ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [redacted]

BOARD DATE: 12 March 2025

DOCKET NUMBER: AR20240006376

APPLICANT REQUESTS: honorable physical disability retirement in lieu of general administrative discharge under honorable conditions due to a pattern of misconduct

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

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- self-authored statement
- Bronze Star Medal Certificate, 3 July 2007
- DA Form 638 (Recommendation for Award), 3 July 2007
- DD Form 2697 (Report of Medical Assessment), 29 August 2007
- DA Form 2166-8 (Noncommissioned Officer Evaluation Report (NCOER)) covering the period ending 31 August 2008
- DA Form 4856 (General Counseling Form), 10 March 2009
- DA Form 1559 (Inspector General Action Request), 28 April 2009
- numerous emails, February 2009 – May 2009
- DD Form 214 (Certificate of Release or Discharge from Active Duty) covering the period ending 6 May 2009
- multiple Joint Force Headquarters, Massachusetts National Guard memoranda, June – October 2009
- Department of Veterans Affairs (VA) letter, 25 May 2011
- Section 8 Tenant-Based Assistance Housing Choice Voucher Program Voucher, 18 July 2011
- Boston Housing Authority letter, 4 June 2012
- VA letter, 11 April 2017
- My Social Security Earnings Record, 6 May 2024
- multiple identification cards
- multiple news and Wikipedia articles

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 provides a 10-page self-authored statement, which has been provided in full to the Board for review, and in pertinent part shows:

a. He is requesting a change to his DD Form 214 for the period ending 6 May 2009, to reflect honorable physical disability retirement in lieu of general administrative discharge under the provisions of Army Regulation 137-178 (Army National Guard (ARNG) and Reserve – Enlisted Administrative Separations) due to a pattern of misconduct.

b. He suffered from an undiagnosed, misdiagnosed, or untreated mental health condition, including post-traumatic stress disorder (PTSD), while in the service and was discharged for reasons related to this condition. He details numerous traumatic events to which he was exposed while deployed to Iraq, leading to his sleep troubles, PTSD, suicidal ideation, depression, and extreme back pain. At the demobilization station after deployment, he was advised he could lose his Active Guard Reserve (AGR) job if he divulged, he was not medically capable, so he hid his symptoms and began self-medicating with Prilosec and alcohol. It was only after his AGR removal that he realized he suffered from PTSD.

c. The Chief of Staff (General H____) had him removed from his chain of command and had his command issue a “no contact” order, which is still in effect today and had the direct effect of limiting his access to exculpating evidence or testimony.

d. He was not able to speak to his NCO or Officer in Charge (OIC) chain of command either during the investigation or after, even though his chain of command had information that was material, relevant, and would have revealed that his command was completely knowledgeable of his PTSD symptoms, his pulmonary condition, and other medical conditions which had a direct effect on accusations of misconduct.

e. The command unduly influenced his ability to gather evidence to present an adequate defense against allegations of misconduct by issuing a “no contact” order to all subordinates, peers, and superiors that had evidence of his innocence.

f. He was discharged as reprisal and as a means of covering up alleged sexual assaults by First Sergeant (1SG) C____ P____. His discharge was reprisal for not

providing the Joint Force Headquarters with the original rape victim statement and as a means of covering up the alleged rape by General C____.

3. The applicant enlisted in the ARNG on 27 September 1995.

4. A DD Form 214 shows:

a. The applicant was ordered to active duty in support of Operation Iraqi Freedom on 12 June 2006, with service in Iraq/Kuwait from 4 September 2006 through 27 August 2007.

b. He was honorably released from active duty on 7 September 2007, due to completion of required active service and transferred back to his ARNG unit.

c. He was credited with 1 year, 2 months, and 28 days of net active service this period.

d. Among his decorations, medals, and badges awarded or authorized is the Bronze Star Medal.

5. A DD Form 2697 shows:

a. The applicant provided his post-deployment medical assessment on 29 August 2007, indicating he had joint pain in his hands, acid reflux, and trouble sleeping, but did not have any conditions which limited his ability to work in his primary Military Occupational Specialty (MOS).

b. The medical professional signed the form indicating he had no current medical issues and was AGR.

6. The applicant's NCOER covering the period from 1 September 2007 through 31 August 2008, shows he was rated "Excellence" or "Success" in all portions of Part IV (Rater) (Values/NCO Responsibilities) and he passed his Army Physical Fitness Test (APFT).

7. A DA Form 4856 shows the applicant was counseled on 10 March 2009, wherein he was informed he was under investigation for inappropriate professional and personal conduct. He was advised he was removed from his duty position, he was to have no contact with Soldiers in the unit, and he had limited access to the Armory.

8. The applicant provided numerous emails, February 2009 – May 2009, and a DA Form 1559, 28 April 2009, speaking to his claim that his chain of command and NCO support channel wrongfully interfered with his collection of testimonials from

Soldiers and that hindered his fair chances to mount a rebuttal to the investigation and collect unbiased testimonials.

9. A second DD Form 214 shows:

a. The applicant was released from active duty and transferred back to the Massachusetts ARNG on 6 May 2009, under the provisions of Army Regulation 137-178, chapter 12-1(b) due to a pattern of misconduct, with no Separation Code listed.

b. His service was characterized as general, under honorable conditions.

c. He was credited 1 year, 7 months, and 29 days of net active service this period.

10. A Joint Force Headquarters, Massachusetts National Guard memorandum shows:

a. The applicant was notified by his commander on 6 July 2009, of his initiation of action to separate him from the ARNG with an under other than honorable conditions discharge under the provisions of Army Regulation 135-178, chapter 12, due to a pattern of misconduct.

b. The proposed separation was based on a pattern of documented misconduct that he engaged in, that included threatening subordinate Soldiers with harm, misuse of Government property, and fraternization.

c. He was advised of his right to consult with counsel, request a hearing before an administrative board, and present written statements in his own behalf.

11. A second Joint Force Headquarters, Massachusetts memorandum, signed by the applicant's defense counsel, 3 August 2009, shows:

a. The applicant waived appearance before a board of officers to show cause why he should not be discharged under other than honorable conditions and reduced to the rank of private.

b. As a condition of this waiver, he understood he would not be reduced in grade and that he would receive a discharge characterization of general, under honorable conditions.

12. A National Guard Bureau (NGB) Form 22 shows the applicant was given a general discharge from the ARNG on 3 August 2009, due to acts or patterns of misconduct. He was credited with 13 years, 10 months, and 7 days of net service this period.

13. The applicant's available service records do not show:

- he was issued a permanent physical profile rating
- he suffered from a medical condition, physical or mental, that affected his ability to perform the duties required by his MOS and/or grade or rendered him unfit for military service
- he was diagnosed with a medical condition that warranted his entry into the Army Physical Disability Evaluation System (PDES)
- he was diagnosed with a condition that failed retention standards and/or was unfitting

14. A VA letter, 25 May 2011, shows the applicant was granted service-connection for the following conditions effective 7 May 2009:

- PTSD, 50 percent
- tinnitus, 10 percent
- keloid scar, left shoulder, 10 percent
- gastroesophageal reflux disease (GERD), 0 percent

15. A second VA letter, 11 April 2017, shows the applicant's service-connected disability rating for PTSD was increased to 100 percent.

16. In the adjudication of this case, the Department of the Army Inspector General Agency (DAIG) provided a memorandum, 3 December 2024, which shows the DAIG Records Release office searched the Army IG database, the Inspector General Action Request System, and did not locate any records pertaining to the applicant.

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. Background: The applicant is applying to the ABCMR requesting consideration of an upgrade to his characterization of service from under honorable conditions (general) to honorable and a change to the narrative reason for separation to medical disability. He contends he experienced undiagnosed PTSD that mitigates his 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 Army National Guard on 27 September 1995, and he deployed to Iraq from 4 September 2006 to 27 August 2007.

- A DA Form 4856 shows the applicant was counseled on 10 March 2009, wherein he was informed he was under investigation for inappropriate professional and personal conduct. He was advised he was removed from his duty position.
- The applicant was released from active duty and transferred back to the Massachusetts ARNG on 6 May 2009, under the provisions of Army Regulation 137-178, chapter 12-1(b) due to a pattern of misconduct, with no Separation Code listed.
- A Massachusetts National Guard memorandum dated 6 July 2009 showed his commander initiated separation action from the ARNG due to a pattern of misconduct, which included threatening subordinate soldiers with harm, misuse of government property, and fraternization.
- A National Guard Bureau (NGB) Form 22 shows the applicant was given a general discharge from the ARNG on 3 August 2009, due to acts or patterns of misconduct. He was credited with 13 years, 10 months, and 7 days of net service this period.

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 he experienced numerous traumatic events while deployed to Iraq and was suffering from undiagnosed PTSD at the time of his discharge. He provides a ten page personal statement, and he indicated PTSD as an issue or condition related to his request. A letter from the Department of Veterans Affairs dated 25 May 2011 showed the applicant was rated at 50% for PTSD, and a second letter dated 17 April 2017 showed the rating for PTSD was increased to 100%. A Separation Physical dated 29 August 2007 showed the applicant reported trouble sleeping, but it is noted that there were no behavioral health issues. 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 includes medical and mental health records from DoD and VA, was also reviewed and showed a Compensation and Pension (C&P) Examination dated 4 May 2011, which noted no mental health treatment history and a complaint of sleep difficulty while in Iraq. He reported deployment-related trauma, including being in a vehicle that hit an IED and had a tire blown; coming under sniper fire and being injured by a truck door slamming on him; witnessing a truck behind him be blown by an IED and injuring other soldiers; and an incident where an Iraqi civilian was shot outside the gate and died before medics could respond. The applicant reported nightmares, intrusive thoughts and memories, avoidance of reminders, and hypervigilance, and he was diagnosed with PTSD, Chronic and Personality Disorder, Not Otherwise Specified (NOS) with narcissistic features. He engaged in the VA's housing program in September 2011, and in January 2012 he completed a neuropsychological evaluation. He reported problems with memory, PTSD symptoms, and depression, and he indicated he was in PTSD treatment through a civilian provider. The report concluded that the applicant's cognitive functioning was intact in all cognitive

domains with no abnormalities in performance noted, and his cognitive symptoms were more likely related to his psychiatric distress. A C&P review examination was conducted on 12 January 2012 and showed the applicant endorsed the required number and severity of symptoms to warrant a PTSD diagnosis, and the documentation noted he was engaged in psychotherapy and medication management through a non-VA provider. A third PTSD C&P review examination was conducted on 24 March 2017, and he continued to be unemployed and expressed difficulty with interpersonal relationships. He reported having been arrested eight times for assault and battery since his last examination, and he again endorsed symptoms of PTSD resulting in the diagnosis. He initiated mental health treatment at the VA in August 2024, and he primarily sought medication treatment to assist with attentional problems. Another neuropsychological examination was conducted on 18 December 2024 and concluded that there was sufficient evidence to warrant a diagnosis of ADHD that was likely complicated by his other psychiatric symptoms. At his most recent visit with his psychiatrist, he seemed to be responding to stimulant medication with plans to take the bar exam in July 2025.

e. A review of MedChart and HRR showed no medical or mental health documents and no post-deployment assessments, profiles, or indication of referral to an MEB/PEB.

f. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is insufficient evidence to support that the applicant had a medically disabling mental health condition while on active service. The documentation during the applicant's time in service does not support that the applicant was psychiatrically unfit at the time of discharge for any boardable mental health condition as he did not have persistent or reoccurring symptoms requiring extended or recurrent psychiatric hospitalization or persistent and reoccurring symptoms that interfered with duty performance or necessitated duty limitations (AR 40-501, para 3-33c). Although the applicant is 100% service connected for PTSD by the VA, it should be noted that the Disability Evaluation System (DES) compensates an individual only for service incurred medical condition(s) that 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. As to the applicant's request for consideration of a change to his characterization of his discharge, it is this BH Advisor's opinion that there is insufficient evidence of a mental health condition that would fully mitigate his misconduct.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts he had an undiagnosed mental health condition, including PTSD, at the time of the misconduct. In-service documentation only shows a report of sleep difficulty, and a separation physical noted he was cleared by behavioral health. In May 2011, the applicant was diagnosed with PTSD and is currently service connected for this condition at 100%.

(2) Did the condition exist or experience occur during military service? Yes, the applicant asserts he was experiencing a mental health condition while on active service. He deployed to Iraq from September 2006 to August 2007.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. A review of military medical and mental health records revealed no documentation of any mental health condition(s) while on active service. The applicant was diagnosed with PTSD in 2011 by the VA and is service connected for this condition. Hyperarousal symptoms, such as feeling on edge, keyed up, or irritable, can create a more reactive response to threatening situations, and impulsive or aggressive behaviors are not uncommon for those suffering with PTSD. However, there is insufficient evidence, beyond self-report, that the applicant was experiencing PTSD symptoms while on active duty. Furthermore, the applicant's misconduct related to misuse of government property and fraternization is not a natural sequalae to a mental health condition, such as PTSD, and PTSD does not affect one's ability to distinguish right from wrong and act in accordance with the right.

h. However, the applicant contends he was experiencing a mental health condition or an experience that mitigates his misconduct, and per Liberal Consideration his contention is sufficient for the board's consideration.

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 and the medical review, the Board concurred with the advising opinion of the Agency Behavioral Health Advisor that there is insufficient evidence to support that the applicant had a medically disabling mental health condition while on active service. The Board noted the applicant's detailed 10-page self-authored statement, which describes his exposure to traumatic events during deployment to Iraq, the onset of PTSD and other medical conditions, and allegations of reprisal and interference by his command. The Board further acknowledged the applicant's post-service diagnosis of PTSD and other service-connected conditions, as well as his award of the Bronze Star Medal and honorable service prior to the discharge in question.

2. However, the Board found that the applicant's available service records do not support a determination of physical disability retirement. Specifically, there is no evidence that he was issued a permanent physical profile, diagnosed with a condition that rendered him unfit for duty, or referred to the Army Physical Disability Evaluation System (PDES). His post-deployment medical assessment indicated no limiting conditions, and his NCOER reflected successful performance and physical readiness. The VA's later disability ratings, while significant, do not retroactively establish that the applicant met the criteria for medical retirement at the time of separation.

3. The Board determined there is in-sufficient evidence of in- service mitigating factors to overcome the misconduct of threats to subordinates, misuse of government property, and fraternization. While the applicant alleged reprisal and interference with his defense, the record does not contain evidence of whistleblower retaliation or substantiated claims of sexual assault cover-up. The Department of the Army Inspector General found no records pertaining to the applicant. Based on the advising opine and the absence of qualifying medical documentation and the substantiated misconduct, the Board determined that the applicant does not meet the criteria for an honorable physical disability retirement. The Board agreed the applicant's discharge characterization remains warranted. He did not meet the standards of acceptable conduct and performance required for an Honorable discharge. Therefore, the Board denied relief.

4. The Board considered the following Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts he had an undiagnosed mental health condition, including PTSD, at the time of the misconduct. In-service documentation only shows a report of sleep difficulty, and a separation physical noted he was cleared by behavioral health. In May 2011, the applicant was diagnosed with PTSD and is currently service connected for this condition at 100%.

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BOARD VOTE:

Mbr 1	Mbr 2	Mbr 3	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
XXX	XXX	XXX	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 //SIGNED//

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 135-178 (Army National Guard and Reserve – Enlisted Administrative Separations) prescribes policies, standards, and procedures to ensure the readiness and competency of the U.S. Army while providing for the orderly administrative separation of Army National Guard of the United States (ARNGUS) and U.S. Army Reserve (USAR) enlisted Soldiers.

a. Chapter 12 (Misconduct), in effect at the time, states a Soldier may be discharged for misconduct when it is determined that the Soldier is unqualified for further military service by reason of one or more of the following circumstances:

- minor disciplinary infractions
- a pattern of misconduct
- commission of a serious offense
- abuse of illegal drugs
- and civil conviction.

b. Paragraph 12-1(b) (A Pattern of Misconduct) states a pattern of misconduct consists of discreditable involvement with civil or military authorities or conduct prejudicial to good order and disciple. Discreditable conduct and conduct prejudicial to good order and discipline include conduct which violates the accepted standards of personal conduct found in the Uniform Code of Military Justice (UCMJ), Army regulations, the civil law, and time-honored customs and traditions of the Army.

c. Characterization of service will normally be under other than honorable conditions, but characterization as general (under honorable conditions may be warranted under the guidelines in chapter 2. For soldiers who have completed entry level status, characterization of service as honorable is not authorized unless the Soldier's record is otherwise so meritorious that any other characterization clearly would be in appropriate.

8. 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.

9. 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.

10. 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//