

Work-Product

Work-Product

**UNITED STATES AIR FORCE  
BOARD FOR CORRECTION OF MILITARY RECORDS**

Work-Product

**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2023-00029

Work-Product

**COUNSEL:** Work-Product

Work-Product

**HEARING REQUESTED:** Work...

Work-Product

**APPLICANT'S REQUEST**

1. His DD Form 214, *Certificate of Release or Discharge from Active Duty*, be changed based on the repeal of Title 10, United States Code, Section 654 (10 U.S.C. § 654).
2. The name on his DD Form 214 be changed to his current legal name.

**APPLICANT'S CONTENTIONS**

He is a transgender man and legally changed his name to align with his gender identity. The appearance of his old name on his DD Form 214 is an injustice because it discloses his transgender status each time he shows the document. He is not homosexual but transgendered.

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

The applicant is a former Air Force airman basic (E-1).

On 17 Jun 81, the applicant entered the Regular Air Force, under the name Work-Pr...

On 12 May 82, the applicant's commander recommended the applicant be discharged from the Air Force, under the provisions of AFM 39-12, *Separation for Unsuitability, Misconduct, Resignation, or Request for Discharge for the Good of the Service and Procedures for the Rehabilitation Program*, Chapter 2, paragraph 2-104a for homosexuality.

On 13 May 82, the Staff Judge Advocate found the discharge action legally sufficient.

On 14 May 82, the discharge authority directed the applicant be discharged for homosexuality, with a general service characterization. Probation and rehabilitation were not offered.

On 14 May 82, the applicant received a general (under honorable conditions) discharge with a separation code and corresponding narrative for separation of HRA, *Homosexual Conduct*, and a reenry code of 2C, *Involuntarily separated with an honorable discharge or entry-level separation without characterization of service*. The applicant was credited with 10 months, and 25 days of total active service.

**AFBCMR Docket Number BC-2023-00029**

Work-Product

Work-Product

On 24 Jan 97, pursuant to a change of gender, the applicant obtained a court order for a name change to Work....

For more information, see the excerpt of the applicant's record at Exhibit B.

#### **APPLICABLE AUTHORITY/GUIDANCE**

SAF/MR memorandum, Updated Guidance to Air Force Manpower and Personnel Policy – DD Form 214 Name Change, dated 13 Apr 25, states in compliance with Executive Order 14168, Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government, signed on 20 Jan 25, the AFBCMR may not approve requests to change a service member's name when the request is a result of a sex change or a gender identity that is disconnected with biological reality.

On 20 Sep 11, with the repeal of the law commonly known as “Don’t Ask, Don’t Tell” (DADT), 10 U.S.C. § 654, the Department of Defense (DoD) issued supplemental policy guidance on correcting military records of former service members who had been discharged under that law or a precursor. The guidance applied to the following types of requests: changing the narrative reason for a discharge; re-characterizing service as honorable; changing a reentry code to one allowing immediate eligibility to reenter service. The guidance directed that such requests should normally be granted when both of the following conditions are true: (1) the original discharge was based solely on DADT or a similar policy in place prior to enactment of DADT; and (2) there were no aggravating factors in the record, such as misconduct. For meritorious cases, the guidance further directed the use of “Secretarial Authority” as the new narrative reason for separation, with Separation Program Designator (SPD) code “JFF” and reentry code “1J.” In addition, the guidance noted that while each request must be evaluated individually, an honorable or under honorable conditions (general) discharge should normally be considered to indicate the absence of aggravating factors. Finally, the issuance of a discharge under DADT or the taking of an action pursuant to DoD regulations related to a discharge under DADT should not by itself be considered to constitute an error or injustice that would invalidate an otherwise proper action taken pursuant to DADT and applicable DoD policy. Thus, remedies such as correcting a record to reflect continued service with no discharge, restoration to a previous grade or position, credit for time lost, or an increase from no separation pay to half or full separation pay or from half separation to full separation pay, would not normally be appropriate.

The complete DoD policy is at Exhibit C.

#### **APPLICANT’S REVIEW OF APPLICABLE AUTHORITY/GUIDANCE**

The Board sent a copy of the DoD policy to the applicant on 3 Apr 23 for comment (Exhibit D) but has received no response.

#### **FINDINGS AND CONCLUSION**

1. The application was timely filed.
2. The applicant exhausted all other available administrative remedies before applying to the Board.

3. After reviewing all Exhibits, the Board majority concludes that the applicant is the victim of an injustice. While the Board finds no error in the original discharge process, the Board recommends relief based on the repeal of 10 U.S.C. § 654. The absence of aggravating factors in the applicant's record meets the criteria of the DoD policy on records correction following the repeal of DADT. In view of the above, the Board Majority finds sufficient evidence to warrant upgrade of the applicant's discharge to honorable. However, the Board Minority did not find the evidence sufficient to warrant a discharge upgrade to honorable at this time, recommending changing only the applicant's separation code and corresponding narrative reason for separation. The Board Minority opined that while the discharge proceedings focused on the applicant's consensual homosexual relationship, the unwanted sexual advances toward two separate individuals of the same sex are considered an aggravating factor as they affect good order and discipline, and by today's standard, would be considered sexual harassment. The Board Majority did not share this view. There was no evidence the applicant's commander perceived the applicant's actions rose to the level of sexual harassment; nor was there evidence the applicant received any punishment for sexual harassment. With respect to the applicant's request for name and sex change, the Board notes the applicant provides a court order and affidavit as evidence. However, this Board, which serves on behalf of the Secretary of the Air Force, in the correction of military records is without authority to grant a correction to a military record that is contrary to any Executive Order issued by the President of the United States. As noted in the SAF/MR Updated Name Change Policy Memorandum, dated 13 Apr 25, the Board, in this case, is without authority to grant the requested correction for change of name and sex. Therefore, the Board recommends the applicant's records be corrected as indicated below.

### RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show the DD Form 214, *Certificate of Release or Discharge from Active Duty*, issued in conjunction with the 14 May 82 discharge, be amended as follows:

- a. Block 24, *Character of Service*: Honorable
- b. Block 25, *Separation Authority*: AFR 39-10
- c. Block 26, *Separation Code*: JFF
- d. Block 27, *Reenlistment Code*: IJ
- e. Block 28, *Narrative Reason for Separation*: Secretarial Authority

However, regarding the remainder of the applicant's request, the Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the application will only be reconsidered upon receipt of relevant evidence not already considered by the Board.

### CERTIFICATION

The following quorum of the Board, as defined in Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2023-00029 in Executive Session on 14 Dec 23:

Work-Product, Panel Chair  
Work-Product, Panel Member  
Work-Product, Panel Member

*Work-Product*

A majority of the panel voted to correct the record. [REDACTED] voted against upgrading the character of service and did provide a minority opinion (Exhibit E). The panel considered the following:

Exhibit A: Application, DD Form 149, w/atchs, dated 6 Dec 22.

Exhibit B: Documentary Evidence, including relevant excerpts from official records.

Exhibit C: DoD Policy on Correcting Military Records after Repeal of DADT, 20 Sep 11.

Exhibit D: Notification of DoD Policy, SAF/MRBC to applicant, dated 4 Apr 23.

Exhibit E: Minority Opinion dated 14 Dec 23.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

9/24/2025

X

*Work-Product*

*Work-Product*

Associate Director, AFBCMR

Signed by: USAF

**AFBCMR Docket Number BC-2023-00029**

*Work-Product*