



**CUI//SP-MIL/SP-PRVCY**

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

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**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2023-02478

**Work-Product**

**COUNSEL:** NONE

**HEARING REQUESTED:** YES

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**APPLICANT'S REQUEST**

1. His grade of technical sergeant (E-6) be restored and backdated to 1 Jul 22.
2. He receive all backpay, basic allowance for subsistence (BAS) and basic allowance for housing (BAH) due to him.

**APPLICANT'S CONTENTIONS**

On 28 Jun 22, he was nonrecommended for promotion to the grade of E-6 due to his COVID-19 exemption request not being completed in a timely manner. In a 10 Jan 23 memorandum, the Secretary of Defense (SECDEF) rescinded the previous COVID-19 vaccination mandates. The rescission requirement was also established in the National Defense Authorization Act (NDAA) for Fiscal Year 2023 and applies to all service members who refused the COVID-19 vaccine. In a 24 Feb 23 memorandum, the Secretary of the Air Force (SECAF) addressed the removal of adverse actions and handling of religious accommodation requests.

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

The applicant is a currently serving Air Force staff sergeant (E-5).

On 31 May 22, the applicant's wing commander (WG/CC) informed him the inquiry related to his complaint regarding the processing of his request for an exemption from the COVID-19 vaccination was complete. It was determined his request for a medical exemption from the COVID-19 vaccination was processed and denied in accordance with AFI 48-110, *Immunizations and Chemoprophylaxis for the Prevention of Infectious Disease*.

On 28 Jun 22, the applicant's squadron commander (SQ/CC) nonrecommended him for promotion to the grade of E-6, in accordance with AFI 36-2502, *Enlisted Promotions and Demotions Programs*, for adverse actions placing him on the control roster.

On 17 Jan 23, the applicant's WG/CC notified the applicant the recommendation for his involuntary administrative discharge for misconduct was terminated per the SECDEF's 10 Jan 23 memorandum.

In a memorandum dated 26 Apr 23, the applicant's SQ/CC recommended the applicant's promotion to the grade of E-6, with DOR and effective date of 1 Jul 22 be reinstated.

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Controlled by: SAF/MRB  
CUI Categories: SP-MIL/SP-PRVCY  
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On 28 Aug 23, AFPC Enlisted Promotions Policy informed the applicant his request for reinstatement of his grade should be submitted to the AFBCMR.

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

**APPLICABLE AUTHORITY/GUIDANCE**

On 23 Jan 23, the SECAF issued the Recission of the 3 Sep 21 Mandatory Coronavirus Disease 2019 Vaccination of Department of the Air Force (DAF) Military Members and 7 Dec 21 Supplemental Coronavirus Disease 2019 Vaccination Policy Memorandum. The SECAF stated no individuals currently serving in the Air Force shall be separated solely on the basis of their refusal to receive the COVID-19 vaccination if they sought an accommodation on religious, administrative or medical grounds. The Air Force would update the records of such individuals to remove any adverse actions solely associated with denials of such requests, including letters of reprimand. Members could petition the AFBCMR to request a correction of their personnel records, including records regarding the characterization of their discharge.

On 24 Feb 23, the SECAF issued DAF Guidance on Removal of Adverse Actions and Handling of Religious Accommodation Requests Memorandum. In accordance with the SECAF's 23 Jan 23 memorandum, he wanted to reinforce all policies within the DAF associated with the implementation of the Coronavirus Disease 2019 (COVID-19) vaccination mandate for Service members were also rescinded. The SECAF stated commanders at all levels must ensure that associated guidance derived from the mandate is rescinded. The memorandum includes the following additional guidance with respect to the removal of adverse actions and the handling of accommodation requests for those service members who refused vaccination.

a. Removal of Adverse Information: Currently serving Regular Air Force, Space Force, Air National Guard and Air Force reserve members [including those involuntarily reassigned to the Inactive Ready Reserve] who sought an exemption on religious, administrative or medical grounds and who received adverse actions solely due to their refusal to receive a COVID-19 vaccination shall have these items removed as detailed. The service member must have formally sought an accommodation on religious, administrative or medical grounds prior to or concurrent with the official initiation of the adverse action in order to receive relief under this memorandum. This policy does not apply to members who refused the COVID-19 vaccination and did not request an exemption. Members who did not seek an exemption may petition their chain of command under existing DAF policy or the AFBCMR for removal of the adverse information, if they believe an injustice or an error occurred. The following subparagraphs pertain to the applicant's request.

(4) Promotion Records will be corrected by the record holder (AFPC, ARPC, SAF/IG) to remove or redact as appropriate, all adverse actions related to the member's refusal to receive the COVID-19 vaccine.

(5) Promotion Propriety Actions will continue processing in accordance with DAFI 36-2501, *Enlisted Promotions and Demotion Programs*, and DAFI 36-2504, *Officers Promotions and Selective Continuation Boards*.

(7) Adverse actions removed under the provisions of this guidance memorandum contained in the Inspector General files pursuant to AFI 90-301, *Inspector General Complaints Resolution*.

The complete SECAF policy memorandums are at Exhibit C

## **AIR FORCE EVALUATION**

AFPC/DPMSPP recommends approval for restoration of the applicant's grade of E-6, with a promotion date effective 1 Jul 22 with backpay and allowances. There is evidence of an error or injustice. The applicant's redlined promotion to the grade of E-6 was processed in accordance with COVID-19 Vaccination Requirements. As a result of the rescission of the previous guidance on 10 Jan 23, all service members who were affected were advised that all adverse actions were to be removed. The applicant meets the qualifications of the rescinded memorandum.

The WG/CC memorandum dated 31 May 22 confirms his request for a medical exemption from COVID-19 was processed and denied in accordance with applicable regulations and policy. On 28 Jun 22, he was notified of his promotion non-recommendation for promotion due to the COVID-19 guidance.

The complete advisory opinion is at Exhibit D.

## **APPLICANT'S REVIEW OF AIR FORCE EVALUATION**

The Board sent copies of the SECAF Memorandums and the advisory opinion to the applicant on 10 Oct 23 for comment (Exhibit E) but has received no response.

## **FINDINGS AND CONCLUSION**

1. The application was timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is the victim of an error or injustice. The Board concurs with the rationale and recommendation of AFPC/DPMSPP and finds a preponderance of the evidence substantiates the applicant's contentions. In view of the SECAF's rescission of the 3 Sep 21 COVID-19 vaccine mandates on 23 Jan 23 and the applicant's SQ/CC memorandum dated 26 Apr 23 recommending his promotion to the grade of E-6 be reinstated, the Board recommends granting relief. Therefore, the Board recommends correcting the applicant's records as indicated below.
4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

## **RECOMMENDATION**

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show:

- a. He be promoted to the grade of E-6, with DOR and effective date of promotion of 1 Jul 22.
- b. He be provided all back pay and allowances.

## **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-2023-02478 in Executive Session on 5 Dec 23:

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

All members voted to correct the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 31 Jul 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: SECAF Memorandums, dated 23 Jan 23 and 24 Feb 23.
- Exhibit D: Advisory opinion, AFPC/DPMSP, dated 5 Oct 23.
- Exhibit E: Notification of advisory, SAF/MRBC to applicant, dated 10 Oct 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.

4/8/2024

*Work-Product*

Board Operations Manager, AFBCMR

*Work-Product*