

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 15 January 2025

DOCKET NUMBER: AR20240003384

APPLICANT REQUESTS: in effect,

- upgrade of her Under Honorable Conditions (General) discharge to Honorable
- the narrative reason for her separation, corresponding Separation Program Designator (SPD) code, and Reentry Eligibility (RE) code be amended to reflect "Hardship"

APPLICANT'S SUPPORTING DOCUMENTS CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Counsel Brief and allied documents (166 pages)

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), 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, she joined the Army because she loves her country and truly believes that it is one of the most honorable things that anyone can do for their country. However, throughout her time in the Army, she faced daily sexual harassment and abuse due to her sexuality.
 - a. When she was stationed in Korea, her squad leader began to harass her. One night, he forced himself onto her in the barracks and attempted to have sex with her. He told her that she would not want to be a lesbian anymore after she gave him a try. The advances continued after that night. She repeatedly told him no. She did not tell anyone because she did not want to ruin her chance for a promotion. At the time, she thought she could manage it by ignoring him. The daily sexual harassment began to overwhelm her. She was already dealing with the fact that barely three months into the military she was being sent to another country. She had never left the country without her family, so she was extremely nervous. She looked at her squad leader and other Soldiers as her family, people that she could trust. Her squad leader betrayed her trust by constantly

inappropriately touching and kissing her. She felt like she was all alone and could not trust anyone. Her initial feeling about the military had been tainted and she felt like there was nothing that she could do about it. She felt like no one would believe her.

b. After leaving Korea, she was sent to Fort Jackson, SC, where the sexual harassment and sexual abuse continued. The most severe harassment occurred on 2 October 2002, when she went out with coworkers for the night. She woke up in the back of a car nude. She had been drugged and sexually assaulted. She was embarrassed and did not tell anyone because she did not feel like she had anyone to talk to. She was also threatened not to tell.

c. She started drinking around 8 months after she joined the Army. She did not know how to properly cope with what she was experiencing, so she turned towards drinking and marijuana. She just wanted to feel numb constantly. After the incident at Fort Jackson, her drinking increased and began to interfere with her work. She began to miss formations and was not obeying orders but, at the moment she did not care. She wanted to stop getting in trouble and stop drinking, but at the same time, she did not want to think about the sexual harassment and abuse anymore, so she continued to drink.

d. The continued harassment became too much to handle on her own. She had a mental breakdown, and was admitted to the hospital at Fort Jackson, SC. Her time at the hospital was a blur because she was medicated. Up until she was admitted, she was drinking heavily to mask the pain from the assault by the three Soldiers. She didn't want to face anyone, felt dirty, and was embarrassed as if she caused everything.

e. She had her first drink when she was around 12 or 13 years old. She was curious and wanted to know what the hype was about. She did not like the taste of it and did not continue to drink. She tried marijuana when she was around 14 years old, once again because she was curious. She did not like it and stopped smoking. She went to boarding school from the age of 15 to 17 years old. While she was in boarding school she did not have access to alcohol or marijuana. She was an athlete and was not interested in drinking or smoking.

f. When she first joined the Army, she did not drink or smoke. Her drinking did not become a problem until after the sexual harassment and abuse. It is not that she did not want to follow the treatment plans that were set in place, the treatment plans were not right for her. She was sick; mentally and emotionally. She felt like there wasn't a true treatment plan in place. She needed psychotherapy and rehabilitation. She needed someone to notice that she was crying for help. Instead, she was told to take a pill (Antabuse) that would cause her to get sick if she drank. She felt like no one cared and it was truly one of the worst times in her life.

g. After she was discharged, she continued to drink and use drugs. In May 2020, she was assaulted by a friend. This event made her have flashbacks to her time in the military. This incident made her seek out mental health treatment. She did not realize what happened to her in the military was still affecting her to this day. Once she realized this, she started therapy to get better. The applicant indicates on her DD Form 149 that post-traumatic stress disorder (PTSD) is related to her request.

3. Counsel provides a synopsis of the applicant's personal statement and of her military career. Counsel further states, in part:

a. Towards the end of the applicant's service, medical professionals at the Moncrief Army Community Hospital located at Fort Jackson, SC noted her mood as "sad" and her affect as "slightly depressed" during two visits in March 2002 before diagnosing her with a "personality disorder" on 10 May 2002. Post-service, the applicant was diagnosed with PTSD in June of 2021 due to these traumatic events. The applicant is currently undergoing treatment for PTSD at the Washington DC Department of Veterans Affairs (VA) Medical Center.

b. Under the 2014 Hagel Memorandum and the 2017 Clarifying Guidance, the ABCMR must inquire into whether the applicant's mental health condition excuses or mitigates her discharge. The ABCMR must grant liberal consideration that the misconduct leading to the discharge was a direct result of the PTSD and other mental health symptoms she suffered during her military service. In the interest of justice, the applicant's discharge warrants an upgrade to Honorable. She also respectfully requests that this Board change the narrative reason for separation to "Hardship," with a corresponding separation code.

c. The applicant's discharge was inequitable because her mental health condition and traumatic experiences were major causes of the misconduct.

d. The applicant's service meets the requirements for an honorable discharge.

e. Counsel provides the following documents in support of this petition, all of which are available in their entirety for the Board's consideration.

(1) The previously discussed personal statement rendered by the applicant.

(2) The applicant's military personnel and health records.

(3) A medical opinion rendered by Dr. K. Licensed Clinical Psychologist, on 27 February 2023. Dr. K states he had no previous professional or personal contact with, or knowledge of the applicant before rendering his expert opinion based upon his objective holistic review of the available documents in an electronic version of the

applicant's C-file, which he assumed to be accurate and correct. He found no reason to believe an in-person examination would have altered the opinions contained in this report. Dr. K concluded the preponderance of evidence is in favor of the applicant's petition for a recharacterization of her military discharge as well as her VA disability claim of a service-connected Military Sexual Trauma-PTSD.

(4) The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty).

(5) A statement rendered by C.H., a family friend, who commented on the notable changes in the applicant's personality and behavior after she was discharged from the Army.

(6) The applicant's post-service medical records of treatment received at the VA Medical Center located in Washington, DC, which show, in part, she underwent psychotherapy for diagnoses of PTSD and substance use disorder.

(7) Documents from the applicant's pre-service record show she sought help from a social worker because she had difficulty following her mother's rules and direction of her household. Her behavior resulted in her mother filing a harassment charge against her for coming home at all hours. After getting no help from the court, the applicant was shipped off to Columbia, SC to live with her aunt and uncle. She participated in a program offered by the Women Leaders for Global Operations and decided to enlist in the Army.

(8) A VA Rating Decision, dated 18 April 2023, shows the applicant was granted service connection for PTSD with a disability evaluation of 50 percent effective 25 January 2021.

4. The applicant enlisted in the Regular Army in the rank/pay grade of private (PV2)/E-2 on 25 July 2000 for a period of 4 years. Upon completion of initial entry training, she was assigned to a unit in Korea, where she served from January 2001 until January 2002. She was advanced to private first class (PFC)/E-3 on 25 July 2001, the highest rank she held. She was subsequently reassigned to a unit at Fort Jackson, SC in February 2002.

5. On 18 March 2002, the applicant was counseled by her squad leader for disobeying a lawful order and failing to report to her appointed place of duty at the time prescribed. She was advised that continued conduct of this nature could result in punishment under the Uniform Code of Military Justice (UCMJ) and/or the initiation of action for her administrative separation from the Army and the potential consequences of such a separation.

6. On 20 March 2002, the applicant accepted summarized nonjudicial punishment (NJP) under the provisions of Article 15, of the UCMJ for, on or about 18 March 2002, failing to go at the time prescribed to her appointed place of duty; and having knowledge of a lawful order issued by her company commander, failing to obey the same. Her commander waived punishment.

7. On 26 March 2002, the applicant was counseled by her platoon sergeant regarding being disrespectful to a noncommissioned officer (NCO), drinking under the legal age, and being intoxicated while on duty. She was reminded that continued conduct of this nature could result in punishment under the UCMJ and/or the initiation of action for her administrative separation from the Army and the potential consequences of such a separation.

8. On 2 April 2002, the applicant was counseled by her squad leader for failing to report to her appointed place of duty at the time prescribed. Again, she was reminded that continued conduct of this nature could result in punishment under the UCMJ and/or the initiation of action for her administrative separation from the Army and the potential consequences of such a separation.

9. On 5 April 2002, the applicant accepted company grade NJP under the provisions of Article 15, of the UCMJ for wrongfully and willfully possessing and consuming alcoholic beverages while being under 21 years of age. Her punishment was reduction to E-2; forfeiture of \$289.00 pay; restriction for 14 days; and extra duty for 14 days.

10. On 12 April 2002, the applicant was counseled by her squad leader for failing to repair, failing to report to her appointed place of duty at the time prescribed, disobeying a lawful order, and lying to a senior NCO. Once again, she was advised that continued behavior of this nature could result in punishment under the provisions of the UCMJ and/or initiation of actions to separate her from the Army and the potential impact of such a separation.

11. A Memorandum for Record rendered by the applicant's company commander on 17 April 2002 shows:

a. The applicant was enrolled in Track II treatment until she went to Ft. Gordon, GA on 6 May 2002 for in-patient treatment or Track III. She had been diagnosed as alcohol dependent and with marijuana abuse stemming from use beginning at age 13. Under the conditions of her Track II treatment and South Carolina State Law she was currently underage to legally drink alcohol.

b. After showing up for extra duty late on Saturday, 13 April 2002 it was determined that the applicant was too sick to perform her duties. Her chain of command was notified and took her to the hospital where a blood and alcohol test was conducted. The

results showed her blood alcohol content was above the legally intoxicated on duty level. After looking at the results of the test and conferring with the brigade legal assistant, the commander asked the applicant if they could search her barracks room for alcohol. She replied "yes," so he instructed First Sergeant J, the applicant's platoon sergeant, and the applicant's squad leader to take her back to her room immediately to conduct the search. The following items were found in her room:

- (1). A one liter bottle of Jim Beam 80 proof whiskey (very small amount remaining in bottle).
- (2). One fake identification card ID which indicated a date of birth 5 years prior to the applicant's actual date of birth.

12. On 24 April 2002, the applicant accepted field grade NJP under the provisions of Article 15, of the UCMJ. Her punishment was reduction to E-1; forfeiture of \$553.00 pay per month for two months; restriction for 45 days; and extra duty for 45 days. Her offenses were as follows:

- failing to go at the time prescribed to her appointed place of duty on two occasions
- wrongfully and willfully possessing and consuming alcoholic beverages while being under 21 years of age
- as a result of wrongful previous indulgence in intoxicating liquor or drugs being incapacitated for the proper performance of her duties
- breaking restriction

13. The applicant's immediate commander notified the applicant on 30 April 2002 of his intent to initiate actions to separate her under the provisions of Army Regulation 635-200 (Personnel Separations - Enlisted Personnel), Chapter 14, paragraph 14-12b, for a pattern of misconduct. The specific reasons for this action were the applicant's aforementioned incidents of misconduct. She was advised that she was being recommended for a General, under honorable conditions discharge, but the final determination of her characterization of service would be made by the separation authority. The applicant acknowledged receipt of the proposed separation notification on the same date.

14. The applicant's immediate commander formally recommended her separation prior to the expiration of her term of service, under the provisions of Army Regulation 635-200, paragraph 14-12b, by reason of a pattern of misconduct.

15. On 6 May 2002, the applicant acknowledged that she was advised of the reasons for separation and of the rights available to her. She accepted her right to consult with counsel and her right for consideration of her case by an administrative separation

board. She waived her right to appear in person before an administrative separation board. She elected to submit a statement in her own behalf; wherein, she admitted her mistakes but contended she had requested help with her addiction but had not received any help with her alcohol problems. She requested the separation authority to consider not separating her and allowing her to complete the rehabilitation process that her chain of command had denied.

16. On 10 May 2002, the applicant underwent a mental status evaluation and was determined to have the mental capacity to understand and participate in the proceedings. She was mentally responsible. She met regulatory retention requirements. She was psychiatrically cleared for administrative action deemed appropriate by command. It was recommended that the applicant be issued an order against the use of alcohol. It was noted the applicant was not potentially dangerous to herself or others. Her diagnostic impression was:

- Axis I - Alcohol Dependence and Cannabis Abuse
- Axis II - Personality Disorder not otherwise specified

17. The applicant's intermediate commander concurred with the recommendation for her separation with a General discharge on 17 May 2002.

18. On 17 May 2002, the separation authority approved the recommended separation and directed that she be issued a General, Under Honorable Conditions Discharge Certificate.

19. Orders and the applicant's DD Form 214 show she was discharged on 22 May 2002, under the provisions of Army Regulation 635-200, paragraph 14-12b, by reason of Misconduct, with separation code "JKA" and reentry code "3." Her service was characterized as Under Honorable Conditions (General). She was credited with completion of 1 year, 9 months, and 28 days of net active service this period.

20. On 2 October 2024, in response to a written request, a member of the Army Criminal Investigation Division, Quantico, VA, informed a staff member of the Case Management Division of the Army Review Boards Agency (ARBA), that a search of the Army criminal file indexes revealed no Sexual Assault records pertaining to the applicant.

21. In reaching its determination, the Board shall consider the applicant's petition, available records and/or submitted documents in support of the petition. By regulation, applicants are not entitled to a personal appearance before the Board.

22. MEDICAL REVIEW:

a. Background: The applicant is applying to the ABCMR requesting consideration of an upgrade to her characterization of service from under honorable (general) conditions discharge to honorable. She contends she experienced an undiagnosed mental health condition, including PTSD, and sexual harassment/assault (MST) that mitigates her misconduct.

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

- The applicant enlisted into the Regular Army on 25 July 2000.
- The applicant accepted summarized NJP on or about 18 March 2002 for failing to be at her appointed place of duty; and having knowledge of a lawful order issued by her company commander, failing to obey the same.
- On 26 March 2002, the applicant was counseled by her platoon sergeant for being disrespectful to an NCO, drinking under the legal age, and being intoxicated while on duty.
- On 2 April 2002 she was counseled for failing to report to her appointed place of duty at the time prescribed.
- On 5 April 2002 she applicant accepted NJP for wrongfully and willfully possessing and consuming alcoholic beverages while being under 21 years of age.
- On 12 April 2002 she was counseled for failing to repair, failing to report to her appointed place of duty, disobeying a lawful order, and lying to a senior NCO.
- On 24 April 2002, the applicant accepted field grade NJP for failing to be at her appointed place of duty on two occasions; wrongfully and willfully possessing and consuming alcoholic beverages while being under 21 years of age; being incapacitated for the proper performance of her duties; and breaking restriction.
- The applicant's immediate commander formally recommended her separation prior to the expiration of her term of service under the provisions of Army Regulation 635-200, paragraph 14-12b, by reason of a pattern of misconduct.
- The applicant was discharged on 22 May 2002 and was credited with completion of 1 year, 9 months, and 28 days of net active service.

c. Review of Available Records: The Army Review Board Agency (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant asserts she was sexually assaulted while stationed in Korea by her squad leader, and when she was stationed at Fort Jackson, she was drugged and sexually assaulted, which precipitated her alcohol and marijuana use. Documentation from Moncrief Army Community Hospital showed that the applicant was admitted on 27 March and discharged on 28 March 2002, and she was diagnosed with Alcohol Dependence, Marijuana Abuse, and Cocaine Abuse in remission. It was noted that

there was no evidence of alcohol withdrawal symptoms, and she was discharged to her unit with a plan to complete a substance abuse evaluation. Documentation from this brief hospitalization provided a history of her alcohol and drug use dating back to the 8th grade and noted the recent death of her mother in a car accident and concerns about her 10-year-old sister, who was living with a grandmother who was in poor health. The applicant reported stress associated with not having the “opportunity to deal with traumatic/stress events,” and these events were attributed to her current drinking. It was also noted that she had recently been transferred from Korea to Fort Jackson on a compassionate reassignment. A profile for “unusually intense anxiety and poor judgment when stressed with resulting suicidal thoughts” was included, but the document was not dated. A Commander’s Referral for a Mental Health Evaluation dated 17 April 2002 discussed the applicant’s misconduct, the death of her mother, and her recent transition to the unit, and it indicated she is “enrolled in Track II currently” as a rehabilitation attempt.

The evaluation was scheduled for 19 April 2002. A Memorandum to the Commander dated 6 May 2002 authored by the applicant showed her request for continued efforts at rehabilitation and relatively recent enrollment in “Track II” with acknowledgement of her drinking problem and hopes of getting treatment by going to “Track III” (author note: Track II is likely outpatient substance abuse treatment and Track III is likely partial or full hospitalization/inpatient treatment). A Report of Mental Status Evaluation dated 10 May 2002 showed that the applicant had the mental capacity to understand and participate in the proceedings, met retention standards, and was psychiatrically cleared for administrative action deemed appropriate by command. She was diagnosed with Alcohol Dependence, Cannabis Abuse, and Personality Disorder NOS. A 37-page psychological evaluation by Dr. Steven G. Kohlstrom dated 27 February 2023 outlined the applicant’s military, medical, and mental health history with supporting documentation as well as an extensive review of the literature related to PTSD, MST, and LGBT issues within the military. Dr. Kohlstrom concludes with responses to the Kurta Questions, noting his opinion that she suffered from PTSD from MST, which resulted in her misconduct. There was insufficient evidence that the applicant was diagnosed with PTSD or another psychiatric condition while on active service.

d. The Joint Legacy Viewer (JLV), which contains medical and mental health records for both DoD and VA, was reviewed and showed the applicant initiated mental health treatment through the VA on 9 June 2021, and she reported symptoms of anxiety, depression, and PTSD. She was initially diagnosed with Unspecified Anxiety Disorder, Unspecified Depressive Disorder, and Unspecified Trauma and Stressor Related Disorder (rule out PTSD). She described a long history of alcohol, marijuana, and occasional cocaine use, and she reported a history of hospitalization while in the military and outpatient therapy after discharge. She endorsed MST (“gang rape” and assaulted by “someone in position of power”) and a history of domestic violence, family trauma, and being the victim of a stabbing, and her scores on a PTSD screener were

significantly elevated. She was referred to a substance abuse program and to psychiatry, and she was started on an antidepressant. Her individual outpatient therapy was paused while she engaged in an intensive outpatient program (IOP) for substance abuse, and through a more thorough assessment of her condition, she was diagnosed with PTSD as well as polysubstance use (cannabis, alcohol, nicotine, cocaine). She actively engaged in the IOP for substance abuse treatment, which included individual and group therapy, and by 1 February 2022 she had successfully completed the program. She reengaged mental health in March 2024 due to exacerbated symptoms of PTSD, secondary to being the victim of an attempted robbery, and stress and mood related symptoms due to difficulty in her work environment. Documentation showed relapse in substance use following divorce, but she had maintained sobriety over the previous month. She was continued on antidepressant and anxiolytic medications and began individual therapy again. Documentation showed that she routinely engaged in weekly to biweekly therapy through August 2024 when therapy was terminated due to resolved symptoms. She continues with medication management, and her most recent visit on 20 November 2024 indicated stability on current medications. It was also noted that she utilizes community providers as well as VA. The applicant is 50% service connected for PTSD.

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

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts she had an undiagnosed mental health condition, including PTSD resulting from MST, at the time of the misconduct. Documentation from her time in service showed that she reported mood and anxiety related symptoms and received treatment for substance abuse before being discharged associated with alcohol related incidents. She is 50% service connected through the VA for PTSD and has engaged in mental health treatment through VA since 2021. Her primary diagnosis is PTSD secondary to MST and other trauma exposure.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts she was experiencing a mental health condition while on active service, and DoD documentation showed that she was hospitalized and received outpatient treatment for substance abuse.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. A review of military medical and mental health records revealed the applicant reported mental health symptoms while on active service, and she was hospitalized and received brief outpatient treatment for substance abuse. The applicant has had a fully mitigating

behavioral health experience, MST, and there is an association between MST and substance abuse as well as her pattern of misconduct related to not reporting for duty, failing to obey orders, disrespecting an NCO, and breaking restriction. Given the nexus between trauma exposure, avoidance, and substance use and in accordance with liberal consideration, the basis for separation is mitigated.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation, and published Department of Defense guidance for liberal and clemency determinations requests for upgrade of his characterization of service. One potential outcome was to grant partial relief based on the medical opine finding sufficient evidence to support that the applicant had a condition or experience that mitigates her misconduct. The opine noted the applicant has had a fully mitigating behavioral health experience, MST, and there is an association between MST and substance abuse as well as her pattern of misconduct. The Board found the applicant's record shows, at the time of separation, documentation supports the narrative reason for separation, Re—Entry Code and separation authority properly identified on the DD Form 214. As such, the Board determined under liberal consideration changes to the applicant's narrative reason are not warranted.
2. However, upon further review of the applicant's request, available military records and the medical advisory the Board notwithstanding considered the advising official finding sufficient evidence to support that the applicant had a condition or experience that mitigates her misconduct. The determined there is insufficient evidence to support the applicant's contentions for an upgrade of her general discharge based on her multiple infractions leading to her receiving NJP action and her underage drinking. Evidence in the records show the applicant was diagnosed as alcohol dependent and with marijuana abuse stemming from use beginning at age 13. The applicant provided no post service achievements or character letters of support for the Board to weigh a clemency determination. The applicant was discharged for misconduct and was provided an under honorable conditions (General) characterization of service. The Board agreed that the applicant's discharge characterization is warranted as she did not meet the standards of acceptable conduct and performance of duty for Army personnel to receive an Honorable discharge. Therefore, relief was denied.

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.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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

REFERENCES:

1. Title 10, USC, Section 1552(b), provides that applications for correction of military records must be filed within three 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 three-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.
2. Title 10, USC, Section 1556, provides the Secretary of the Army shall ensure that an applicant seeking corrective action by the Army Review Boards Agency (ARBA) is provided a copy of all correspondence and communications, including summaries of

verbal communications, with any agencies or persons external to agency or board, or a member of the staff of the agency or Board, that directly pertains to or has material effect on the applicant's case, except as authorized by statute.

3. Army Regulation 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The regulation provides that 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. It is not an investigative body. The ABCMR may, in its discretion, hold a hearing. Applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

4. Army Regulation 635-200 (Personnel Separations - Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel.

a. Paragraph 3-7a provides that an honorable discharge is a separation with honor and entitles the recipient to benefits provided by law. The honorable characterization is appropriate when the quality of the member's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

b. Paragraph 3-7b states a general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

c. Chapter 14 establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions (a pattern of misconduct consisting solely of minor military disciplinary infractions), a pattern of misconduct (consisting of discreditable involvement with civil or military authorities or conduct prejudicial to good order and discipline). Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impracticable or is unlikely to succeed. A discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter; however, the separation authority may direct a general discharge if merited by the Soldier's overall record.

5. Army Regulation 635-5-1 (SPD Codes) implements the specific authorities and reasons for separating Soldiers from active duty. It also prescribes when to enter SPD codes on the DD Form 214.

a. Paragraph 2-1 provides that SPD codes are three-character alphabetic combinations that identify reasons for, and types of, separation from active duty. The primary purpose of SPD codes is to provide statistical accounting of reasons for

separation. They are intended exclusively for the internal use of Department of Defense and the Military Services to assist in the collection and analysis of separation data. This analysis may, in turn, influence changes in separation policy. SPD codes are not intended to stigmatize an individual in any manner.

b. Table 2-3 provides the SPDs and narrative reasons for separation that are applicable to enlisted personnel. It shows, in part, SPD "JKA" is the appropriate code to assign to an enlisted Soldier who is voluntarily separated under the provisions of Army Regulation 635-200, Chapter 14, due to misconduct

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

- RE code "1" applies to Soldiers completing their term of active service, who are considered qualified for enlistment if all other criteria are met
- RE code "2" is no longer in use but applied to Soldiers separated for the convenience of the government, when reenlistment is not contemplated, who are fully qualified for enlistment/reenlistment
- RE code "3" applies to Soldiers who are not considered fully qualified for reentry or continuous service at time of separation, whose disqualification is waivable – they are ineligible unless a waiver is granted
- RE code "4" applies to Soldiers separated from last period of service with a non-waivable disqualification

7. Army Regulation 600-37 (Unfavorable Information) sets forth policies and procedures to authorize placement of unfavorable information about Army members in individual official personnel files; to ensure that unfavorable information that is unsubstantiated, irrelevant, untimely, or incomplete is not filed in individual official personnel files; and to ensure that the best interests of both the Army and the Soldiers are served by authorizing unfavorable information to be placed in and, when appropriate, removed from official personnel files.

8. On 25 August 2017, the Office of the Undersecretary of Defense for Personnel and Readiness issued clarifying guidance for the Secretary of Defense Directive to Discharge Review Boards (DRB) and Boards for Correction of Military/Naval Records (BCM/NR) when considering requests by Veterans for modification of their discharges due in whole or in part to: mental health conditions, including PTSD; traumatic brain injury; sexual assault; or sexual harassment. Boards are to give liberal consideration to

Veterans petitioning for discharge relief when the application for relief is based in whole or in part to those conditions or experiences. The guidance further describes evidence sources and criteria and requires Boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

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

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

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

//NOTHING FOLLOWS//