

**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL DOCUMENT**

**SUMMARY:**

The applicant was discharged on 18 March 2022 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with a General discharge for Misconduct (Minor Infractions). The applicant appealed for an upgrade of their discharge characterization, a change to the discharge narrative reason, and a change to the reentry code.

The applicant was represented by counsel.

The applicant requested the board be completed based on a records only review. The Board was conducted on 07 December 2023.

The attached examiner's brief (provided to applicant only), extracted from available service records, contains pertinent data regarding the circumstances and character of the applicant's military service.

**DISCUSSION:** The Discharge Review Board (DRB), under its responsibility to examine the propriety and equity of an applicant's discharge, is authorized to change the characterization of service and the narrative reason for discharge if such changes are warranted. If applicable, the board can also change the applicant's reentry code. In reviewing discharges, the board presumes regularity in the conduct of governmental affairs unless there is substantial credible evidence to rebut the presumption, to include evidence submitted by the applicant. The Board completed a thorough review of the circumstances that led to the discharge and the discharge process to determine if the discharge met the pertinent standards of equity and propriety.

The applicant's record of service included multiple Letters of Reprimand. Her misconduct included: Possession of vaping device that contained nicotine (x2).

The documentary evidence the Board considered as part of the review includes, but is not limited to the DD Form 293, *Application for the Review of Discharge from the Armed Forces of the United States*, and any additional documentation submitted by applicant and/or counsel; the applicant's personnel file from the Automated Records Management System (ARMS); and the DRB Brief detailing the applicant's service information and a summary of the case.

The applicant contended the discharge was inequitable and improper due to errors in both the procedural and factual aspects of the case. They emphasized that the discharge was based on false allegations of repeated misconduct, and that they were innocent of offense cited in the second Letter of Reprimand. In addition, they claimed that the evidence or witnesses were never presented during their defense, and that their alibi was ignored without proper investigation. The individual's legal representative also pointed out that the discharge was a violation of fairness and equity, citing the "Wilkie Memo". They urged the board to consider the individual's positive character and progress towards rehabilitation, arguing that these factors should outweigh the single infraction that led to their discharge.

LORs are quality force management tools for discipline and are corrective in nature, not punitive. Thus, the Standard of Proof for adverse administrative actions is a "preponderance of the evidence." This standard is used when evaluating the evidence and every element of the alleged offenses. A preponderance of the evidence merely means that it is more likely than not that a fact exists. Preponderance of the evidence is not determined solely by the volume of witnesses or documentary evidence supporting or refuting an allegation. Rather, it is based on the totality of the circumstances, the inherent probability or improbability of the

evidence, and a determination as to the weight and significance of the evidence and the credibility of the witnesses. In the absence of evidence to the contrary, the Board must rely on the presumption of regularity in government affairs and was not provided sufficient evidence to conclude that the offense cited in the second Letter of Reprimand was inaccurate.

However, the Board also considered the factors laid out in the attachment to the Under Secretary of Defense memorandum, *Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations*, dated 25 June 2018, known as the “Wilkie Memo.” The Board considered applicable factors listed in paragraphs (7)(a) -(7)(r) and concluded the following aspects about the applicant’s case:

(7)(b). Whether the punishment, including any collateral consequences, was too harsh.

*Airmen who are in a similar situation as the applicant, with misconduct consisting of possession of a vaping device that contained nicotine, typically wouldn't have been discharged solely for this misconduct.*

(7)(e). Severity of misconduct.

*The applicant was found in possession of a vaping device containing nicotine. but it's important to note that this misconduct did not cause harm to anyone, involve any violence, nor was a controlled substance.*

7(i). Character and Reputation of Applicant.

*Based on the character references, it appears that the applicant possessed a robust work ethic, leadership skills, and a dedication to mentoring. Furthermore, it is noteworthy that she has continued to serve her community and mentor young women even after being separated from the military.*

7(p). Character References.

*The applicant's upstanding character is well-documented by numerous witnesses, both during and after her military service. During Basic Military Training, her Military Training Instructor spoke highly of her character, while the NCOIC of Religious Affairs praised her work ethic during Technical Training. Additionally, other witnesses attest to her positive attitude after leaving the service. This diverse range of testimony highlights the applicant's exceptional character and makes her a strong candidate for the position.*

**FINDING:** The DRB voted 2 to 1 to **approve** the applicant’s request to upgrade her discharge characterization and voted unanimously to upgrade the reentry code and narrative reason.

Should the applicant wish to appeal this decision, the applicant must request a personal appearance before this Board before applying for relief to the Air Force Board for Correction of Military Records (AFBCMR). In accordance with DAFI 36-2603, *Air Force Board for Correction of Military Records*, all applicants before the AFBCMR must first exhaust available administrative avenues of relief before applying to the AFBCMR, otherwise their AFBCMR case will be administratively closed until such time that the applicant avails themselves of the available avenue of relief. Therefore, should the applicant wish to appeal this decision, they must first exercise their right to make a personal appearance before the AFDRB.

**CONCLUSION:** After a thorough review of the available evidence, to include the Applicant’s issues, summary of service, service/medical record entries, and discharge process, the Board found the discharge was inequitable. Therefore, the awarded characterization of service shall change to “Honorable,” the narrative reason for separation shall change to “Secretarial Authority,” and the reentry code shall change to

“3K.” The Air Force DRB (AFDRB) results were approved by the presiding officer on 9 February 2024. If desired, the applicant can request a list of the board members and their votes by writing to:

Air Force Review Boards Agency  
Attn: Discharge Review Board  
3351 Celmers Lane  
Joint Base Andrews, NAF Washington, MD 20762-6602

Instructions on how to appeal an AFDRB decision can be found at  
<https://afrbportal.azurewebsites.us>

Attachment:  
Examiner's Brief (Applicant Only)