

SUMMARY:

The applicant was discharged on 13 January 2022 in accordance with Air Force Instruction 36-3208, *Administrative Separation of Airmen*, with a General discharge for Misconduct (Serious Offense). 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 not represented by counsel.

The applicant requested the board be completed based on a records only review.

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 an Article 15, a Letter of Reprimand, and multiple Letters of Counseling. Their misconduct included: Willfully disobeyed an order to receive the 1st COVID-19 vaccine; Failure to go at the time prescribed to his appointed place of duty; Late to work 21x; Missed Career Development Course (CDC) Training; Lost/misplaced military ID; Made disrespectful comments to fellow Airmen.

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 contends that the COVID-19 vaccine should not have been mandated for the public or military personnel. They received paperwork for disobeying a direct order to receive the vaccine, leading to additional restrictions such as weekly testing, limited gym access, and differential treatment compared to others. They highlight the impact of leadership's disapproval and resulting stress on their motivation and academic focus. They also felt leadership's disapproval and the resultant stress significantly impacted their motivation and academic focus. They desire to return to the military, benefit from the GI Bill, and create a better life.

The Board considered the differences in the DoD's current COVID-19 policies and those in effect at the time of the applicant's discharge. The Secretary of Defense rescinded the COVID-19 Vaccination Policy Memoranda, effective 23 January 2023, as required by the National Defense Authorization Act for Fiscal Year 2023. The DAF is no longer discharging members with general service characterizations *solely* for refusing to receive the COVID-19 vaccine because of service-wide policy changes.

The Board reviewed the applicant's entire service record and determined that in addition to the applicant's refusal to take the vaccine, there was other misconduct in the service record. Based on the totality of the circumstances leading to the applicant's discharge, the DRB concluded ***other aggravating factors*** precluded granting the requested relief. An Under Honorable Conditions (General) service characterization is warranted if an Airman's service has been honest and faithful, but significant negative aspects of the Airmen's conduct or performance of duty outweigh the positive aspects of the Airman's military record. The member's other misconduct was sufficient to warrant a "General" discharge with a "2B" reentry code. Therefore, based on the totality of the misconduct leading to the discharge, the DRB found the discharge was equitable.

However, the DRB Board recognizes that the narrative reason for discharge, "Misconduct Serious Offense" was based on the applicant's refusal to obey an order to receive the COVID-19 vaccine and that airmen who are in a situation similar to the applicant's today typically wouldn't have received the narrative reason "Misconduct Serious Offense", and therefore considers it to be too harsh.

FINDING: The DRB voted unanimously to **approve** the applicant request to change the discharge narrative reason. However, the DRB voted unanimously to **deny** the applicant's request to upgrade their discharge characterization, and to change the reenlistment eligibility code.

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 equitable, however the narrative reason was too harsh. Therefore, the awarded characterization of service shall remain "General," the narrative reason for separation shall change to "Secretarial Authority," and the reentry code shall remain "2B." The Air Force DRB (AFDRB) results were approved by the Presiding Officer on 5 March 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)