

IN THE CASE OF: [REDACTED]

BOARD DATE: 10 January 2025

DOCKET NUMBER: AR20240004830

APPLICANT REQUESTS: reconsideration of her previous request for correction of her DD Form 214 (Certificate of Release or Discharge from Active Duty) to show her uncharacterized service as honorable.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214, for the period ending 8 April 2005
- four letters, Department of Veterans Affairs (VA), dated 26 July 2020 to 9 February 2024
- employment correspondence (3 pages), dated 23 February 2024 and 5 March 2024
- Standard Form (SF) 15 (Application for 10-Point Veteran Preference), undated
- Veterans Employment Opportunity Act (VEOA) and Veterans' Recruitment Appointment (VRA) eligibility requirements, undated
- U.S. Office of Personnel Management (OPM), Veterans and Transitioning Service Members information (3 pages), undated

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20090002024 on 9 June 2009.
2. As a new argument, the applicant states, she was medically discharged due to an injury she sustained while in the military. Therefore, item 24 (Character of Service) of her DD Form 214 should state 'honorable' not "uncharacterized." All of her other military correspondence states 'honorable.' Her uncharacterized service is preventing her from applying for jobs with Veterans preference.
3. The applicant enlisted in the Regular Army on 28 December 2004, for a 3-year period. The highest rank she attained was private first class/E-3.

4. The applicant started basic training on or about 3 January 2005. Approximately one week into training, she began to experience foot pain. She was diagnosed with overuse syndrome on 24 January 2005. A diagnosis of bilateral navicular stress fractures was made on 26 January 2005. She was placed on 30 days of convalescent leave. Upon her return, the pain persisted. Her physician referred her to the Physical Disability Evaluation System.

5. A Medical Evaluation Board convened on 7 March 2005. The board found that the applicant failed to meet retention standards under the provisions of Army Regulation 40-501 (Standards of Medical Fitness) and recommended she be referred to a Physical Evaluation Board (PEB). The applicant concurred with the board's findings and recommendation and further indicated she did not desire to continue on active duty.

6. A PEB was convened on 21 March 2005. The board determined the applicant's condition, which was sustained in basic training, did not respond to conservative therapy. Her profile restrictions prohibited full function, and she was unlikely to be able to resume military training. The board recommended a disability rating of 0 percent (%) and separation from service with severance pay. The board noted Soldiers with less than six months of service at discharge could not receive severance pay. However, they could apply to the VA for compensation. The applicant concurred with the board findings and waived a formal hearing.

7. The applicant was discharged on 8 April 2005, under the provisions of Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation), paragraph 4-24b(3), by reason of disability – severance pay. Her DD Form 214 shows her service was uncharacterized, with separation code JFL and reentry code RE-3. She completed 3 months and 11 days of net active service. She was not awarded a military occupational specialty.

8. The ABCMR reviewed the applicant's request for an honorable characterization of service on 9 June 2009. After careful consideration, the Board determined the applicant did not serve long enough to qualify for a specified characterization of service. Her record was not in error or unjust. Her request for relief was denied.

9. The applicant provides:

a. Four letters, from the VA, dated 26 July 2020 to 9 February 2024, show the applicant's character of service for VA purposes is honorable, and she was awarded a service-connected disability rating of 30%. Additionally, she was qualified for consideration under the Schedule A hiring authority for non-competitive appointment for persons with disabilities.

b. Three pages of employment correspondence, dated 23 February 2024 and

5 March 2024, show the applicant was ineligible to apply as a VEOA applicant on two occasions because her DD Form 214 did not have a character of service.

c. The applicant completed an SF 15 application for 10-point Veteran Preference.

d. She also provides documents containing the eligibility requirements for VEOA, VRA, and OPM Veterans and transitioning Servicemembers information, which show that only Veterans released or discharged under honorable conditions are eligible for VEOA and VRA.

10. Soldiers are considered to be in an entry-level status when they are within their first 180 days of active-duty service. The evidence of record shows the applicant was in an entry-level status at the time of her separation. An uncharacterized discharge is not meant to be a negative reflection of a Soldier's military service. It simply means the Soldier was not in the Army long enough for his or her character of service to be rated as honorable or otherwise.

11. The Board should consider the applicant's argument and/or evidence in accordance with the published equity, injustice, or clemency determination guidance.

#### BOARD DISCUSSION:

1. After reviewing the application and all supporting documents, 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 review based on law, policy and regulation. The governing regulation provides that a separation will be described as an entry-level separation, with service uncharacterized, if the separation action is initiated while a Soldier is in entry-level status. The applicant did not complete training and was released from active duty by reason of disability – severance pay. The Board determined her DD Form 214 properly shows the appropriate characterization of service as uncharacterized.

2. An uncharacterized discharge is not meant to be a negative reflection of a Soldier's military service. It merely means the Soldier has not been in the Army long enough for his or her character of service to be rated as honorable or otherwise. As a result, there is no basis for granting the applicant's request.

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 amendment of the ABCMR decisions rendered in Docket Number AR20090002024 on 9 June 2009.

4/10/2025

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CHAIRPERSON

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

REFERENCES:

1. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), sets forth the basic authority for the separation of enlisted personnel.

a. Chapter 3 provides that a separation will be described as entry level with uncharacterized service if the Soldier has less than 180 days of continuous active duty service at the time separation action is initiated.

b. 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.

c. Paragraph 3-9, still in effect, provides that a separation will be described as entry level with uncharacterized service if processing is initiated while a Soldier is in an entry-level status, except when:

(1) a discharge under other than honorable conditions is authorized, due to the reason for separation and is warranted by the circumstances of the case; or

(2) the Secretary of the Army, on a case-by-case basis, can determine a characterization of service as honorable if it is clearly warranted by the presence of unusual circumstances involving personal conduct and performance of duty. This characterization is authorized when the Soldier is separated by reason of selected changes in service obligation, for convenience of the government, and under Secretarial plenary authority.

d. The character of service for Soldiers separated under this provision would normally be honorable but would be uncharacterized if the Soldier were in an entry-level status. An uncharacterized discharge is neither favorable nor unfavorable; in the case of Soldiers issued this characterization of service, an insufficient amount of time would have passed to evaluate the Soldier's conduct and performance.

2. Army Regulation 635-40 (Physical Evaluation for Retention, Retirement, or Separation) governs the evaluation of physical fitness of Soldiers who may be unfit to perform their military duties because of physical disability and establishes the Army Physical Disability Evaluation System. Paragraph 5-5 provides that if the Soldier is in an entry level status at the time of processing, the DD Form 214 (Certificate of Release or Discharge from Active Duty) may describe service as uncharacterized in accordance with Army Regulation 635-200, Chapter 3.

3. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military Discharge Review Boards (DRB) and Service Boards for Correction of Military/Naval Records (BCM/NR) 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//