

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 26 November 2024

DOCKET NUMBER: AR20240002998

APPLICANT REQUESTS: correction of his records to show he was medically retired vice medical discharged.

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

- DD Form 293 (Application for the Review of Discharge)
- Continuation of DD Form 293
- Medical Documents
- Letters of Support
- Letter from Department of Veterans Affairs (VA)
- Screenshot of Disabilities
- DD Form 214 (Certificate of Release or Discharge from Active Duty)
- Pictures of Injuries

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.

2. The applicant states:

a. At the time of his discharge, he was rated at 80 percent service-connected disabled by the VA. While he understands that there are different rating criteria for the Department of Defense (DoD) and the VA, it is important to note that within two years, he was deemed 100 percent totally and permanently disabled by the VA due to his service-connected disabilities.

b. Upon entry into the Army in 2003, he intended to serve more than twenty years and retire from military service. This plan never changed and had he not been injured and medically discharged, he would have continued his service for as long as possible. He was devastated when he learned he would be medically discharged but was even

more upset to learn that he would not be considered for a medical retirement after twelve years of service and four combat deployments.

c. He was injured several years before his discharge but the injury was further and irreparably exacerbated by his last deployment in 2012. He made every attempt to rehabilitate his shoulder, after his first surgery in 2015, but his shoulder ultimately was not able to be rehabilitated and has continued to be painful and surgical over the years as evidenced by the attached documentation. As such, he has been unable to secure and retain gainful employment in the Criminal Justice Field, which is ultimately what his military skills transfer to and the field in which he earned his bachelor's degree. This injury not only impacted his military service but has limited his employment opportunities outside of the military as well.

d. In addition, when considering employment, he has to consider medical appointments for his many service-connected conditions. He was inequitably not considered for medical retirement, at the time of his discharge.

e. Right Ear Sensorineural Hearing Loss: In 2014, his audiogram demonstrated moderate to severe sensorineural hearing loss in his right ear. This is considered a permanent condition and hearing aids are discussed, when he is seen for his hearing at the VA. At the time of his discharge, it was always stated that the DoD does not consider hearing loss because Soldiers are supposed to wear their ear protection. He did wear his ear protection, however it has since been discovered that the 3M ear protection that Soldiers were issued were defective and there is a class action lawsuit pending for this very issue. As such, he asks that this be reconsidered, as the equipment provided to him was defective, thus leading to hearing loss in both ears, primarily affecting his right ear. With this new finding, it is inequitable not to consider his hearing loss as part of his DoD rating toward medical retirement.

f. Male Infertility: This was provided to the VA by DoD as "not service connected" and rated at 0 percent. This is an inequitable assessment. At the time, of his enlistment into the Army, there was a presumption of soundness. Further, no one in his family struggles with infertility - he is the only one. It was not until he got married to his first wife and they struggled to get pregnant that they learned he was infertile. At that point, he had already completed one combat tour and had been in the military for three to four years. There is nothing in his medical or family history that would indicate infertility is expected. The literature on the topic shows that males in the military are 1.5 to 2 times more likely to experience infertility. Because of this increased prevalence in military males and a lack of incontrovertible evidence that his infertility was not caused by military service, it was inequitable not to consider his infertility when rating him for his discharge. He has been unable to father biological children and infertility was the primary cause of the dissolution of his first marriage. It is unacceptable to overlook this in his rating.

g. Levoscoliosis of the lumbar spine (previously cited by the DoD as a lumbar strain): When he was still in the Army, he was seen for his lower back. He was told that it was a lumbar strain and to rest/ice it and take Naproxen. Upon his discharge, he continued being seen for his back pain and the VA ran imaging that had not been performed, as part of his discharge. In 2015, they found that he did not have a simple strain, but an abnormal curvature of the spine. The discharge rating was inequitable, as the incorrect diagnosis was used for rating purposes and it is a much more complicated condition to resolve.

h. Surgical Scars: While this one is minor, he does have very prominent surgical scars from his shoulder surgery. These were rated at 0 percent and were inequitably not considered as part of his rating decision for discharge. After receiving his 100 percent rating through the VA, he has not had his scars assessed for rating purposes, but has attached pictures. It is also important to note that they are keloid scars and often itchy and/or painful to the touch.

i. Hypertension: While this may not be a direct service-connection, it was rated as "not service connected" rather than secondary to obstructive sleep apnea. According to the National Institutes of Health, obstructive sleep apnea and hypertension are related and pathogenically associated. This is also something that he has been told over and over by his medical providers at the VA. This is also a known condition that is secondary to his obstructive sleep apnea but was inequitably considered, when he was discharged from the service.

j. At the time of his discharge, he was treated inequitably by his unit. He understands that he had an opportunity to fight his medical evaluation board (MEB) and push for retirement or to remain in the Army and reclassify, but he allowed the MEB to proceed due to retaliatory behaviors exhibited by his chain of command. He felt he was being punished for attending medical appointments and for undergoing the MEB process and felt this would only get worse. He had been placed on several details and was treated as a junior enlisted Soldier (i.e. was replaced as platoon sergeant) by his leadership, at the time. To further add insult to injury, upon his expiration term of service (ETS), he received no ETS award and was treated very poorly. Because of this, he opted not to fight the MEB, but does feel this should have been deemed a medical retirement based on the items listed. He feels that each of these issues was unfairly assessed and adjudicated, and as such, he respectfully requests that this be reconsidered for an upgrade from a medical discharge to a medical retirement.

3. The applicant provided the following documents:

a. Medical documents, which show his medical issues and are available for the Board's review. These documents will be reviewed by the Army Review Boards Agency

(ARBA) medical section who will provide an advisory opinion for the Board's consideration.

b. Letters of support, which state in pertinent part:

(1) From Command Sergeant Major (CSM) E- L. C-, who was responsible for the training, certification, and validation of all mortar teams in his battalion and directly observed the applicant leading the mortarman in Bravo Company and Headquarters Company. The applicant was a dynamic leader that challenged the team to be better. The applicant and his team displaced ground mounted mortar gun systems weighing in excess of 300 pounds during day and night operations under arduous conditions. He regularly carried 40 pound mortar rounds. He led from the front, alongside his team, doing the same heavy lifting he asked of his Soldiers. While deployed to Iraq, he regularly led his squad on dismounted patrols carrying a combat load of ammunition, water, and gear that approached 80 pounds. The CSM became aware of the applicant's request to upgrade his medical separation to a medically retired status. The CSM is familiar with the demanding scope of duties that contributed to the applicant's surgery and separation and can elaborate on the CSM's experience serving alongside the applicant.

(2) From Colonel (COL) T- W. K- II, who served with the applicant from 2005 to 2007. The applicant stood out to the COL because among the young noncommissioned officers (NCOS) he was one of the few true professionals. The COL has memories of the applicant being injured because the COL pushed the company hard when it came to physical fitness. Because of the COL's high expectations of the applicant, he picked up on the applicant being injured sometime during their second deployment in Baghdad from 2006 to 2007. The prevalence of NCOs and officers training and leading through injuries was high. The COL left the unit but stayed in touch with the applicant and learned he finally got surgery for his injury and this ultimately led to him receiving a medical discharge.

(3) From Lieutenant Colonel (LTC) C- E. N- who served with the applicant from 2007 to 2008 when they deployed to Iraq. During their deployment, the battalion's operational tempo was very high and members were subjected to extreme conditions that were both physically and mentally demanding. Upon returning from deployment, the unit had a rapid reset, in which the applicant was an integral part. The applicant, despite his injuries, took on the responsibility of leading Soldiers while making valuable and critical contributions to the platoon and company. Many leaders, during this time were expected to, and willfully did, push through pain and injuries to do the job and meet the demand of mission requirements - some at the expense of their own physical and mental wellbeing. The LTC took another command and no longer had the near daily interaction with the applicant but has seen him on multiple occasions and knows he continues to seek healthcare treatment from injuries he sustained, while serving.

(4) CSM (Retired) F- L-, who worked with the applicant from 2003-2008. During the CSM's tenure, the applicant's performance was unmatched in the high operational tempo they kept. He led from the front as a Soldier and NCO ensuring that he did not ask his Soldiers to accomplish a task he would not do himself. The CSM goes on to explain the high tempo of the unit and the applicant's integral part in writing a whole new chapter for our Army's history. The entire letter is available for the Board's consideration.

(5) From Sergeant First Class (SFC) (Retired) J- L. A-C-, who served with the applicant from December 2003 through June 2008. The SFC worked daily with the applicant. There was not a person the SFC trusted more when dismounted outside the wire conducting vehicle searches and clearing houses door-to-door. The applicant often carried extra ammunition and water and he volunteered to carry heavy machineguns or mortars. The applicant worked out in the gym almost daily, when mission permitted. This is where the SFC personally witnessed the applicant struggle and huge disparity in his right shoulder. On more than one occasion, his shoulder gave out with weight well below his max. At the time, it was a different Army and pain was a reason to go harder, not ease up, and they pushed each other when they probably should have paced each other.

(6) From First Sergeant (1SG) (Retired) J- H. B-, who served with the applicant from January 2009 through July 2012. During their time of service together, the 1SG and applicant were involved in a heavy training operational tempo that would eventually find them deployed to Iraq. The applicant's actions, during the deployment, was a testament to his commitment to the United States Army and his idea to commit to a 20 year career. Sometimes the mind and the body do not always communicate well and the applicant learned this after a few years at Fort Carson, where due to lingering injuries he would be forced to accept a medical review board discharge based on his injuries from years of deployment.

(7) From SFC (Retired) J- O. S- who served with the applicant for over six years. The applicant was the epitome of what an NCO should be. It was due to his leadership abilities, dedication to his Soldiers and his unit that contributed to the high standards of the unit as well as its overall success. He showed great promise and potential. In the SFC's over 23 year career, the applicant showed more leadership and promotion potential than 90 percent of all other NCOs the SFC served with. The SFC has no doubt that barring the applicant's injury and given the opportunity to continue to serve he would have had a long and successful career. Through no fault of his own and to the detriment of the Army, he was robbed of that opportunity, and Soldiers were robbed of a great leader with the potential to reach the highest levels of enlisted leadership. We cannot change the circumstances leading to the loss of this great leader within the

ranks, but we can ensure that he is provided what he earned and sacrificed through his selfless service.

(8) From A- C- who served with the applicant from 2007 to 2011. The applicant played a pivotal role in the unit, contributing significantly to the mission success. The applicant exhibited an outstanding work ethic that went above and beyond the call of duty. Mr. C- recalls the applicant expressing a sincere desire to be a lifer and retire from the military. The applicant faced physical challenges particularly with his shoulder injury. During workouts, his shoulder would give out, underscoring the sacrifices he made in pursuit of the mission and the toll it took on his well-being. Mr. C- wholeheartedly endorses the applicant's request for medical retirement based on his outstanding service record, commitment to duty, and the sacrifices made in the line of duty.

(9) From SFC S- L. M-, who served with the applicant from January 2011 through May 2014. They always had a physically demanding operational tempo from physical fitness in preparation for deployment as well as training for all field exercises. There were multiple workouts and training events when they applicant would complain about his shoulder. The applicant intended to retire from the Army.

c. Letter from the VA, 28 November 2023, shows the applicant's combined service-connected disability was 100 percent effective 18 May 2017.

d. A list of his disabilities, which show the following:

- Obstructive sleep apnea, service-connected, 50 percent
- Left ankle tendonitis, service-connected, 10 percent
- Left knee Osgood Schlatter disease, left shin splints, service-connected, 10 percent
- Levoscoliosis of lumbar spine, service-connected, 20 percent
- Hypertension, not service-connected
- Right shoulder, status post Mumford procedure, acromioclavicular joint osteoarthritis, service-connected, 20 percent
- Male infertility, not service-connected
- Nocturia with incomplete bladder emptying, service-connected, 20 percent
- Scars, right shoulder status post surgery, service-connected, 0 percent
- Right ear hearing loss, service-connected, 0 percent
- Right ankle tendonitis, service-connected, 10 percent
- Left ear, right ear hearing loss, not service-connected
- Tinnitus, service-connected, 10 percent
- Right knee Osgood Schlatter disease, right shin splints, service-connected, 0 percent
- Other specified trauma-and stressor related disorders, service- connected, 10 percent

- Onychomycosis toenails, tinea pedis, service-connected, 0 percent
- Pes planus, denied
- Right hamstring condition, denied
- Anxiety, not-service connected
- Major depressive disorder with anxious distress and alcohol use disorder, service-connected, 70 percent
- Major depression, not service-connected

4. The applicant's service record contains the following documents:

a. DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) shows he enlisted in the Regular Army and entered active duty on 4 April 2003. He remained in the Army through immediate reenlistments.

b. Orders 356-0008, published by Headquarters, United States Army Garrison, Fort Carson, 22 December 2014, shows he was authorized disability severance pay. His disability was not based on injury or disease received in the line of duty as a direct result of armed conflict or caused by an instrumentality of war. The disability did not result from a combat related injury. The disability was incurred in a combat zone or incurred, during the performance of duty in combat-related operations as designated by the Secretary of Defense.

c. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was honorably discharged on 12 March 2015 for disability, severance pay, combat zone (enhanced). He had completed 11 years, 11 months, and 9 days of active service. He had service in Iraq from 4 November 2003 through 25 October 2004, 28 June 2005 through 21 September 2007, and 6 August 2009 through 18 June 2010 and service in Afghanistan from 6 March 2012 through 26 December 2012. He received disability severance pay in the amount of \$80,755.20.

d. His service record is void of documentation showing he received an MEB or a physical evaluation board showing his service-connected disability or the percentage of that disability.

5. MEDICAL REVIEW:

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:

The applicant has applied to the ADRB requesting additional medical conditions be determined unfitting for continued military service with a subsequent increase in his military disability rating and change in his current disability separation disposition from separated with disability severance pay to permanent retirement for physical disability. The applicant states in part:

“At the time of discharge, I was rated at 80% (VA). While I understand that there are different rating criteria for DoD and VA, it is important to note that within two years of discharge, I was deemed 100% totally and permanently disabled by the VA due to my service-connected disabilities.”

The Record of Proceedings details the applicant's service and the circumstances of the case. The DD 214 for the period of Service under consideration shows he entered the regular Army on 4 April 2003 and was separated with \$80,755.20 of disability severance pay on 12 March 2015 under provisions provided in Chapter 4 of AR 635-40, Physical Evaluation for Retention, Retirement, or Separation (20 March 2012).

A Soldier is referred to the IDES when they have one or more conditions which appear to fail medical retention standards as documented on a duty limiting permanent physical profile. At the start of their IDES processing, a physician lists the Soldier's 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 conditions they believe to be service-connected disabilities in block 8 of section II or a separate Statement in Support of Claim (VA form 21-4138).

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. All conditions are then rated by the VA prior to the Soldier's discharge. The physical evaluation board (PEB), after adjudicating the case sent them by the medical evaluation board (MEB), applies the applicable VA derived ratings to the Soldier's unfitting condition(s), thereby determining their 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.

On 18 July 2014, the applicant was referred to the IDES for “SLAP [superior labrum anterior posterior tear] Injury to the right Shoulder S/P distal clavicle resection and debridement.” He claimed thirteen additional conditions on a separate VA 21-4138. An MEB determined his “Status post right shoulder Mumford [distal clavicle resection and debridement] procedure (nondominant)” failed the medical retention standards of AR 40-501, Standards of Medical Fitness. They determined twelve additional medical conditions met medical retention standards. On 30 October 2014, the applicant concurred with the MEB's findings and recommendation and his case was forwarded to a physical evaluation board (PEB) for adjudication.

On 8 December 2014, the applicant's informal PEB found his “Status post right shoulder Mumford procedure (nondominant)” to be the sole unfitting medical condition for continued service. They determined the remaining twelve medical conditions were not unfitting for

continued military service. The PEB applied the VBA derived rating of 10%, and because the applicant's combined military disability rating was less than 30%, the PEB recommended the applicant be separated with disability severance pay. On 9 December 2014, after being counseled on the informal PEB's findings and recommendation by his PEB Liaison Officer (PEBLO), he concurred with the informal PEB's findings, waived his right to a formal hearing, and declined to request a VA reconsideration of his disability rating.

Review of the DES case file in ePEB and his records in the EMR show the findings throughout his DES process are consistent with the medical evidence in the case file. No material errors, discrepancies, or omissions were identified.

There is no significant probative evidence the applicant had any additional medical condition(s) which would have failed the medical retention standards of chapter 3 of AR 40-501, Standards of Medical Fitness, prior to his discharge; or which prevented the applicant from being able to reasonably perform the duties of his office, grade, rank, or rating prior to his discharge.

Review of his records in JLV shows he has been awarded multiple VA service-connected disability ratings, including ratings for major depressive disorder, sleep apnea, and limited motion of the right upper extremity. The two ratings for his knee remain at 10%. 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. 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.

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:

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. The applicant contends additional medical conditions should be found unfitting for continued military service, and increase in his current military disability rating, and a change in his disability discharge disposition from separated with disability severance pay to permanently retired for physical disability. The evidence shows a PEB found the applicant unfit for one condition related to his right shoulder. The PEB applied the VA's 10%, and recommended he be separated with disability severance pay. After being counseled on the PEB's findings and recommendation by his PEB liaison officer, the applicant

concurred with the PEB, waived his right to a formal hearing, and declined to request a VBA reconsideration of the ratings. The applicant was discharged with disability severance pay on 26 September 2017. The Board found no error or injustice in his disability separation processing. The Board also reviewed the medial officials' determination and agreed that the PEB case file found no significant discrepancies, omissions, or errors and it is therefore unlikely that further information and more thorough review of the case will lead to a recommendation to reverse the recommendation that he be separated with disability severance pay.

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. Title 10, U.S. Code (USC), section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

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

3. Army Regulation 635-40 (Disability Evaluation for Retention, Retirement, or Separation) 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. Soldiers are referred to the disability system when they no longer meet medical retention standards in accordance with AR 40-501, chapter 3, as evidenced in an MEB; when they receive a permanent physical profile rating of "3" or "4" in any functional capacity factor and are referred by a Military Occupational Specialty Medical Retention Board; and/or they are command referred for a fitness for duty medical examination.

b. The disability evaluation assessment process involves two distinct stages: the MEB and 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 or her ability to return to full duty based on the job specialty designation of the branch of service. A PEB is an administrative body possessing the authority to determine whether a service member is fit for duty. A designation of "unfit for duty" is required before an individual can be separated from the military because of an injury or medical condition. Service members who are determined to be unfit for duty due to disability are either 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 onetime 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 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 medical impairment prevents reasonable performance of the duties required of the Soldier's office, grade, rank, or rating.

4. Title 10, USC, 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, USC, 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. Title 38, USC, sections 1110 and 1131, permits the VA to award compensation for disabilities that were incurred in or aggravated by active military service. However, an award of a higher VA rating does not establish error or injustice on the part of the Army. The Army rates only conditions determined to be physically unfitting at the time of discharge which disqualify the Soldier from further military service. The VA does not have the authority or responsibility for determining physical fitness for military service. The VA awards disability ratings to veterans for service-connected conditions, including those conditions detected after discharge, to compensate the individual for loss of civilian employability. These two government agencies operate under different policies. Unlike the Army, the VA can evaluate a veteran throughout his or her lifetime, adjusting the percentage of disability based upon that agency's examinations and findings.

6. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records (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.

7. 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.

//NOTHING FOLLOWS//