

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 June 2025

DOCKET NUMBER: AR20240006154

APPLICANT REQUESTS:

- in effect, honorable physical disability discharge in lieu of general discharge due to unsuitability
- personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Name Change Order, 8 February 1975
- Legal Change of Name Notice, 8 February 1975
- Veterans Administration (VA) Certificate of Eligibility, 19 June 1979
- Psychological Evaluation, 20 November 2023
- VA Form 21-0781 (Statement in Support of Claim for Post-Traumatic Stress Disorder (PTSD), 4 March 2024
- VA Form 21-0781, undated
- VA Form 21-0781a (Statement in Support of Claim for PTSD Secondary to Personal Assault), 4 March 2024

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. In 1964, he attended high school in Edison. At an Army Recruiting office, he was convinced he could complete his high school diploma and a military career. Therefore, he was shocked to learn in 1965 that with a general discharge he was denied access to

the GI Bill educational programs. His main purpose in joining the military was completion of his high school degree and a career in the Army.

b. He attempted on many occasions from 1965 – 1968, to obtain his medical records, with which he would have been able to prove he should have been granted a medical discharge. He felt the military did not wish to discipline the Soldiers who assaulted him, and he was released early to conceal this incident.

c. In 1969, Michigan Bell provided him with full benefits, but because of health issues, he accepted an early buyout from Verizon in 1994, at the age of 47. The VA never provided him with his medical records. Although he provided the VA with a copy of his DD Form 214 (Armed Forces of the United States Report of Transfer or Discharge), they consistently claimed from 1965 – 2023, that they were unable to verify his military or medical records.

d. There never was an explanation why he received a general discharge. He had no disciplinary action that justified his early release. Because of his general discharge, the USAA Bank refused his application for membership and the Philippines Special Resident Retiree's Visa, a special non-immigrant visa for foreign nationals was denied.

e. In 2013, he was hospitalized in [REDACTED], where doctors diagnosed that he needed a heart bypass. He could not use Medicare because he was not covered overseas. Also, since the VA did not acknowledge his military service, he could not avail himself of the VA [REDACTED] Benefit Office. Therefore, the VA has caused him to suffer from PTSD.

f. Only recently has the VA finally recognized him as a veteran. In 2024, the VA sent him a VA Form 21-078a. See his attached VA forms. The Army should have released him with a medical discharge and not left him behind with a general discharge.

3. The applicant enlisted in the Regular Army on 25 May 1964.

4. Two DA Forms 2627-1 (Record of Proceedings under Article 15, Uniform Code of Military Justice (UCMJ) show the applicant accepted nonjudicial punishment (NJP) under Article 15 of the UCMJ on the following occasions for the following misconduct:

- on 9 October 1964, for absencing himself without proper authority from the U.S. Army Engineer School on 3 October 1964 and remaining absent until 7 October 1964
- on 18 March 1965, for disobeying an order issued by his first sergeant to report to his place of duty on 8 March 1965

5. The acronym "PUHLES" describes the following six physical factors used in the profiling system to classify medical readiness: "P" (Physical capacity or stamina), "U" (Upper extremities), "L" (Lower extremities), "H" (Hearing), "E" (Eyes), and "S" (Psychiatric). Physical profile ratings are permanent (P) or temporary (T). A service member's level of functioning under each factor is represented by the following numerical designations: 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.

6. A Standard Form 88 (Report of Medical Examination) shows the applicant underwent medical examination on 7 April 1965 for the purpose of separation and was found qualified for separation with a PULHES of 111111.

7. A Statement of Medical Condition shows the applicant signed the form on 7 April 1965, indicating there had been no change to his medical condition since his last medical examination on 7 April 1965.

8. A Report of Psychiatric Evaluation, 20 May 1965, shows the applicant underwent a psychiatric evaluation on the date of the form after referral under the provisions of Army Regulation 635-209 (Personnel Separations - Discharge - Unsuitability). He was found to have no psychiatric disease and was psychiatrically cleared for separation under the provisions of Army Regulation 635-209.

9. The applicant's service records contain multiple statements all dated May 1965, authored by his company commander, the supply officer, and his noncommissioned officer (NCO) supervisor, which detail his apathy, refusal to work or obey orders, and his insistence that he be discharged from the Army or put in the stockade.

10. On 26 May 1965, the applicant's immediate commander recommended his general discharge under the provisions of Army Regulation 635-209, for the reasons outlined in the provided statements from his chain of command and NCO support channel. His conduct and efficiency were both rated as unsatisfactory.

11. On 26 May 1965, the applicant acknowledged having been counseled and advised on the basis for the action to separate him with a general discharge under the provisions of Army Regulation 635-209. He was afforded the opportunity to request counsel and submit statements in his own behalf but declined both.

12. On 28 May 1965, the approval authority directed the applicant's general discharge under the provisions of Army Regulation 635-209.

13. A Certificate of Medical Examination for Separation, 3 June 1965, shows:

a. The applicant was examined by a physician on the date of the form and found to be free of disqualifying mental or physical defects sufficient to warrant his separation under the provisions of Army Regulation 635-209.

b. He was found to be mentally responsible, able to distinguish right from wrong and adhere to the right, and he had the mental capacity to understand and participate in the board proceedings. His health record was screened, and all available information was obtained to reach this conclusion.

14. The applicant's DD Form 214 shows he received a general discharge under honorable conditions on 17 June 1965, under the provisions of Army Regulation 635-209, with Separation Program Number (SPN) 264 (Unsuitability). He was credited with 1 year and 18 days of net active service, to include 5 days of lost time.

15. A name change order shows the applicant legally changed his first and last name effective 8 February 1975, which explains the discrepancy between his name as it appears on his service records and as it appears on his more recent documents.

16. The applicant provided multiple documents addressing his mental health, all of which have been provided in full to the Board for review, and in pertinent part show:

- a Psychological Evaluation, 20 November 2023, shows the applicant was diagnosed with PTSD
- a VA Form 21-0781, 4 March 2024, shows the applicant detailed a hostile situation with his unit where he nearly froze to death in the mountains in Germany
- a second, undated VA Form 21-078 shows the applicant detailed having to be carried out of the gas chamber while in Basic Combat Training (BCT) due to a faulty protective mask, which resulted in his subsequent respiratory problems
- a VA Form 21-0781a, 4 March 2024, shows the applicant detailed having been attacked by two white Soldiers with a vehicle lug wrench, knocking him unconscious, which he reported to his superiors and believes to be one of the major factors in his early termination from the Army

17. 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.

18. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting an upgrade of his under honorable conditions (general) discharge and to be assessed for a medical discharge. He contends he experienced mental health conditions including PTSD that mitigate his misconduct. 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: 1) The applicant enlisted in the Regular Army on 25 May 1964; 2) The applicant accepted NJP: On 9 October 1964 for going AWOL between 03 October 1964 and 07 October 1964 and on 18 March 1965 for disobeying an order; 3) The applicant received multiple counseling statements dated May 1965 that detailed the applicant's alleged apathy, refusal to work or obey orders, and request that he be discharged from the Army; 4) On 17 June 1965, the applicant was discharged, AR 635-209, (SPN) 264 - (Unsuitability). His service was characterized as under honorable conditions (general). He was credited with 1 year and 18 days of net active service, to include 5 days of lost time.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the available supporting documents and the available military and medical service records. The VA's Joint Legacy Viewer (JLV) and hardcopy medical documentation provided by the applicant were also reviewed.

c. The applicant asserts he experienced mental health conditions including PTSD that mitigate his misconduct and warrant a medical discharge. On 7 April 1965, the applicant underwent a medical evaluation and was cleared from a medical perspective to participate in administrative separation proceedings. In addition, on 20 May 1965, the applicant underwent a psychiatric evaluation that cleared him for separation from a mental health perspective. Neither evaluation noted that the applicant reported or displayed any mental health symptoms or diagnoses.

d. A review of JLV revealed that his connection with the VA began on 22 May 2024 for physical medicine purposes. There was insufficient evidence of the applicant attending any VA mental health treatment. The applicant underwent a psychological evaluation from a civilian mental health provider on 20 November 2023 who diagnosed the applicant with PTSD secondary to unknown military stressors reported by the applicant that had occurred approximately 60 years prior to the evaluation. The applicant was diagnosed with PTSD due to events that occurred during his time in service through a VA compensation and pension (C&P) examination on 03 September 2024. The applicant is currently 100% VA service-connected for various medical disabilities and includes a 70% VA service-connection for PTSD.

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

that mitigates his misconduct. There is insufficient evidence that the applicant underwent greater than 6 months of mental health treatment, evidence that the applicant was hospitalized 2 or more times, nor was there sufficient evidence that the applicant was placed on a permanent psychiatric profile while on active service. Therefore, there is insufficient evidence that the applicant's case warrants a referral to IDES from a behavioral health perspective, at this time.

f. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? Yes, the applicant asserts he experienced mental health conditions including PTSD, which mitigate his misconduct. A civilian mental health provider diagnosed the applicant with PTSD due to events that occurred during his military service. Similarly, the applicant was diagnosed again with PTSD due to events that occurred during his time in service through a VA compensation and pension (C&P) examination on 03 September 2024. In addition, the applicant is 70% VA service-connection for PTSD.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he experienced mental health conditions including PTSD while on active service. A civilian mental health provider diagnosed the applicant with PTSD due to events that occurred during his military service. Similarly, the applicant was diagnosed again with PTSD due to events that occurred during his time in service through a VA compensation and pension (C&P) examination on 03 September 2024. In addition, the applicant is 70% VA service-connection for PTSD.

(3) Does the condition experience actually excuse or mitigate the misconduct? Yes, there is sufficient evidence beyond self-report the applicant was experiencing a mitigating mental health condition including PTSD during his active service. The applicant did engage in avoidant or erratic misconduct such as not following orders and going AWOL, which can be a natural sequelae to some mental health conditions, including PTSD. Therefore, the applicant's mental health conditions including PTSD impacted the nature of the applicant's discharge in such a manner that it could be mitigatable per the Liberal Consideration Policy. There is insufficient evidence that the applicant underwent greater than 6 months of mental health treatment, evidence that the applicant was hospitalized 2 or more times, nor was there sufficient evidence that the applicant was placed on a permanent psychiatric profile while on active service. Therefore, there is insufficient evidence that the applicant's case warrants a referral to IDES from a behavioral health perspective, at this time.

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. Upon review of the applicant's petition, available military records the Board considered the opinion of the agency medical advisor that there is sufficient evidence to support the applicant had a condition or experience that mitigates his misconduct.

2. However, the Board concurred with the findings that there is insufficient evidence that the applicant underwent greater than 6 months of mental health treatment, evidence that the applicant was hospitalized 2 or more times, nor was there sufficient evidence that the applicant was placed on a permanent psychiatric profile while on active service. Therefore, there is insufficient evidence that the applicant's case warrants a referral to IDES from a behavioral health perspective, at this time.

3. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the misconduct? Yes, the applicant asserts he experienced mental health conditions including PTSD, which mitigate his misconduct. A civilian mental health provider diagnosed the applicant with PTSD due to events that occurred during his military service. Similarly, the applicant was diagnosed again with PTSD due to events that occurred during his time in service through a VA compensation and pension (C&P) examination on 03 September 2024. In addition, the applicant is 70% VA service-connection for PTSD.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he experienced mental health conditions including PTSD while on active service. A civilian mental health provider diagnosed the applicant with PTSD due to events that occurred during his military service. Similarly, the applicant was diagnosed again with PTSD due to events that occurred during his time in service through a VA compensation and pension (C&P) examination on 03 September 2024. In addition, the applicant is 70% VA service-connection for PTSD.

(3) Does the condition experience actually excuse or mitigate the misconduct? Yes, there is sufficient evidence beyond self-report the applicant was experiencing a mitigating mental health condition including PTSD during his active service. The applicant did engage in avoidant or erratic misconduct such as not following orders and going AWOL, which can be a natural sequelae to some mental health conditions,

including PTSD. Therefore, the applicant’s mental health conditions including PTSD impacted the nature of the applicant’s discharge in such a manner that it could be mitigatable per the Liberal Consideration Policy. There is insufficient evidence that the applicant underwent greater than 6 months of mental health treatment, evidence that the applicant was hospitalized 2 or more times, nor was there sufficient evidence that the applicant was placed on a permanent psychiatric profile while on active service. Therefore, there is insufficient evidence that the applicant’s case warrants a referral to IDES from a behavioral health perspective, at this time.

4. The Board noted based on the opine, the applicant was diagnosed by VA with PTSD related to his military service. The ARBA medical advisor noted that his behavior is mitigated by his diagnosis of PTSD. The Board agreed the applicant was found to be mentally responsible, able to distinguish right from wrong and adhere to the right, and he had the mental capacity to understand and participate in the board proceedings. His health record was screened, and all available information was obtained to reach this conclusion. Furthermore, the applicant already received an under honorable conditions (general) characterization of service, which the Board feels is appropriate given his reason for discharge and his diagnosis. As such the Board found insufficient evidence to support the applicant’s contention for a honorable physical disability discharge in lieu of general discharge due to unsuitability. Therefore, the Board denied relief.

5. 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.


X

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. Title 10, U.S. Code, 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. 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.
3. 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 court-martial forum. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to any other corrections, including changes in a discharge, which

may be warranted on equity or relief from injustice grounds. This guidance does not mandate relief, but rather provides standards and principles to guide BCM/NRs 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. 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.

4. 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.

5. 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.

6. 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.

7. Army Regulation 635-209 (Personnel Separations - Discharge - Unsuitability), in effect at the time, established the policy and provided procedures and guidance for the elimination of enlisted personnel who were determined to be unsuitable for further military service.

a. Action will be taken to discharge an individual for unsuitability only when it is clearly established that –

(1) it is unlikely that the individual will develop sufficiently to participate in further military training and/or become a satisfactory Soldier, or

(2) the individual's psychiatric or physical condition is such as not to warrant discharge for disability

b. Continued effort and attention will be given to the screening and elimination of unsuitable enlisted personnel. An individual who, after reasonable attempts have been made to rehabilitate him, does not possess the required degree of adaptability for military service is considered to be inapt.

c. Individuals will be discharged by reason of unsuitability, with an honorable or general discharge, as warranted by the individual's military record. Such a discharge will be effected when it has been determined that an individual is unsuitable for further military service because of the following:

- inaptitude
- character and behavior disorders
- apathy
- enuresis
- alcoholism
- homosexuality

8. Army Regulation 635-200 (Personnel Separations – Enlisted Personnel), in effect at the time, set forth the basic authority for the separation of enlisted personnel.

a. 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. 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.

9. 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.

10. 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.

11. 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.

12. 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//