

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 May 2025

DOCKET NUMBER: AR20240007803

APPLICANT REQUESTS:

- Upgrade her uncharacterized character of service to honorable
- Narrative reason change to Secretarial Authority
- Separation code change to JFF
- Reentry code change to RE-1
- Not to make any remarks to indicate a correction was made

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 214 (Certificate of Release or Discharge from Active Duty) for period ending 9 November 1992
- Army Discharge Review Board (ADRB) letter, 19 September 1996
- University of Bridgeport, Southern Connecticut State University, and Kennesaw State University transcripts
- Four character references, showing support of the applicant's application for a promotion from Assistant to Associate Professor

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, in effect, her discharge is unjust because the sole reason for it was an assumption that she was homosexual. She was a dedicated recruit who was looking forward to serving the country like her father, grandfather, and great-grandfather did before her. Although the applicant identify as a gay woman, she was forced into making this admission in 1992, when she was an 18 year old kid dedicated and willingly training to serve the country. The discharge outed her to her family and destroyed her relationship with her father, who was a proud Navy Vietnam veteran. She appealed her

discharge in 1996 in a desperate attempt to heal her relationship with him. In the years that followed, the discharge negatively affected employment opportunities. Since her separation, she has become a respected assistant professor in her field. She take pride in working with students, especially student veterans and Reserve Officer Training Corps (ROTC) students, as she continues to support the military. There were no aggravating factors alleged in her discharge paperwork. Her record reflects no issues or concerns during her training.

3. A review of the applicant's service record shows:

- a. She enlisted in the Regular Army on 2 October 1992 for 3 years.
- b. Sworn Statement, 19 Oct 1992, shows the applicant requested to be discharged from the service because of homosexuality and a medical discharge because of bad knees.
- c. On 26 October 1992, her commander notified her of his intent to separate her under the provisions (UP) of Army Regulation (AR) 635-200 (Personnel Separation – Enlisted Personnel), chapter 15 due to homosexuality because she admitted to being a homosexual, and intended to engage in homosexual activities while in the Army; she acknowledged on 26 October 1992.
- d. She was advised by her immediate commander of the basis for the contemplated action to separate her and its effects; of the rights available to her; and the effects of any action by her waiving her rights. The applicant waived her right to an administrative separation board and to consult with counsel.
- e. On 30 October 1992, she completed a questionnaire (3 pages) regarding homosexuality, which indicated:
 - The questionnaire was completed after she volunteered information that she was a homosexual
 - She had her last homosexual encounter three months before she was scheduled to report to the Reception Battalion
 - She did not believe she belonged in the military because she could not practice her homosexual lifestyle
 - The form was endorsed by the applicant and her immediate commander
- f. Her chain of command recommended approval and that her character of service be uncharacterized.
- g. On 3 November 1992, the separation authority approved separation; he directed she be discharged with an uncharacterized character of service.

h. Accordingly, she was discharged, with an uncharacterized character of service on 9 November 1992, she completed 1 month and 8 days net active service this period. The DD Form 214 (Certificate of Release or Discharge from Active Duty) shows:

- Item 11 (Primary Specialty): None
- Item 25 (Army Regulation (AR) 635-200 Paragraph 15-13b
- Item 26 (Separation Code): JRB
- Item 27 (Reentry Code): RE-4
- Item 28 (Narrative Reason for Separation): Homosexuality/Bisexuality

4. On 15 April 1996, the Army Discharge Review Board after careful consideration of her military records and all other available evidence, determined that she was properly and equitably discharged. Accordingly, her request for a change in the type and nature of her discharge was denied.

5. In reaching its determination, the Board can consider the applicant's petition and his service record in accordance with the published equity, injustice, or clemency determination guidance.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, to include the DoD guidance on liberal consideration when reviewing discharge upgrade requests, the Board determined relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. One potential outcome discussed was to deny relief based upon the applicant violating DoD policy at the time of her entry onto active service. However, based upon the circumstances leading to the applicant's separation and DoD policy changes related to the circumstances leading to the applicant's separation, the Board concluded there was sufficient evidence of an error or injustice warranting a change to the applicant's discharge separation information reflected on the applicant's DD 214.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:XXX	:	:XXX	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:XXX	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by reissuing the applicant a DD Form 214 showing:

- Characterization of Service: Honorable
- Separation Authority: AR 635-200
- Separation Code: JFF
- Reentry Code: 1
- Narrative Reason for Separation: Secretarial Authority

//SIGNED//

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CHAIRPERSON

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

REFERENCES:

1. 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. Army Regulation 601-210 (Regular Army and Reserve Components Enlistment Program), governs eligibility criteria, policies, and procedures for enlistment and processing of persons into the Regular Army, the U.S. Army Reserve, and Army National Guard for enlistment per DODI 1304.26. It also prescribes the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps cadets under the Simultaneous Membership Program. Chapter 4 provides the criteria and procedures for waiverable and non-waiverable separations. Table 3-1, defines reentry eligibility (RE) codes:

RE-1 Applies to: Person completing his or her term of active service who is considered qualified to reenter the U.S. Army. Eligibility: Qualified for enlistment if all other criteria are met.

RE-3 Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waiverable. Eligibility: Ineligible unless a waiver is granted.

RE-4 Applies to: Person separated from last period of service with a non-waiverable disqualification. This includes anyone with a DA imposed bar to reenlistment in effect at time of separation or separated for any reason (except length of service retirement) with 18 or more years active Federal service. Eligibility: Ineligible for enlistment.

3. Army Regulation (AR) 635-5 (Separation Documents) prescribes the separation documents prepared for Soldiers upon retirement, discharge, or release from active military service or control of the Army. It establishes standardized policy for the preparation of the DD Form 214. The DD Form 214 is a synopsis of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of active Army service at the time of release from active duty, retirement, or discharge.

4. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes), then in effect, prescribed the specific authorities (regulatory, statutory, or other directives), the reasons for the separation of members from active military service, and the separation program designators to be used for these stated reasons. The SPD code of "JRB" as shown on the applicant's DD Form 214 specified the narrative reason for discharge as "Homosexual Admission." Additionally, the SPD/Reentry Eligibility (RE) Code Cross Reference Table established RE code "4" as the proper reentry code to assign to Soldiers separated under this authority and for this reason.

5. Army Regulation 635-200 (Personnel Separation – Enlisted Personnel), in effect at the time, sets 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

c. Glossary defines entry-level status for RA Soldiers is the first 180 days of continuous AD or the first 180 days of continuous AD following a break of more than 92 days of active military service.

d. Paragraph 5-3 (Secretarial Authority) provides explicitly for separation under the prerogative of the Secretary of the Army. Secretarial plenary separation authority is exercised sparingly and seldom delegated. Ordinarily, it is used when no other provision of this regulation applies, and early separation is clearly in the Army's best interest. Separations under this paragraph are effective only if approved in writing by the Secretary of the Army or the Secretary's approved designee as announced in updated memorandums. Secretarial separation authority is normally exercised on a case-by-case basis. The service of Soldiers separated under Secretarial plenary authority will be characterized as honorable or under honorable conditions as warranted by their military records unless an entry-level status separation (uncharacterized) is warranted. (Current regulation, Chapter 15 (Secretarial Plenary Authority)).

e. Chapter 15 (Separation for Homosexuality (rescinded)) states that active homosexuality was incompatible with military service and provided, in pertinent part, for the separation of members who actively engaged in homosexual conduct or who, by their statements, demonstrated a tendency to engage in homosexual conduct.

(1) Paragraph 15-3b (Criteria), states the basis for separation may include preservice, prior service, or current service conduct or statements. Soldier has made a statement that he or she is a homosexual or bisexual, or words to that effect, unless there is a further approved finding that the Soldier has demonstrated that he/she is not a person who engages in attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts.

(2) Paragraph 15-4a prescribes when the sole basis for separation was homosexuality, a discharge under other than honorable conditions may be issued only if such characterization was warranted in accordance with Chapter 3, Section III, and if there was a finding that during the current term of service the Soldier attempted, solicited, or committed a homosexual act by using force, coercion or intimidation; with a person under 16 years of age; with a subordinate in circumstances that violate customary military superior subordinate relationships; openly in public view; for compensation; aboard a military vessel or aircraft; or in another location subject to military control if the conduct had, or was likely to have had, an adverse impact on discipline, good order, or morale due to the close proximity of other Soldiers of the Armed Forces.

(3) Paragraph 15-4b stipulates in all other cases where no aggravating factors were present, the type of discharge would reflect the character of the Soldier's overall record of service.

6. The Under Secretary of Defense for Personnel and Readiness memorandum, dated 20 September 2011, subject: Correction of Military Records Following Repeal of Section 654 of Title 10, U.S. Code, provides policy guidance for Service Discharge Review Boards (DRB's) and Service Boards for Correction of Military/Naval Records

(BCM/NR's) to follow when taking action on applications from former service members discharged under DADT or prior policies.

a. The memorandum states that effective 20 September 2011, Service DRB's should normally grant requests in these cases to change the:

- narrative reason for discharge to "SECRETARIAL AUTHORITY"
- SPD code to "JFF"
- character of service to "HONORABLE"
- RE code to an immediately-eligible-to-reenter category (RE-1)

b. For the above corrections or amendments to be warranted, the memorandum states both of the following conditions must have been met:

(1) The original discharge was based solely on DADT or a similar policy in place prior to enactment of DADT.

(2) There were no aggravating factors in the record, such as misconduct.

c. The memorandum further states that although each request must be evaluated on a case-by-case basis, the award of an honorable or general discharge should normally be considered to indicate the absence of aggravating factors.

d. The memorandum also recognized that although BCM/NR's have a significantly broader scope of review and are authorized to provide much more comprehensive remedies than are available from the DRB's, it is Department of Defense (DOD) policy that broad, retroactive corrections of records from applicants discharged under DADT [or prior policies] are not warranted. Although DADT is repealed effective 20 September 2011, it was the law and reflected the view of Congress during the period it was the law. Similarly, DOD regulations implementing various aspects of DADT [or prior policies] were valid regulations during those same or prior periods. Thus, the issuance of a discharge under DADT [or prior policies] should not by itself be considered to constitute an error or injustice that would invalidate an otherwise properly taken discharge action.

7. AR 635-8 (Separation Processing and Documents), currently in effect, prescribes the transition processing function of the military personnel system, including preparation of the DD Form 214.

a. The DD Form 214 is a summary of the Soldier's most recent period of continuous active duty. It provides a brief, clear-cut record of all current active, prior active, and prior inactive duty service at the time of release from active duty, retirement, or discharge.

b. Item 18 (Remarks) - when a DD Form 214 is administratively issued or reissued, enter "DD FORM 214 ADMINISTRATIVELY ISSUED/REISSUED ON (date)." However, do not make this entry if the appellate authority, Executive Order, or Headquarters, Department of the Army, directs otherwise.

c. The Deputy Assistant Secretary of the Army (Review Boards) (DASA (RB)), Army Review Boards Agency (ARBA), is authorized to issue or reissue DD Forms 214. Once a DD Form 214 has been issued, at the direction of the ABCMR or in other instances when appropriate, including when it is determined that the original DD Form 214 cannot be properly corrected by issuance of a DD Form 215 (Correction to DD Form 214).

//NOTHING FOLLOWS//