ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [redacted]

BOARD DATE: 26 March 2025

DOCKET NUMBER: AR20240006651

APPLICANT REQUESTS:

- in effect, honorable physical disability discharge in lieu of uncharacterized administrative discharge due to failure to meet medical procurement fitness standards
- correction of her records to reflect her last name as S____-L____ in lieu of M___
- personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- self-authored statement
- DD Form 214 (Certificate of Release or Discharge from Active Duty) covering the period ending 16 July 2016
- Joint Force Headquarters Orders 341-1054, 7 December 2017
- National Guard Bureau (NGB) Form 22A (Correction to NGB Form 22 (National Guard Report of Separation and Record of Service) covering the period ending 8 August 2016
- partial Assessment/Diagnostic Interview, 31 May 2023
- 6 witness statements/letters of support
- Department of Veterans Affairs (VA) Form 21-4138 (Statement in Support of Claim), 24 April 2024
- self-authored statement to VA Claims Board
- 311 additional pages of VA medical records

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. She is requesting these corrections because she was treated unjustly during her time in service, medical care was withheld after her injury, and her contact with friends and family was limited. She was an outstanding Soldier and drilled with her unit prior to Initial Entry Training (IET) but was discharged in lieu of being treated and retained as a Soldier.

b. She has no negative records that warranted her prevention of access to proper medical care and rehabilitation after being injured and did nothing that would warrant her discharge. She believes her speaking out on her command's unjust practices pertaining to her lack of proper medical care in addition to discrimination were the reasons they decided on this discharge status.

c. She has no record of injuries prior to enlistment except for a documented repaired inguinal hernia in 2012 that is not at all medically connected to her spinal and sacral injuries, contrary to what the medical records claim. Per regulatory guidance, she should have been provided the proper resources for rehabilitation.

3. The applicant's service records contain a Mount Sinai Program for Metabolic and Bariatric Surgery record, 14 June 2012, reflecting she underwent surgery on the date of the form for left inguinal hernia repair with mesh.

4. 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.

5. A DD Form 2808 (Report of Medical Examination) shows the applicant underwent medical examination on 20 January 2015, for the purpose of Army National Guard (ARNG) enlistment and was found qualified for enlistment with a PULHES of 111111. The summary of defects and diagnoses shows inguinal hernia repair surgery in 2012 with no complications.

6. The applicant enlisted in the ARNG on 6 August 2015 and entered active duty for training on 9 February 2016.

7. A DA Form 4707 (Entrance Physical Standards Board (EPSBD) Proceedings), 5 May 2015, shows:

- the EPSBD found the applicant was medically unfit for enlistment in accordance with medical fitness standards of Army Regulation 40-501 (Standards of Medical Fitness) and in the opinion of the evaluating physicians, the condition existed prior to service (EPTS)
- her condition is listed as low back pain
- her diagnosis is listed as lumbar spondylolysis
- her condition was EPTS with an approximate date of origin in childhood and it was not service aggravated

8. Multiple DA Forms 4856 (Developmental Counseling Form) show the applicant was counseled on 2 June 2016, by the Reserve Component Liaison and her immediate commander regarding her recommendation for administrative separation under the provisions of Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), paragraph 5-11 based upon her EPTS medical condition.

9. On 3 June 2016, the applicant was advised of her right to consult with Counsel regarding her proposed separation under the provisions of Army Regulation 635-200, paragraph 5-11, and she requested Counsel representation.

10. On 7 June 2016, a memorandum signed by the applicant and her Legal Assistance Attorney, shows the applicant claimed she did not have a condition that would prevent her from further service, and she requested to continue to serve. She disputed her spondylolysis was EPTS and she received an enlistment waiver for the hernia.

11. The applicant's DD Form 214 shows:

- her last name is listed as M____
- she was released from active duty and transferred back to the ARNG on 16 July 2016, under the provisions of Army Regulation 635-200, paragraph 5-11, due to failure to meet procurement medical fitness standards
- her service was uncharacterized
- she was not awarded a Military Occupational Specialty (MOS)
- she was credited with 5 months and 8 days of net active service this period

12. An NGB Form 22 shows the applicant was given an under other than honorable conditions discharge from the ARNG effective 8 August 2016, under the provisions of National Guard Regulation 600-200 (Enlisted Personnel Management), chapter 6.

13. Joint Force Headquarters Orders 341-1054, 7 December 2017, discharged the applicant from the ARNG effective 8 August 2016, with Assignment/Loss Code TK (Trainee Discharge Program Release from IADT). Her service was uncharacterized.

14. An NGB Form 22A, 11 December 2017, corrected the applicant's NGB Form 22 to show her service was uncharacterized in lieu of under other than honorable conditions and her reentry code was RE-3 in lieu of RE-4.

15. The applicant provided a partial Assessment/Diagnostic Interview, 31 May 2023, which has been provided in full to the Board for review, and shows she was seeking treatment for post-traumatic stress disorder (PTSD), and history of unhealthy relationships and substance use.

16. The applicant provided 6 witness statements, which have been provided in full to the Board for review, that in pertinent part speak to her multiple conditions incurred while she was in Basic Combat Training (BCT).

17. A VA Form 21-4138, 24 April 2024, includes a typed statement and details the applicant's statement she made in support of her VA claim and has been provided in full to the Board for review. In pertinent part it shows she suffers from intervertebral disc disease (IVDS), spondylolysis, radiculopathy of the left and right extremity, sciatica, anxiety, depression, PTSD, gastroesophageal reflux disease (GERD), neck pain, insomnia, and hypertension, for which she was not given the proper rehabilitation.

18. An additional 311 pages of VA medical records have been provided in full to the Board for review.

19. 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.

20. MEDICAL REVIEW:

a. The Army Review Boards Agency (ARBA) Medical Advisor was asked to review this case. Documentation reviewed included the applicant's ABCMR application and accompanying documentation, the military electronic medical record (AHLTA), the VA electronic medical record (JLV), the electronic Physical Evaluation Board (ePEB), the Medical Electronic Data Care History and Readiness Tracking (MEDCHART) application, and/or the Interactive Personnel Electronic Records Management System (iPERMS). The ARBA Medical Advisor made the following findings and recommendations:

b. The applicant is applying to the ABCMR requesting a referral to the Disability Evaluation System (DES).

c. The Record of Proceedings details the applicant's military service and the circumstances of the case. The applicant's DD 214 for the period of service under consideration shows the former Army National Guard Soldier entered the regular Army on 9 February 2016 and was discharged on 16 July 2016 under paragraph 5-11 of AR 635-200, Active Duty Enlisted Administrative Separations (17 December 2009): Separation of personnel who did not meet procurement medical fitness standards.

d. The behavioral health aspects of this case will be addressed by an ARBA behavioral health provider in a separate advisory.

e. Paragraph 5-11a of AR 635-200:

> "Soldiers who were not medically qualified under procurement medical fitness standards when accepted for enlistment or who became medically disqualified under these standards prior to entry on AD or ADT for initial entry training, may be separated. Such conditions must be discovered during the first 6 months of AD. Such findings will result in an entrance physical standards board. This board, which must be convened within the Soldier's first 6 months of AD, takes the place of the notification procedure (para 2–2) required for separation under this chapter."

f. The applicant's pre-entrance Report of Medical History and Report of Medical Examination show the applicant was in good health with her only significant history being an inguinal hernia repair in 2012.

g. AHLTA shows the applicant was seen for a 5-day history of atraumatic right hip pain on 5 April 2016. A bone scan revealed a stress fracture of the right sacrum and stress reactions throughout both lower extremities. She was treated conservative with a profile and therapy. She was also found to have pre-existing spondylolysis of the lumbar spine.

h. Spondylolysis is the term for the isolated pars interarticularis defects/fractures responsible for this condition and are present in up to 6% of the population. They are most often either congenital or acquired from repetitive overuse in activities requiring hyperextension of the lumbar spine, e.g., gymnastics or a down lineman in football.

i. She was informed of and then referred to an Entry Physical Standards Board (EPSBD) for this pre-service condition under provisions provided in paragraph 5-11 of AR 635-200.

j. EPSBDs are convened IAW paragraph 7-12 of AR 40-400, Patient Administration. This process is for enlisted Soldiers who within their first 6 months of active service are found to have a preexisting condition which does not meet the enlistment standard in chapter 2 of AR 40-501, Standards of Medical Fitness, but does meet the chapter 3 retention standard of the same regulation. The fourth criterion for this process is that the preexisting condition was not permanently service aggravated.

k. From her 5 May 2016 Entry Physical Standards Board (EPSBD) Proceedings (DA Form 4707):

"COMPLAINT: Low back pain

HISTORY OF PRESENT ILLNESS: PFC [Applicant] is a 25-year-old female with C-95th. 20160209 PFC [Applicant] arrived at reception. 20160329 PFC [Applicant] presented to the Fort Sill troop medical clinic for low back pain. She was given a profile, anti-inflammatories and returned to duty. 20160411 she returned to the clinic for continued low back pain and sent to physical therapy. 20160418 Sacrum x-rays showed L5 pars interarticularis spondylolysis.

PFC [Applicant] followed up with physical therapy and was referred for EPTS

Due to her past history along with current symptoms which will impact the successful completion of military training and does not meet medical standards for enlistment military service, an EPTS discharge is recommended. SM [service member] is in agreement with this plan.

PHYSICAL EXAMINATION: ... Lumbosacral spine tender to palpation about para vertebral muscles L4-S1, Full range of motion, Straight Leg test Negative. Gait: Normal.

DIAGNOSIS: Lumbar spondylolysis

DISPOSITION: Member does not meet medical fitness standards for enlistment or induction under the provision of AR 40-501 Chapter 2-29 (i) and DoDI 6130.03 Paragraph, Enclosure 4, 17 (i). SM understands that they will need follow up after discharge from the military for these chronic pre-existing conditions.

EPTS [existed prior to service]: yes

Service Aggravated: no

Approximate date of origin: childhood

l. Paragraph 2-4a of AR 40-501, Standards of Medical Fitness (4 August 2011), states:

> "Current or history of spondylolysis (congenital (756.11) or acquired (738.4)) and spondylolisthesis (congenital (756.12) or acquired (738.4)) do not meet the standard."

m. The Board concluded the applicant's medical condition failed medical enlistment standards, was not permanently aggravated by his service, and was not compatible with continued service. The applicant understood the findings and recommendation for her separation and requested to be retained. Her request was denied.

n. An uncharacterized discharge is given to individuals who separate prior to completing 180 days of military service, or when the discharge action was initiated prior to 180 days of service. This type of discharge does not attempt to characterize service as good or bad. Through no fault of her own, she simply had a medical condition which was, unfortunately, not within enlistment standards.

o. It is the opinion of the Agency Medical Advisor that a referral of her case to the DES is unwarranted.

BEHAVIORAL HEALTH REVIEW:

a. The applicant is applying to the ABCMR requesting a medical discharge in lieu of uncharacterized discharge due to failure to meet medical procurement fitness standards. The applicant asserts PTSD is related to her request. 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 ARNG on 6 August 2015 and entered active duty for training on 9 February 2016; 2) A DA Form 4707 (Entrance Physical Standards Board (EPSBD) Proceedings), 5 May 2015, shows the EPSBD found the applicant was medically unfit for enlistment for physical conditions in accordance with medical fitness standards of Army Regulation 40-501 (Standards of Medical Fitness) and in the opinion of the evaluating physicians, the condition existed prior to service (EPTS); 3) The applicant was released from active duty and transferred back to the ARNG on 16 July 2016, Chapter 5-11, due to failure to meet procurement medical fitness standards. Her service was uncharacterized; 4) Orders published on 7 December 2017 discharged the applicant from the ARNG effective 8 August 2016, with Assignment/Loss Code TK (Trainee Discharge Program Release from IADT). Her service was uncharacterized.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the supporting documents and the applicant's available military service and medical records. The VA's

Joint Legacy Viewer (JLV) and VA medical documentation provided by the applicant were also examined.

c. The applicant is applying to the ABCMR requesting a medical discharge in lieu of uncharacterized discharge due to failure to meet medical procurement fitness standards. The applicant asserts PTSD is related to her request. There is insufficient evidence the applicant reported or was diagnosed with a mental health condition including PTSD that did not meet medical retention standards, attended more than six months of behavioral health treatment without improvement, required inpatient psychiatric hospital treatment twice, or was ever placed on a psychiatric permeant profile while on active service.

d. A review of JLV provided evidence the applicant began to engage with the VA in 2018 for physical and mental health treatment. She underwent a Compensation and Pension evaluation for mental health conditions in 2023 and was diagnosed with a service-connected mood disorder (30%SC) by the VA.

e. Based on the available information, it is the opinion of the Agency Medical Advisor that the applicant did report behavioral health symptoms after her discharge, and she has been diagnosed with a service-connected mood disorder, but she has not been diagnosed with PTSD related to her military service. In addition, there is insufficient evidence the applicant was diagnosed with a mental health condition including PTSD that did not meet medical retention standards, attended more than six months of behavioral health treatment without improvement, required inpatient psychiatric hospital treatment twice, or was ever placed on a psychiatric permeant profile while on active service. Therefore, there is insufficient evidence the applicant's case warrants a referral to DES 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? No, the applicant did report behavioral health symptoms after her discharge, and she has been diagnosed with a service-connected mood disorder by the VA, but she has not been diagnosed with PTSD related to her military service. In addition, there is insufficient evidence the applicant was diagnosed with a mental health condition including PTSD that did not meet medical retention standards, attended more than six months of behavioral health treatment without improvement, required inpatient psychiatric hospital treatment twice, or was ever placed on a psychiatric permeant profile while on active service. Therefore, there is insufficient evidence the applicant's case warrants a referral to DES from a behavioral health perspective, at this time.

(2) Did the condition exist or experience occur during military service? N/A.

(3) Does the condition experience actually excuse or mitigate the misconduct? N/A.

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 medical review, the Board concurred with the medical opinion of the Agency Medical Advisor that the applicant did report behavioral health symptoms after her discharge, and she has been diagnosed with a service-connected mood disorder, but she has not been diagnosed with PTSD related to her military service. The Board found no error or injustice in her separation processing and the Board determined the applicant's separation was appropriate and a referral to the Integrated Disability Evaluation System is not warranted.

2. 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 evidence presented does not demonstrate the existence of a probable error or injustice. The applicant used the contested name during her entire period of service. The Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned. Based on the service record and a preponderance of the evidence, the Board denied relief.

3. The Army has an interest in maintaining the integrity of its records for historical purposes. The information in those records must reflect the conditions and circumstances that existed at the time the records were created. In the absence of evidence that shows a material error or injustice, there is a reluctance to recommend that those records be changed.

4. The applicant is advised that a copy of this decisional document, along with her application and the supporting evidence he provided, will be filed in her official military records. This should serve to clarify any questions or confusion regarding the difference in the name recorded in her military records and to satisfy her desire to have her name documented in her military records.

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.

6. The Board considered the following Kurta questions under liberal consideration:

a. Did the applicant have a condition or experience that may excuse or mitigate the misconduct? No, the applicant did report behavioral health symptoms after her discharge, and she has been diagnosed with a service-connected mood disorder by the VA, but she has not been diagnosed with PTSD related to her military service. In addition, there is insufficient evidence the applicant was diagnosed with a mental health condition including PTSD that did not meet medical retention standards, attended more than six months of behavioral health treatment without improvement, required inpatient psychiatric hospital treatment twice, or was ever placed on a psychiatric permeant profile while on active service. Therefore, there is insufficient evidence the applicant's case warrants a referral to DES from a behavioral health perspective, at this time.

b. Did the condition exist or experience occur during military service? N/A.

c. Does the condition experience actually excuse or mitigate the misconduct? N/A.

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. 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.

4. 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.

5. 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.

6. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), sets policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons.

a. Chapter 3 states a separation will be described as entry level with uncharacterized service if the Soldier is in an entry-level status at the time separation action is initiated.

b. Paragraph 5-11 (Separation of personnel who did not meet procurement medical fitness standards) shows Soldiers who were not medically qualified under procurement medical fitness standards when accepted for enlistment or who became medically disqualified under these standards prior to entry on active duty or active duty training for initial entry training, may be separated. Such conditions must be discovered during the first 6 months of active duty. Such findings will result in an entrance physical standards board. This board, which must be convened within the Soldier's first 6 months of active duty, takes the place of the notification procedure required for separation.

c. Medical proceedings, regardless of the date completed, must establish that a medical condition was identified by an appropriate military medical authority within 6 months of the Soldier's initial entrance of active duty for Regular Army or active duty training for Army National Guard of the United States and U.S. Army Reserve that:

(1) would have permanently or temporarily disqualified the Soldier for entry into the military service or entry on active duty or active duty training for initial entry training had it been detected at the time

(2) does not disqualify the Soldier for retention in the military service per Army Regulation 40-501, chapter 3. As an exception, Soldiers with existed prior to service conditions of pregnancy or HIV infection will be separated.

d. Section II (Terms) of the Glossary defines entry-level status for Regular Army Soldiers as the first 180 days of continuous active duty or the first 180 days of continuous active duty following a break of more than 92 days of active military service. For ARNG and USAR Soldiers, entry-level status begins upon enlistment in the ARNG or USAR. For Soldiers ordered to IADT for one continuous period, it terminates 180 days after beginning training. For Soldiers ordered to IADT for the split or alternate training option, it terminates 90 days after beginning Phase II of Advanced Individual Training.

7. National Guard Regulation 600-200 (Enlisted Personnel Management) prescribes he criteria, policies, processes, procedures and responsibilities to classify, assign utilize, transfer within and between States, provides special duty assignment pay, separate and appoint to and from Command Sergeant Major ARNG and Army National Guard of the Unites States enlisted Soldiers. Chapter 6, in effect at the time, provides for the separation of Soldier found to have failed to meet the medical procurement standards of chapter 2, Army Regulation 40-501, prior to entry on Initial Active Duty Training (IADT).

8. Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs) memorandum (Administrative Name Changes to DD Form 214 – Certificate of Release or Discharge from Active Duty – Initiative), dated 3 February 2022, established a more

efficient and effective process to expedite requests for administrative name changes on DD Forms 214 pursuant to a court order. Administrative name changes to DD Forms 214 that are pursuant to a court order will be completed upon request. Requests for administrative name changes to DD Forms 214 pursuant to a court order must be accompanied by a copy of such court order.

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//