ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [redacted]

BOARD DATE: 20 March 2025

DOCKET NUMBER: AR20240008896

APPLICANT REQUESTS: medical retirement.

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

- DD Form 149 (Application for Correction of Military Record)
- Enclosure 1 – Behavioral Health (BH) Memorandum for Record (MFR)
- Enclosure 2 – Psychological Evaluation
- Enclosure 3 – Ten Army Physical Fitness Test (APFT) Scorecards
- Enclosure 4 – Ten DA Forms 67-9 (Officer Evaluation Report (OER))
- Enclosure 5 – Judge Advocate General (JAG) Officer's Memorandum, re: Review of Medical Determination
- Enclosure 6 – National Guard Bureau (NGB) and California Army National Guard (CAARNG) Withdrawal of Federal Recognition
- Enclosure 7 – Five DD Forms 214 (Certificate of Release or Discharge from Active Duty); DD Form 215 (Correction to DD Form 214); Two NGB Forms 22 (Report of Separation and Record of Service); NGB Form 55 (Honorable Discharge Certificate); CAARNG and NGB Separation Orders
- Enclosure 8 – Eighteen Awards Certificates and Documents

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, she is asking the Board to retire her with 17 years of service.

a. The CAARNG unjustly discharged her and, by so doing, did not follow the guidance in Army Regulation (AR) 40-501 (Standards of Medical Fitness), which requires the continuation of "Evidence-Based Treatment" until a Soldier reaches his/her Medical Retention Determination Point (MRDP). Further, the CAARNG failed to recognize that her BH issues and her weight gain were directly linked.

b. The applicant contends that, after reviewing her service record, the Board will see she was a consistent and high performing Soldier who not only achieved maximum scores on her APFT but also earned "top blocks" on her OERs and participated in countless missions while serving in positions of greater responsibility.

3. The applicant provides documents from her service record and following:

a. A psychological evaluation, conducted on 17 October 2013, which lists diagnoses for major depressive disorder, anxiety disorder, and undifferentiated somatoform disorder.

b. A 12 November 2013 CAARNG Trial Defense Service memorandum, subject: "Review of Medical Determination, [applicant]"; the memorandum is addressed to a physician assistant within the CAARNG Office of the State Surgeon General.

(1) Applicant's counsel states he was provided a copy of the State Surgeon General's review of and opinions concerning the applicant's 17 October 2013 psychological evaluation, along with the physician assistant's interpretations of paragraph 4-9 (Medical Examination), AR 635-40 (Physical Evaluation for Retention, Retirement, or Separation), and paragraphs 3-32 (Mood Disorders) and 3-33 (Anxiety, Somatoform, or Dissociative Disorders), AR 40-501.

- Contrary to the physician assistant's opinion, paragraph 4-9, AR 635-40, does not require a line-of-duty determination for a Soldier's medical condition
- According to paragraph 2-5 (The Surgeon General), AR 635-40, the State Surgeon General's role is to establish and interpret medical standards for retaining Soldiers on active duty; nowhere in the regulation does it state the State Surgeon General is supposed to opine on a Soldier's test results

(2) A fully qualified clinical psychologist prepared the applicant's 17 October 2013 psychological evaluation and provided diagnoses; the clinical psychologist determined the applicant was unfit for continued military service. By contrast, the State Surgeon General's physician assistant lacked those qualifications; as such, his opinion should be "fully discounted."

(3) The applicant argued that the 17 October 2013 psychological evaluation fulfilled the requirement for an evaluation, and with that, the medical treatment facility commander should refer the applicant's case to a medical evaluation board (MEB).

(4) As to other "unsupported statements and accusations" contained in the State Surgeon General's memorandum:

- The applicant was unaware of a "depression screening" conducted at a U.S. Air Force facility in September 2013; she only went to this facility for her back issues
- The applicant did not delay her psychological evaluation and she did not seek assistance from either the Office of the Inspector General (IG) or the Equal Opportunity Officer (EEO)
- The applicant complained of BH symptoms both while deployed and upon her redeployment and continuously sought treatment from 2012 through 2013
- "Further, [applicant] has sought the assistance of the IG and the EEO on numerous occasions, and based on your memorandum, will do so again, along with the assistance of her Congressman"

c. MFR, by Lieutenant Colonel (LTC) D__ T. H__, CAARNG, Director of Psychological Health (Joint) and dated 22 March 2024.

(1) LTC H__ affirms he has been working with the applicant since October 2023 and states, given the applicant's BH conditions at the time of her separation, the applicant should have been allowed to further engage in "Evidence-Based Treatment" rather than being discharged.

(2) "Of alarming concern in this situation, besides the BH evaluation by an outside provider dated 20131017, no uniformed BH Officer (BHO) was engaged in the case. I was with the CAARNG full-time and was not notified of this case. If a BHO had been involved in the case at the time, [applicant] would have been given more time in treatment to work on her BH conditions, which directly follows the guidance of AR 40-501."

(3) "This is of crucial clinical importance, as the weight gain was a symptom of her BH conditions. Given that a subject matter expert (SME), such as a BHO, was not engaged in this case, leadership was misinformed in their decision...."

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

a. On 12 August 2002, after completing enlisted service and officer candidate school in the Iowa ARNG (IAARNG), the applicant executed her oath of office as a commissioned officer.

b. On 25 August 2004, the applicant entered active duty, per Title 10 orders, and, on 14 October 2004, she deployed to Iraq. On 10 October 2005, she redeployed and, on the Army honorably released her from active duty and returned her to the IAARNG.

c. On 26 June 2006, following an approved interstate transfer, the applicant executed her oath of office as a commissioned officer in the CAARNG. The applicant's

available service record includes a 29 August 2007 DA Form 5501 (Body Fat Content Worksheet (Female) showing she met Army height/weight standards.

d. Effective 18 April 2008, NGB announced the applicant's promotion to CPT. On or about 3 October 2008, the applicant's rating chain issued her a favorable OER for rating period 20080105 through 20081003; the report indicated she met Army height/weight standards.

e. Between October 2008 and March 2012, the applicant's rating chain gave her four referred OERs, each indicating she had failed to meet Army height/weight standards.

(1) The applicant provided comments for only one OER (rating period 20110401 through 20120331).

(2) The applicant argued her report had been referred due to her inability to meet weight standards, and she disclosed her health had been worsening and the medications her doctors prescribed affected her ability to keep her weight within standards.

f. On 13 November 2013, the applicant's command prepared a DA Form 5501; the form showed the applicant was not in compliance with Army height/weight standards. On 17 June 2014, the CAARNG announced that a Mandatory Promotion Board had not selected the applicant for promotion.

g. The applicant provides an NGB memorandum, dated 8 October 2014, in which the Chief, NGB directed the withdrawal of the applicant's Federal recognition. The Chief NGB stated he reached that decision after assessing her service record and reviewing the findings and recommendations of a 7 December 2013 board.

h. On 20 December 2014, the CAARNG honorably discharged the applicant, citing paragraph 8a (Reasons for Action to Withdraw Federal Recognition – Substandard Performance of Duty), National Guard Regulation 635-101 (Personnel Separations – Efficiency and Physical Fitness Boards). The applicant's NGB Form 22 (Report of Separation and Record of Service) shows she completed 8 years, 5 months, and 25 days of CAARNG service; 8 years, 7 months, and 20 days of prior Reserve Component Service; and no prior active Federal Service. Her total service for retired pay is 17 years, 1 month, and 15 days.

5. MEDICAL REVIEW:

a. Background: The applicant is requesting medical retirement.

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:

- On 12 August 2002, after completing enlisted service and officer candidate school in the Iowa ARNG (IAARNG), the applicant executed her oath of office as a commissioned officer.
- On 25 August 2004, the applicant entered active duty, per Title 10 orders, and, on 14 October 2004, she deployed to Iraq. On 10 October 2005, she redeployed and, the Army honorably released her from active duty and returned her to the IAARNG.
- On 26 June 2006, following an approved interstate transfer, the applicant executed her oath of office as a commissioned officer in the CAARNG. The applicant's available service record includes a 29 August 2007 DA Form 5501 (Body Fat Content Worksheet (Female) showing she met Army height/weight standards.
- Effective 18 April 2008, NGB announced the applicant's promotion to CPT. On or about 3 October 2008, the applicant's rating chain issued her a favorable OER for rating period 20080105 through 20081003; the report indicated she met Army height/weight standards.
- Between October 2008 and March 2012, the applicant's rating chain gave her four referred OERs, each indicating she had failed to meet Army height/weight standards. The applicant provided comments for only one OER (rating period 20110401 through 20120331). She argued her report had been referred due to her inability to meet weight standards, and she disclosed her health had been worsening and the medications her doctors prescribed affected her ability to keep her weight within standards.
- On 13 November 2013, the applicant's command prepared a DA Form 5501; the form showed the applicant was not in compliance with Army height/weight standards.
- On 17 June 2014, the CAARNG announced that a Mandatory Promotion Board had not selected the applicant for promotion.
- The applicant provides an NGB memorandum, dated 8 October 2014, in which the Chief, NGB directed the withdrawal of the applicant's Federal recognition. The Chief NGB stated he reached that decision after assessing her service record and reviewing the findings and recommendations of a 7 December 2013 Board.
- On 20 December 2014, the CAARNG honorably discharged the applicant, citing paragraph 8a (Reasons for Action to Withdraw Federal Recognition – Substandard Performance of Duty), National Guard Regulation 635-101 (Personnel Separations – Efficiency and Physical Fitness Boards). The applicant's NGB Form 22 (Report of Separation and Record of Service) shows she completed 8 years, 5 months, and 25 days of CAARNG service; 8 years, 7 months, and 20 days of prior Reserve Component Service; and no prior active

Federal Service. Her total service for retired pay is 17 years, 1 month, and 15 days.

c. Review of Available Records: The Army Review Board Agency's (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant states, she is asking the Board to retire her with 17 years of service. The CAARNG unjustly discharged her and, by so doing, did not follow the guidance in Army Regulation (AR) 40-501 (Standards of Medical Fitness), which requires the continuation of "Evidence-Based Treatment" until a Soldier reaches his/her Medical Retention Determination Point (MRDP). Further, the CAARNG failed to recognize that her BH issues and her weight gain were directly linked. The applicant contends that, after reviewing her service record, the Board will see she was a consistent and high performing Soldier who not only achieved maximum scores on her APFT but also earned "top blocks" on her OERs and participated in countless missions while serving in positions of greater responsibility.

d. The active-duty electronic medical records available for review show the applicant was initially treated in theater on 7 September 2005 due to depressed mood and excessive worry related to work stressors. She reported difficulty coping with the leadership style of her company commander. She was diagnosed with Depressive Disorder and treated via antidepressant medication and a sleep aid. A follow-up session on 21 September 2005 shows the applicant reported improved mood and a reduction in depressive symptoms and insomnia. A note dated 5 October 2005 states her depression was in remission and her insomnia was infrequent. The applicant provides hardcopy documentation of a psychological evaluation dated 17 October 2013, completed by a civilian provider, showing she was diagnosed with Major Depressive Disorder; Anxiety Disorder, Not Otherwise Specified, Trauma Symptoms; and Undifferentiated Somatoform Disorder, Provisional. Although the psychologist opined the applicant was unfit for continued service, this was a civilian provider with no knowledge of the Army retention standards. Per the psychological summary the applicant: "reported no history of alcohol or drug abuse. Her affect appeared appropriate to mood. Her mood appeared dysphoric and anxious. She has no history of aggressiveness with others. She has no history of obsessions or compulsions. She denied any history of visual or auditory hallucinations. Her concentration and memory appeared adequate. Ms. Stokesberry's abstract thinking appeared unimpaired. Her judgment appeared unimpaired." The psychological evaluation did not indicate any risk of harm to self or others, no history of psychosis, mania, or psychiatric hospitalization, and no concerns regarding thinking or judgement were noted. Overall, the applicant's available service record does not contain a DA Form 3349 (Physical Profile), nor does it evidence:

- she was issued a permanent physical profile rating

- she suffered from a medical condition, physical or mental, that affected her ability to perform the duties required by her MOS and/or grade or rendered her unfit for military service

- she was diagnosed with a medical condition that warranted entry into the Army Physical Disability Evaluation System (PDES)

- she was diagnosed with a condition that failed retention standards and/or was unfitting.

e. The VA's Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is 80% service connected, including 70% for PTSD. The record does not evidence behavioral health treatment via the VA.

f. The applicant provides an NGB memorandum, dated 8 October 2014, in which the Chief, NGB directed the withdrawal of the applicant's Federal recognition. The Chief NGB stated he reached the decision after assessing her service record and reviewing the findings and recommendations of a 7 December 2013 Board. The Board findings and recommendations are not available for review, as a result it is not possible to determine the reason for the withdrawal of the applicant's Federal recognition. The applicant claims withdrawal of the Federal recognition occurred due to her failure to meet Army height/weight standards. Given there is evidence she was treated with psychotropic medication for her behavioral health condition and psychotropic medication can lead to weight gain; the applicant's comments on her OER (rating period 20110401 through 20120331) that the medications her doctor prescribed affected her ability to keep her weight within standards is consistent. There is an association between treatment with psychotropic medication and weight gain. However, the NGB memorandum, dated 8 October 2014, states the decision was reached after assessing her service record and reviewing the findings and recommendations of a 7 December 2013 Board. A memo dated 13 November 2014 states termination of the applicant's federal recognition was based on substandard performance of duty. Given the information the 7 December 2013 Board used to arrive at its recommendations are not available for review, this advisor is unable to opine regarding the applicant's discharge. However, based on the information currently available for review, it is the opinion of the Agency Behavioral Health Advisor that there is insufficient evidence, at this time, to support a referral to the IDES process. Although the applicant was diagnosed with Major Depressive Disorder and Anxiety Disorder while in service, and has been 70% service connected for PTSD, VA examinations are based on different standards and parameters; they do not address whether medical conditions met or failed Army retention criteria or if they were ratable conditions during the period of service. Therefore, a VA disability rating would not imply failure to meet Army retention

standards at the time of service. A subsequent diagnosis of PTSD through the VA is not indicative of an injustice at the time of service. Furthermore, even an in-service diagnosis of PTSD, Major Depressive Disorder, and/or Anxiety Disorder is not automatically unfitting per AR 40-501 and would not automatically result in the medical separation processing. Based on the documentation available for review, there is no indication that an omission or error occurred that would warrant a referral to the IDES process.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Not applicable.

(2) Did the condition exist or experience occur during military service? Not applicable.

(3) Does the condition or experience actually excuse or mitigate the discharge? Not applicable**.**

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 record and medical review, the Board concurred with the advisory official finding there is insufficient evidence, at this time, to support a referral to the IDES process. Although the applicant was diagnosed with Major Depressive Disorder and Anxiety Disorder while in service, and subsequently PTSD, the VA did not address whether medical conditions met or failed Army retention criteria or if they were ratable conditions during the period of service. A subsequent diagnosis of PTSD through the VA is not indicative of an injustice at the time of service. Furthermore, even an in-service diagnosis of PTSD, Major Depressive Disorder, and/or Anxiety Disorder is not automatically unfitting per AR 40-501 and would not automatically result in the medical separation processing. The Board determined that there is insufficient evidence to grant relief.

2. Consideration was given to the Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Not applicable.

(2) Did the condition exist or experience occur during military service? Not applicable.

(3) Does the condition or experience actually excuse or mitigate the discharge? Not applicable.

3. The Board agreed that the VA provides post-service support and benefits for service-connected medical conditions. The VA operates under different laws and regulations than the Department of Defense (DOD). In essence, the VA will compensate for all service-connected disabilities. Variance in ratings does not indicate an error on the part of either entity. If the applicant has yet to file a claim with the Veterans Administration for his medical condition(s), he may consider doing so.

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. Title 10, U.S. Code, section 1556 (Ex Parte Communications Prohibited) 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 (ABCMR) applicant’s (and/or their counsel) prior to adjudication.

3. National Guard Regulation 635-101 (Personnel Separations – Efficiency and Physical Fitness Boards) prescribes policies and procedures for determining the capacity and general fitness of commissioned and warrant officers for continued Federal recognition in the Army National Guard (ARNG). Paragraph 8a (Reasons for Action to Withdraw Federal Recognition – Substandard Performance of Duty) states a downward trend in overall performance resulting in an unacceptable record of efficiency or a consistent record of mediocre service warrants the withdrawal of Federal recognition due to substandard duty performance.

4. Army Regulation (AR) 40-501 (Standards of Medical Fitness), in effect at the time, included guidance addressing medical retention standards and when Soldiers should be referred to a medical evaluation board (MEB).

a. Paragraph 3-32 (Mood Disorders). Causes for referral to an MEB were the following:

- Persistence or recurrence of symptoms sufficient to require extended or recurrent hospitalization; or
- Persistence or recurrence of symptoms necessitating limitations of duty or duty in protected environment; or
- Persistence or recurrence of symptoms resulting in interference with effective military performance

b. Paragraph 3-33 (Anxiety, Somatoform, or Dissociative Disorders). Causes for referral to an MEB were the following:

- Persistence or recurrence of symptoms sufficient to require extended or recurrent hospitalization; or
- Persistence or recurrence of symptoms necessitating limitations of duty or duty in protected environment; or
- Persistence or recurrence of symptoms resulting in interference with effective military performance

c. Paragraph 7-3 (Physical Profile Serial System). The physical profile serial system is based primarily upon the function of body systems and their relation to military duties. In developing the system, the functions have been considered under six factors designated "P-U-L-H-E-S." Four numerical designations are used to reflect different levels of functional capacity.

(1) The six factors are:

- P-Physical capacity or stamina –includes conditions of the heart; respiratory system; gastrointestinal system, genitourinary system; nervous system; allergic, endocrine, metabolic and nutritional diseases; diseases of the blood and blood forming tissues; and other organic defects/diseases
- U-Upper Extremities – concerns hands, arms, shoulders, upper spine
- L-Lower Extremities – pertains to feet, legs, pelvis, lower back and lower spine
- H-Hearing and Eyes – auditory acuity and defects of the ears
- E-Eyes – visual acuity and eye defects
- S-Psychiatric – concerns personality, emotional stability, and psychiatric diseases

(2) Numerical designations.

- 1 – high level of medical fitness
- 2 – some activity limitations
- 3 – significant limitations
- 4 – severe limitations

d. Paragraph 7-4 (Temporary vs. Permanent Profiles).

(1) Medical Retention Determination Point (MRDP).

(a) The MRDP is when the Soldier's medical condition appears to have stabilized; the course of further recovery is relatively predictable; and where it can be reasonably determined that the Soldier is most likely not capable of performing the duties required of his MOS, grade, or rank.

(b) MRDP and referral to a MEB/PEB will be made within 1 year of being diagnosed with a medical condition(s) that does not appear to meet medical retention standards, but the referral may be earlier if the medical provider determines that the Soldier will not be capable of returning to duty within 1 year.

(2) Temporary Profiles. A temporary profile is given if the condition is considered temporary, the correction or treatment of the condition is medically advisable, and correction usually will result in a higher physical capacity. Soldiers on active duty and Reserve Component (RC) Soldiers not on active duty with a temporary profile will be medically evaluated at least once every 3 months at which time the profile may be extended for a maximum of 6 months from the initial profile start date by the profiling officer.

(3) Permanent Profiles. A permanent profile may only be awarded or changed by profiling officers and approval authorities. Medical treatment facility (MTF) commanders can designate one of more physicians as profiling officers; MTF commanders can also designate physicians to act as approval authorities. Approving authorities must be physicians, and permanent "3" or "4" physical profiles require an approving authority signature.

e. Chapter 10 (ARNG). The Clinical Section, Office of the Chief Surgeon, National Guard Bureau (CNGB), is the office responsible for management of all issues pertaining to ARNG Soldiers.

(1) Paragraph 10-3 (Medical Standards). The medical retention standards listed in chapter 3 (Medical Fitness Standards for Retention and Separation, Including Retirement) apply to ARNG Soldiers.

(2) Paragraph 10-10 (Periodic Medical Examinations). Every 5 years, ARNG Soldiers are required to undergo a periodic health assessment (PHA).

(3) Paragraph 10-12 (Profiling). The State Surgeon or physician designee shall be the profile approval authority for their respective state. Permanent profiles must have two signatures.

(4) Paragraph 10-15 (Duty Restrictions). Any recommendation for restricted activity that has been made by a private physician will be reported in writing, before performing any duty. It is the individual Soldier's responsibility to report any medical problems immediately to the chain of command and to comply with medical restrictions. Commanders will honor the private physician's recommendations until the Soldier is evaluated by a military provider, and a recommended course of action is determined by a profiling officer.

5. AR 623-3 (Evaluation Report System), in effect at the time, prescribed policies and procedures for officer and noncommissioned officer evaluation reports. Paragraph 3-34 (Referred Reports (DA Form 67-9 (Officer Evaluation Report)), stated reasons a report was to be referred to the rated officer included the following:

- Negative remarks appear in Part IV (Performance Evaluation – Professionalism) for Values or Leader Attributes/Skills/ Actions
- Any "NO" entry for Part IVc (Army Physical Fitness Test and Height/Weight) indicating noncompliance with AR 600-9 (The Army Weight Control Program)
- Any entries showing "Unsatisfactory Performance" or "Do Not Promote"

6. AR 135-180 (ARNG and Reserve – Retirement for Regular and Non-Regular Service), currently in effect, prescribes policy and procedures governing the granting of retired pay for non-regular service to Soldiers ARNG, ARNG of the United States (ARNGUS), and the U.S. Army Reserve (USAR).

a. Paragraph 2-1 (Age Requirement). To be eligible for retired pay, an individual must have attained the minimum age prescribed by law, which is age 60.

(b) Paragraph 2-2 (Basic Qualifying Service Requirements). To be eligible for retired pay at or after the age 60, an individual must have completed one of the following:

- A minimum of 20 creditable years of qualifying service, as computed under Title 10 U.S. Code, section 12731(f) (Age and Service Requirements); or
- At least 15 and less than 20 years of qualifying service, per Title 10 U.S. Code, section 12732 (Entitlement to Retired Pay: Computation of Years of Service), for individuals found unfit for continued Selected Reserve service and not due to misconduct/neglect, or incurred while absent without leave

(c) Paragraph 2-5 (Notification of Eligibility for Retired Pay (15-Year Letter). In accordance with Title 10 U.S. Code, section 12731 (f) (3) (Requirement for Secretary Concerned to Notify Ready Reserve Members of Eligibility for Retired Pay), RC Soldiers with at least 15 but less than 20 years of qualifying service will be issued a Notification

of Eligibility for Retired Pay (15-Year Letter). For ARNG Soldiers, CNGB is responsible for issuing the letter.

7. AR 15-185 (Army Board for Correction of Military Records (ABCMR)), currently in effect, states:

a. Paragraph 2-2 (ABCMR Functions). The ABCMR decides cases on the evidence of record; it is not an investigative body.

b Paragraph 2-9 (Burden of Proof) states:

(1) The ABCMR begins its consideration of each case with the presumption of administrative regularity (i.e., the documents in an applicant's service records are accepted as true and accurate, barring compelling evidence to the contrary).

(2) The applicant bears the burden of proving the existence of an error or injustice by presenting a preponderance of evidence, meaning the applicant's evidence is sufficient for the Board to conclude that there is a greater than 50-50 chance what he/she claims is verifiably correct.

//NOTHING FOLLOWS//