or does not meet regulatory weight standards.

(3) A written recommendation has been sent to the promotion authority to reclassify a Soldier for inefficiency or disciplinary reasons.

(4) A Soldier was punished under the Uniform Code of Military Justice (UCMJ), Article 15, including suspended punishment. Summarized proceedings imposed according to Army Regulation 27–10 are excluded and will not result in non-promotable status.

(5) A Soldier is denied favorable personnel actions under the provisions of Army Regulation 600–8–2 (applicable for promotion to PV2 through SGM).

b. Paragraph 1-29 (Noncommissioned Officer Professional Development System requirement for promotion and conditional promotion) provides, except for promotions completed under the provisions of paragraphs 1–18 (Students), 1–19 (Soldiers categorized as missing), 1–20 (Promotion of terminally ill Soldiers), 1–22 (Soldiers returning for duty from the temporary disability retired list), 3–5 (Special promotion categories), and 8–3 (Section II (Processing Promotions for Special Bandspersons), Soldiers (all components) must complete the following professional military education (PME) courses:

(1) Completion of SSD/DLC 1 is an eligibility requirement for recommendation to SGT.

(2) Graduation of the Basic Leader Course (BLC) is a promotion requirement to SGT. Soldiers promoted per the provisions of paragraphs 3–5d (Special mission units) and 3–5e (Officer Candidate School, Warrant Officer Candidate Course, and Inter-service Physician Assistance Program) are not required to complete NCOPDS in order to otherwise qualify for promotion pin-on.

c. Paragraph 1-35 (Special military occupational specialty alignment promotion) provided, this program applied to Soldiers with an approved reenlistment and/or reclassification into an MOS designated by HRC for special MOS alignment promotion to meet Army readiness, Soldiers will be promoted effective on the graduation date from the MOS-qualifying school, which occurs after all training phases are completed and the MOS is awarded, provided they are otherwise eligible in accordance with paragraph 1–11 (including required PME). When Soldiers complete the MOS-qualifying training without having first met the PME requirements for promotion as provided for in paragraph 1–29, the promotion will be the effective date the PME requirement is met. Soldiers who fail to complete training as scheduled become disqualified for award of the new MOS and are no longer eligible for promotion under this paragraph. For Regular

Army Soldiers, forward a copy of the special military occupational specialty alignment promotion memorandum, MOS orders, and promotion orders to Commander, U.S. Army Human Resources Command (AHRC–PDV–PE), 1600 Spearhead Division Avenue, Fort Knox, KY 40122–5407 or email usarmy.knox.hrc.mbx.tagdjr-enlisted-promotions@mail.mil for inclusion into TAPDB.

7. Army Regulation 635-8 (Separation Processing and Documents) prescribes policy and procedural guidance relating to transition management, including the preparation of the DD Form 214 (Certificate of Release or Discharge from Active Duty).

a. The general instructions state the DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge.

b. The specific instructions for completion of items 4a (Grade, Rate, or Rank) and 4b (Pay Grade) state to verify the active duty grade or rank and pay grade are accurate at the time of separation.

8. Title 38, U.S. Code, 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.

9. Title 38, U.S. Code, 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.

10. Title 10, U.S. Code, section 1556 requires the Secretary of the Army to ensure that an applicant seeking corrective action by the Army Review Boards Agency (ARBA) be provided with a copy of any correspondence and communications (including summaries

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

11. Army Regulation 15-185 (Army Board for Correction of Military Records (ABCMR)) prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR.

a. Paragraph 2-11 states applicants do not have a right to a formal hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

b. The ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

//NOTHING FOLLOWS//