



Work-Product

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2025-02064

Work-Product

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

Reinstatement in the Regular Air Force (RegAF) in accordance with Executive Order (EO) *Work-Prod...* "Reinstating Service Members Discharged under the Military's COVID-19 Vaccination Mandate."

Specifically, the applicant requests:

- a) Reinstatement into the Air Force with restoration of all pay, allowances and benefits he would have received.
- b) His records reflect that he was not discharged and the reinstatement period of service count towards his time in service (TIS).
- c) Rescind his Letter of Admonishment (LOA) and receive re-evaluation of his 2021 – 2022 Enlisted Performance Report (EPR) with appropriate bullets, ratings, and promotion recommendation.
- d) He be reevaluated under the 2022 technical sergeant (E-6) promotion testing cycle based on the above corrections and if selected for promotion he be given the rank of technical sergeant with back pay upon his reinstatement.
- e) Restore any benefits which could be allotted to him based on the removal of his discharge (i.e. Reimbursement of Medical and Childbirth Costs).

APPLICANT'S CONTENTIONS

The applicant contends that he was involuntarily discharged for refusing to receive the COVID-19 vaccine. In accordance with Executive Order *Work-Prod...*, and the guidance published on 1 Apr 25 by the Undersecretary of Defense for Personnel and Readiness (OSD(P-R)) addressing the implementation of the EO, the applicant requests reinstatement back into the Air Force.

He further states that before being discharged, he tested for technical sergeant in the 2022 E-6 Promotion Testing Cycle. If not for the LOA for refusing the COVID vaccine and if his EPR was scored accordingly he would have had an overall higher test score from the EPR points. He believes those points would have allowed him to meet the cutoff score and earn the rank of technical sergeant.

The applicant's complete submission is at Exhibit A.

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STATEMENT OF FACTS

The applicant is a former Air Force staff sergeant (E-5) and was pre-identified as a service member that was involuntarily discharged solely due to refusing the COVID-19 vaccine.

The Air Force Recruiting Service (AFRS), has confirmed that the applicant has received a medical evaluation and is medically qualified for reinstatement to active duty.

According to three AF Forms 910, *Enlisted Performance Report (AB thru TSgt)*, he received while in the grade of staff sergeant from 31 Jan 19 – 31 Jan 21, the applicant earned firewall five ratings of “Exceed most, if not all expectations” in all sections. Furthermore, his 1 Feb 20 thru 31 Jan 21 EPR shows he was eligible for a Promotion Recommendation and his commander recommended “Promote.”

On 31 Jan 22, the applicant received a fourth AF Form 910 in the grade of staff sergeant; however, the ratings reflect “Exceeded some, but not all expectations” in Block III, *Performance in Primary Duties/Training Requirements*; “Met some but not all expectations” in Block IV, *Fellowship/Leadership*; “Met all expectations” in Block V, *Whole Airman Concept*; and “Met some but not all expectations” in Block VI, *Overall Performance Assessment*. In addition, he was eligible for a Promotion Recommendation and his commander recommended “Not Ready Now.”

On 8 Jun 22, according to AF FM 100, *Request and Authorization for Separation*, Special Order **Work-Product** was published ordering that the applicant be discharged with a General (Under Honorable Conditions) discharge from the RegAF effective 15 Jun 22.

On 21 Nov 23, according to an Air Force Discharge Review Board (DRB) Decisional Document for case number FD-2023-00609, the DRB unanimously approved the applicant’s request to upgrade his discharge characterization, to change the discharge narrative reason, and to change the reentry code. Therefore, the awarded characterization of service was changed to “Honorable,” the narrative reason for separation was changed to “Secretarial Authority,” and the reentry code was changed to “3K.”

On 12 Dec 23, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant received a “Honorable” discharge in the grade of staff sergeant after completing a period of active duty service from 24 Jul 12 through 15 Jun 22. The applicant was credited with 9 years, 10 months, and 22 days of net active service.

For more information, see the excerpt of the applicant’s record at Exhibit B and the applicable authority at Exhibit C.

APPLICABLE AUTHORITY/GUIDANCE

Executive Order **Work-Pro...**

On January 27, 2025, the President of the United States issued Executive Order **Work-Pro...**, “*Reinstating Service Members Discharged under the Military’s COVID-19 Vaccination Mandate.*” The President’s guidance further directed that the Secretary of Defense or the Secretary of Homeland Security shall take all necessary action permitted by law to make reinstatement available to service members involuntarily discharged, solely for refusal to receive the COVID-19

vaccination, who request to be reinstated, and to revert to their former rank and receive full back pay, benefits, bonus payments, or compensation.

Office of the Undersecretary of Defense for Personnel and Readiness memorandum, dated 1 Apr 25, with SUBJECT: Updated Guidance on Correction of Military Records for Service Members Involuntarily Separated for Refusal to Comply with Coronavirus Disease 2019 Vaccination Requirements

On 1 Apr 25, the Undersecretary of Defense for Personnel and Readiness (OSD(P-R)), issued additional guidance on the implementation of the President's Executive Order and directed that the Secretaries of the Military Departments will process reinstatements for individuals either involuntarily discharged or those who voluntary left the service or allowed their service to lapse, rather than be vaccinated under the vaccine mandate based on the provided guidance.

In cases where the Service member was involuntarily separated the Secretaries of the Military Departments will contact such Service members and make available to them reinstatement via the Boards for Correction of Military/Naval Records (BCM/NRs) process. The BCM/NRs should exercise their broad discretion to order all appropriate retroactive corrections of the Service member's record.

Summary of Guidance on Involuntary Separations:

Consistent with EO Work-Pr..., the Secretaries of the Military Departments were directed to invite these Service members to seek reinstatement by applying to have their records corrected to reflect continued service such that back pay, benefits, bonus payments, or other compensation, subject to required offsets. The BCM/NRs are to assess each case to determine if an error or injustice exists within the former Service member's record and order all appropriate records corrections, which may include but is not limited to reinstatement with no break in service, restoration of the member's previous grade or rank, and credit for lost service time due to separation. Furthermore, if a Service member is granted reinstatement but denied additional claims for relief (e.g., retention bonuses, missed promotion opportunities, special pay), the disapproval authority for the additional requested relief may be delegated at the discretion of the Secretary concerned if reinstatement is otherwise approved.

If the BCM/NR finds that the record should be corrected to reflect reinstatement, they will issue a contingent decision that permits calculation of associated pecuniary benefits but predicates final record correction upon acceptance of reinstatement by the Service member. The contingent decision of the BCM/NR will be the final decision of the review board and will not require additional action by the BCM/NR to implement the relief directed.

Furthermore, Reinstatement will not be afforded to service members who were involuntarily separated who are unwilling or unable to return to active service, or active status, as applicable, for at least 4 years.

Office of the Undersecretary of Defense for Personnel and Readiness memorandum, dated 7 May 25 with SUBJECT: Supplemental Guidance to the Military Department Discharge Review Boards and Boards for Correction of Military/ Naval Records Considering Requests from Service Members Adversely Impacted by Coronavirus Disease 2019 Vaccination Requirements

On 7 May 25, the Undersecretary of Defense for Personnel and Readiness (OSD(P-R)) issued supplemental guidance to the Military Department Discharge Review Boards and the Boards for Correction of Military Record considering service members adversely impacted by Coronavirus Disease 2019 Vaccination Requirements. The guidance states in general that the requirement that Service members receive a coronavirus disease 2019 (COVID 19) vaccine without an adequate due process mechanism for vaccine accommodations was an injustice.

The supplemental guidance addresses the “*Removal of Adverse Actions and Information Solely Associated with COVID-19 Vaccine Mandate*” and states:

- The Department’s COVID-19 vaccine mandate also caused harms that were not reflected on separation documents. For instance, some Service members received administrative letters of reprimand, negative or inconsistent evaluations, or withholding of opportunities for Reserve Component personnel to perform inactive duty training for pay to achieve a “good year” for participation and retirement purposes.
- While previous guidance required the Secretaries of the Military Departments to update Service member personnel records to remove adverse actions solely associated with denials of requests for exemption from the COVID-19 vaccine mandate on religious, administrative, or medical grounds, this relief should not have been limited to Service members who formally filed an exemption request. The inadequacy of the consideration afforded to those who submitted accommodation requests undermined the faith of many Service members, and they should not be penalized for deciding not to request an exemption that had little or no likelihood of success.

It further addresses, *Other Harms or Injustices Suffered by Service Members Not Specifically Addressed in this Guidance*” and states:

- Present and former Service members may have suffered other harms from the COVID-19 vaccine mandate that are not specifically addressed in this guidance. Adverse action may include the overt withholding of favorable personnel actions, including such actions as removing individuals from approved lists to attend training or professional military education, to assume leadership positions, or to conduct a permanent change of station transfer on schedule.
- The BCMR/NRs should exercise broad discretion in providing appropriate corrections to the records of Service members and former Service members who suffered harms resulting from the Department’s COVID-19 vaccine mandate.

Service Members Involuntarily Separated for Refusal to Comply with Coronavirus Disease 2019 Vaccination Requirements:

On 21 Jul 25, the Undersecretary of Defense for Personnel and Readiness (OSD(P-R)) issued supplemental guidance to the Secretaries of the Military Departments for implementing Executive Order Work-Pro.... The memorandum outlines additional incentives for eligible individuals requesting reinstatement. Specifically, it allows the Secretaries of the Military Department to offer a 4-year reinstatement service obligation, consisting of 2 years on active duty and 2 years in an active reserve status. Furthermore, for those seeking reserve-only service, the full 4-year service obligation may be served exclusively in an active reserve status.

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 and finds a preponderance of the evidence substantiates the applicant's contentions in part. The Board finds that the applicant was involuntarily discharged solely for refusing to receive the COVID-19 vaccine and in accordance with Executive Order [REDACTED] should be reinstated into the RegAF. In addition, along with reinstatement, the applicant should also receive the restoration of any benefits and associated back pay he would have otherwise received had he not been discharged. The Board further notes, that the contested LOA is not currently a part of the applicant's official military record, but to ensure due diligence the Board will direct that any adverse actions associated with refusing the COVID-19 vaccine be removed from his record. In addition, the applicant should receive supplemental consideration for promotion beginning with cycle 22E6 based on the corrections to his record, and all appropriate subsequent promotion cycles (promotion boards) that he would have otherwise been eligible for had it not been for the break in service. Finally, in regards to the applicant's requests to have his 1 Feb 21 thru 31 Jan 22 EPR be re-evaluated for more appropriate ratings, the Board recommends alternative relief by removing the contested evaluation from his record and replacing it with an AF Form 77, *Letter of Evaluation*, showing a gap report. In this regard, the Board was not a part of the applicant's rating chain and is unable to evaluate the applicant's performance and provide appropriate ratings. As such, for the remainder of the applicant's request, the evidence presented did not demonstrate an error or injustice, and the Board therefore finds no basis to recommend granting that portion of the applicant's request. Therefore, the Board recommends correcting the applicant's records as indicated below.

RECOMMENDATION

Contingent upon the applicant's acceptance of reinstatement in accordance with the OSD(P-R) guidance, the pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show:

- a) He was not released from the Regular Air Force on 15 June 2022 and is further approved for reinstatement in the Regular Air Force with his original date of rank to staff sergeant on 1 October 2018; upon the date the applicant reenters the service, he be credited with any lost service time from 16 June 2022 through the date he is reinstated.
- b) All records associated with his discharge be removed and military systems of record be updated to properly reflect that he was never discharged on 15 June 2022, including, but not limited to: DD Form 214, *Certificate of Release or Discharge from Active Duty*, for period of service 24 July 2012 through 15 June 2022; and AF Form 100, *Request and Authorization for Separation*, with effective date 15 June 2022.
- c) All adverse actions issued solely for his refusal to take the COVID-19 vaccine be expunged and removed from his record and systems of record.
- d) His AF Form 910, *Enlisted Performance Report (AB thru TSgt)*, he received for period of performance 1 February 2021 thru 31 January 2022, be expunged from his record and replaced with an AF Form 77, *Letter of Evaluation*, reflecting a gap report.

- e) In exchange and beginning on the date he is reinstated, the applicant receives a four (4) year reinstatement service obligation in accordance with “Supplemental Guidance on Correction of Military Records for Service Members Involuntarily Separated for Refusal to Comply with Coronavirus Disease 2019 Vaccination Requirements,” dated 21 July 2025 and any supplemental guidance/procedures set by the Department of the Air Force implementing said guidance.
- f) He receives all associated backpay, benefits and entitlement minus any required offsets based on the above corrections to his record.
- g) The applicant be provided with supplemental consideration for promotion to the grade of technical sergeant (E-6) based on the above corrections and for all appropriate promotion cycles (promotion boards) that he would have otherwise been eligible for had it not been for the break in service (or beginning with cycle 22E6). In addition, should the applicant be selected for the grade of technical sergeant (E-6) and subsequently meets the time in grade and time in service requirements for promotion consideration to the grade of master sergeant (E-7), he should be given further supplemental consideration for all appropriate promotion cycles he would have otherwise been eligible for had it not been for the break in service. However, if the military component discovers any adverse factors during or subsequent to supplemental consideration that are separate and apart, and unrelated to the issues involved in this application, that would have rendered the applicant ineligible for this promotion, such information will be documented and presented to the Board for a final determination on the individual's qualifications for the promotion. Should the applicant be selected for promotion, then the applicant should further receive additional backpay based on the adjusted rank and dates of promotion.

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-2025-02064 in Executive Session on 31 Jul 25:

- 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 10 Jun 25.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Applicable Authority for COVID-19 Reinstatement.

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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.

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Board Operations Manager, AFBCMR
Signed by: USAF

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