

IN THE CASE OF: [REDACTED]

BOARD DATE: 7 November 2024

DOCKET NUMBER: AR20240002216

APPLICANT REQUESTS:

- honorable physical disability discharge in lieu of uncharacterized administrative discharge due to failure to meet medical/physical procurement standards
- personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty) (Member Copy), covering the period ending 2 December 2022
- DD Form 214 (Service Copy), covering the period ending 2 December 2022
- three Department of Veterans Affairs (VA) letters, all dated 19 January 2024

FACTS:

1. The applicant states:

a. He is requesting to change his discharge from an entry level separation to an honorable disability discharge which is service-connected. He completed Basic Combat Training (BCT) and was in Advanced Individual Training (AIT) within 20 days of graduation. He had prepared and notified his family and planned to complete his full term of service.

b. He has since been categorized by the VA with a 60 percent service-connected disability and seeks an honorable medical discharge. He passed all requirements prior to Military Entrance Processing Station (MEPS) processing. His original discharge was rushed and even when he sought reclassification, his commander refused and expedited his dismissal to restrict his access to the Judge Advocate General (JAG) Corps. Had he been represented by JAG, he would have completed his term of service.

c. The applicant marked the blocks on his application indicating that post-traumatic stress disorder (PTSD) and other mental health conditions are related to his request.

2. A physical profile is used to classify a Soldier's physical disabilities. PULHES is the acronym used in the Military Physical Profile Serial System to classify a Soldier's physical abilities in terms of six factors, as follows: "P" (Physical capacity or stamina), "U" (Upper extremities), "L" (Lower extremities), "H" (Hearing), "E" (Eyes), and "S" (Psychiatric) and is abbreviated as PULHES. Each factor has a numerical designation: 1 indicates a high level of fitness, 2 indicates some activity limitations are warranted, 3 reflects significant limitations, and 4 reflects one or more medical conditions of such a severity that performance of military duties must be drastically limited. Physical profile ratings can be either permanent (P) or temporary (T).
3. Boston MEPS Readiness Documentation, dated 30 June 2022, shows the applicant's PULHES was 111111, and that he was per PULHES qualified for enlistment as of the date of the form.
4. A U.S. Army Medical Command (MEDDAC) Form 980 (Medical Moment of Truth), dated 10 July 2022, shows the applicant indicated he did not currently have a medical condition that was not cleared, did not receive a waive for clearance from MEPS or his recruiter told him not to tell anyone. He circled "No" to having been diagnosed with or treated for any of the listed conditions on the form.
5. The applicant enlisted in the Regular Army on 9 August 2022.
6. A DA Form 4707 (Entrance Physical Standards Board (EPSBD) Proceedings, dated 7 November 2022, shows:
  - a. The findings by the evaluating physicians shows the applicant's chief complaint was a history of cervical pain. He was a 32 year old in initial entry training, currently in the blue phase of AIT for Military Occupational Specialty (MOS) 31E (Internment/Resettlement Specialist). He was referred to the medical team by behavioral health for possible neck injury/concussion/irritability, which he initially claimed was due to a hit to the back of the neck during a training exercise. After careful inquiry by medical and company personnel, the injury was not supported. The applicant stated his irritability was due to stress, annoyance from other "young battle buddies," and being away from his family. A review of records indicates extensive histories of cervical injury with diagnoses of cervical disc herniation and radiculopathy. He reported multiple motor vehicle accidents leading to years of cervical problems, but omitted this history during MEPS processing. He continues to have intermittent neck pain, especially at night. The record also indicates a history of Asperger syndrome.
  - b. He was diagnosed with a history of cervical radiculopathy that existed prior to service (EPTS). The recommendation shows the applicant has a disqualifying medical condition that will interfere with future training. He should be expeditiously separated from active duty in accordance with Army Regulation 635-200 (Active Duty Enlisted

Administrative Separations), paragraph 5-10 and Department of Defense Instruction (DODI) 6130 (Medical Standards for Appointment, Enlistment, or Induction in Military Services) 5.16 Spine and Sacroiliac Joint. b. History of any condition, in the last 2 years, or any recurrence, including but not limited to the spine or sacroiliac joints, with or without objective signs, if: (1) It prevents the individual from successfully following a physically active avocation in civilian life, or is associated with local or radicular pain, muscular spasms, postural deformities, or limitation motion. h. History of uncorrected herniated nucleus pulposus associated with any treatment, symptoms, or activity limitations. i. History of surgery to correct herniated nucleus pulposus other than a single-level lumbar or thoracic discectomy that is currently asymptomatic with full resumption of unrestricted activity for at least 12 months. 5.30 Miscellaneous Conditions. i. History of any condition that may reasonably be expected to interfere with the successful performance of military duty or training or limit geographical assignment.

c. The applicant was given a temporary physical profile to recommend removal from training activities while pending separation action. The medical approving authority signed the form on 16 November 2022, approving the findings and recommendations.

7. A DA Form 4856 (Developmental Counseling Form), dated 16 November 2022, shows the applicant was counseled by his immediate commander, informing him he was recommended for discharge under the provisions of Army Regulation 635-200, paragraph 5-10 due to an EPTS condition and that he would be transferred to the Reception Holding Unit while pending his administrative separation process.

8. On 21 November 2022, the applicant signed a memorandum indicating he requested to waive the requirement to take a comprehensive Separation History and Physical Examination History (SHPE), as he had a physical examination within 6 months of his separation date.

9. On 21 November 2022, the applicant's immediate commander signed a memorandum indicating he concurred with the applicant's request to waive the full SHPE.

10. On 22 November 2022, a Consolidated Troop Medical Clinic (CTMC) Provider signed a memorandum indicating the applicant had a DD Form 2807-1 (Report of Medical History), 2808 (Report of Medical Examination) and a DD Form 2697 (Report of Medical Assessment), dated 24 June 2022, on file in his service treatment records and was medically cleared for separation with no further treatment required.

11. A DD Form 2697 shows the applicant provided his medical assessment on 21 November 2022, wherein he indicated his overall health was the same compared to his last medical assessment, he was treated by CTMC and Behavioral Health Clinic since his last medical assessment, and he did not suffer from any injury or illness while

on active duty for which he did not seek medical care. A medical provider signed the assessment on 22 November 2022, indicating the applicant was not referred for further assessment and was cleared for separation.

12. On 29 November 2022, the applicant signed the DA Form 4707 indicating he had been informed of the medical findings, concurred with the proceedings, and requested to be retained on active duty.

13. On 29 November 2022, the applicant's immediate commander signed the DA Form 4707 indicating he recommended the applicant's discharge.

14. On 30 November 2022, the discharge authority signed the DA Form 4707, directing the applicant's discharge from the Army.

15. The applicant's DD Form 214 shows he was given an uncharacterized discharge on 2 December 2022, under the provisions of Army Regulation 635-200 (with the specific chapter and paragraph of that regulation unlisted) due to failed medical/physical procurement standards, with corresponding separation code JFW. He was credited with 3 months and 24 days of net active service and not awarded an MOS.

16. The applicant provided multiple VA letters, all dated 19 January 2024, which show he is receiving service-connected disability compensation with a combined evaluation of 60 percent, effective 1 December 2023, and that he is not considered to be totally and permanently disabled due solely to his service-connected disabilities.

17. A 30 July 2024 memorandum from the Army Review Boards Agency (ARBA) shows the applicant was requested to provide a copy of the medical documentation supporting his issue of PTSD and other mental health issues, but he did not provide any medical documentation.

18. 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.

19. Title 38, USC, Sections 1110 and 1131, permit the VA to award compensation for disabilities which were incurred in or aggravated by active military service. However, an award of a VA rating does not establish an error or injustice on the part of the Army.

## 20. MEDICAL REVIEW:

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

b. The applicant is applying to the ABCMR requesting an upgrade of his 2 December 2022 uncharacterized discharge and, in essence, a referral to the Disability Evaluation System (DES). On his DA 149, he has indicated the PTSD and Other Mental Health conditions are issues related to his requests. He states:

“I had passed all requisites prior to MEPS [military entrance processing station] during IRR [individual ready reserve] At MEPS, and Completed Basic Training and certified as an US Army Soldier on 2022 Oct 14 and was in A {sic} 20 days of Graduation upon separation. I had prepared and notified family in anticipation to further complete my full term of service. As such I have since been c {sic}, 60% Service-Connected Disability and seek Honorable Upgrade under Medical Conditions.

The original discharged was rushed and even when seeking reclass , JAG, my commander refused to seek rebuttal and instead expedited my dismissal to prohibit and restrict my access to JAG Corp, I would have completed my se {sic} if I had been represented by JAG.”

c. The Record of Proceedings details the applicant's military service and the circumstances of the case. The applicant's DD 214 he entered regular Army on 9 August 2022 and received an uncharacterized discharged on 2 December 2022 under the separation authority provided by paragraph 5-10 of AR 635-200, Active Duty Enlisted Administrative Separations (28 June 2021): Separation of personnel who did not meet procurement medical fitness standards.

d. Paragraph 5-10a of AR 635-200:

5–10. Separation of personnel who did not meet procurement medical fitness standards

“a. Soldiers who were not medically qualified under procurement medical fitness standards when accepted for enlistment or who became medically disqualified under these standards prior to entry on active duty or ADT for IET, may be separated. Such conditions must be discovered during the first 6 months of active duty. Such findings will result in an entrance physical standards board. This board, which must be convened within the Soldier’s first 6 months of active duty, takes the place of the notification procedure required for separation under this chapter (see para 2 – 2).”

e. The EMR shows the applicant began evaluation and treatment for cervical pain while in initial entry training. A 7 November 2022 encounter reveals the applicant had cervical pain with a radiculopathy prior to entering the Army.

“Cervical radiculopathy Pt [patient] seen to discuss cervical history concern based on recent report, although pt later admitted to not hurt while in training. Review of records indicated extensive history of cervical pain and intervention due to MVA [motor vehicle accident] which was not disclosed prior to BCT [basic combat training]: Diagnosis of cervical disc herniation and radiculopathy. Pt also reported multiple MVAs. Pt stated he didn't think to disclose such information.

Records also history of Asperger syndrome.

Discussed EPTS [existed prior to service] on premise of history and recent trial of complaint r/t to site. Pt verbalized understanding.”

f. The applicant was subsequently referred to an entry physical standards boards (EPSBD) IAW paragraph 5-11a of AR 635-200 for these preexisting conditions. These boards are convened IAW paragraph 7-12 of AR 40-400, Patient Administration. This process is for enlisted Soldiers who within their first 6 months of active service are found to have a preexisting condition which does not meet the enlistment standard in chapter 2 of AR 40-501, Standards of Medical Fitness, but does meet the chapter 3 retention standard of the same regulation. The fourth criterion for this process is that the preexisting condition was not permanently service aggravated.

g. From the narrative summary on his 7 November 2022 Entrance Physical Standards Board (EPSBD) Proceedings (DA Form 4707):

CHIEF COMPLAINT: History of cervical pain

HISTORY OF PRESENT ILLNESS: The Service member is a 32-year-old male in initial entry military training, currently in blue phase MOS 31E [Detention specialist].

Trainee was referred to the medical team by BH for possible neck injury, concussion, irritability which SM initially claimed was due to a hit lo back of neck during a training exercise. After careful inquiry by medical/company personnel, injury was not supported. SM [service member] later denied injury/concussion; SM stated irritability was due to stress, annoyance from other "young battle buddies," and being away from his family.

Review of records indicated extensive histories of cervical injury with diagnosis of cervical disc herniation and radiculopathy. SM reported multiple MVA leading lo years of cervical problem but omitted history during MEPS process ... SM continues to have intermittent neck pain especially at night. Record also indicated history of Asperger syndrome.

PHYSICAL EXAMINATION: ... Neck is supple without visible injury, swelling, lymphadenopathy, no thyromegaly ...

DIAGNOSTIC STUDIES: N/A

DIAGNOSIS: History of cervical radiculopathy

RECOMMENDATIONS: The Soldier has a disqualifying medical condition that will interfere with future training. The Service member should be expeditiously separated from active duty in accordance with AR 635-200, Chapter 5-10 and DODI 6130.03 [Medical Standards for Military Service: Appointment, Enlistment, or Induction (6 May 2018)] paragraph 5.16 - Spine and Sacroiliac joint:

b. History of any condition, in the last 2 years, or any recurrence, including but not limited to the spine or sacroiliac joints, with or without objective signs, if:

(1) It prevents the individual from successfully following a physically active avocation in civilian life, or is associated with local or radicular pain, muscular spasms, postural deformities, or limitation motion.

h. History of uncorrected herniated nucleus pulposus associated with any treatment, symptoms, or activity limitations.

i. History of surgery to correct herniated nucleus pulposus other than a single-level lumbar or thoracic discectomy that is currently asymptomatic with full resumption of unrestricted activity for at least 12 months ...

h. On 16 November 2022, the board determined that his condition had existed prior to service, had not been permanently aggravated by his service, and failed the enlistment standards in chapter DODI 6130.03. The applicant concurred with the Board's findings and recommendation on 29 November 2022 and requested to be retained on active duty."

i. While the documentation was not in the supporting documentation, it must be assumed his request was denied.

j. The EMR shows the applicant was evaluated by behavioral health on 31 October 2022:

"SM requested BH services on this date because he feels his mental health is deteriorating. SM reports he was "knocked out" at The Forge during a Pugil stick event; stated he did not lose consciousness but that he 'blacked out. He did not seek medical care at the time. He reports that his peers and his Drill Sergeants have noticed a personality change since this event, including 'new aggression behavior' ...

SM denied prior history of significant mental health problems, mental health services, use of psychotropic medications, and psychiatric hospitalization."

k. As seen above, the applicant later stated there was no such injury. The provider then went on to write in bold text: "A review of JLV after session indicates history of Bipolar Disorder (20160909), Asperger's Disorder (20160909), Narcolepsy and prior administration of Invega Sestina 234."

l. There is no probative evidence the applicant had any duty incurred medical condition which would have failed the medical retention standards of chapter 3 of AR 40-501, Standards of Medical Fitness, prior to his discharge. Thus, there was no cause for referral to the Disability Evaluation System.

m. JLV shows he has been awarded four VA service-connected disability ratings: Major depressive disorder, Cervical strain, Tinnitus, and Excessive tearing. However, the DES compensates an individual only for service incurred medical condition(s) which have been determined to disqualify him or her from further military service. 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. These roles and authorities are granted by Congress to the Department of Veterans Affairs and executed under a different set of laws.

n. An uncharacterized discharge is given to individuals who separate prior to completing 180 days of military service, or when the discharge action was initiated prior to 180 days of service. This type of discharge does not attempt to characterize service as good or bad. Through no fault of his own, he simply had a medical condition which was, unfortunately, not within enlistment standards.

o. It is the opinion of the Agency Medical Advisor that neither a discharge upgrade nor a referral of his case to the DES is warranted.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, the evidence found within the military record and Department of Defense guidance for consideration of discharge upgrade requests, the Board found that relief was not warranted.

2. The Board carefully considered the applicant's contentions, his record and length of service, the Entrance Physical Standards Board (EPSBD) Proceedings, the absence of evidence that he was awarded an MOS, his request to waive the requirement to take a comprehensive Separation History and Physical Examination History (SHPE), the reason for his separation and the character of service he received. The Board considered the review and conclusions of the medical advisor and the applicant's VA disability ratings. The Board found that the applicant had a condition that did not meet procurement medical standards and that his condition not been permanently aggravated by his service. The Board found insufficient evidence to determine that the applicant had a condition, incurred in service, that failed to meet medical retention standards and that referral to the Disability Evaluation System was not warranted. Based on a preponderance of evidence, the Board determined that the reason and character of service the applicant received upon separation were not in error or unjust.

3. The applicant's request for a personal appearance hearing was carefully considered. In this case, 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.

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.



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. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), sets policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons.

a. Chapter 3 states a separation will be described as entry level with uncharacterized service if the Soldier is in an entry-level status at the time separation action is initiated.

b. Paragraph 5-10 (Separation of personnel who did not meet procurement medical fitness standards) shows Soldiers who were not medically qualified under procurement medical fitness standards when accepted for enlistment or who became medically disqualified under these standards prior to entry on active duty or active duty training for initial entry training, may be separated. Such conditions must be discovered during the first 6 months of active duty. Such findings will result in an entrance physical standards board. This board, which must be convened within the Soldier's first 6 months of active duty, takes the place of the notification procedure required for separation.

c. Medical proceedings, regardless of the date completed, must establish that a medical condition was identified by an appropriate military medical authority within 6 months of the Soldier's initial entrance of active duty for Regular Army or active duty training for Army National Guard of the United States and U.S. Army Reserve that:

(1) would have permanently or temporarily disqualified the Soldier for entry into the military service or entry on active duty or active duty training for initial entry training had it been detected at the time

(2) does not disqualify the Soldier for retention in the military service per Army Regulation 40-501, chapter 3. As an exception, Soldiers with existed prior to service conditions of pregnancy or HIV infection will be separated.

d. A Soldier who is found after entry on active duty not to have been qualified under procurement medical fitness standards at the time of enlistment may request to be retained on active duty subject to the conditions listed below. Approval or disapproval of requests for retention under this paragraph is delegated to the separation authority cited in paragraph 1-20d. No Soldier has a right to be retained under this paragraph. Soldiers not retained will be processed for separation. Soldiers will not be retained under this paragraph unless both conditions below are met:

(1) The separation authority cited in paragraph 1-20d determines, after considering the proceedings of an entrance physical standards board, that the Soldier's disqualifying condition will not prevent the Soldier from performing satisfactorily throughout his or her period of enlistment in the MOS for which the Soldier is being trained or in another MOS based on the Soldier's medical condition.

(2) The Soldier, after being counseled and given the opportunity to obtain legal advice, signs a statement requesting to complete the period of service for which enlisted.

e. Section II (Terms) of the Glossary defines entry-level status for Regular Army Soldiers as the first 180 days of continuous active duty or the first 180 days of

continuous active duty following a break of more than 92 days of active military service. For Army National Guard (ARNG) and U.S. Army Reserve (USAR) Soldiers, entry-level status begins upon enlistment in the ARNG or USAR. For Soldiers ordered to IADT for one continuous period, it terminates 180 days after beginning training. For Soldiers ordered to IADT for the split or alternate training option, it terminates 90 days after beginning Phase II of Advanced Individual Training.

6. 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.

7. 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.

8. 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.

9. 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. 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.

//NOTHING FOLLOWS//