

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: ██████████

BOARD DATE: 2 September 2025

DOCKET NUMBER: AR20240011954

APPLICANT REQUESTS: correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) by:

- changing the characterization of his service to honorable
- removing all references to homosexuality or sexual orientation
- amending the narrative reason for discharge from "Secretarial Authority" to "Completion of Required Active Service"
- if unable, crediting him active duty service time to 24-months to eliminate barriers to veteran benefits
- a personal appearance hearing before the Board via video or telephone

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Self-authored Statement
- DD Form 214
- Memorandum, Subject: Correction of Military Records Following Repeal of Section 654 of Title 10, United States Code, 20 September 2011
- Various Forms of Identification (U.S. Passport, Driver Licenses, Social Security)

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.

2. The applicant states, in effect, his discharge was a result of the "Don't Ask, Don't Tell" (DADT) policy, which has since been repealed. This policy not only affected his service but also robbed him of invaluable time, honor, peace, and stability. As a proud member of the LGBTQ+ community, he served his country with dedication and commitment. Unfortunately, the discriminatory nature of DADT led to his premature discharge, reflecting a narrative that is no longer acceptable in today's military. Given the repeal of DADT, he believes it is only fair that his service is recognized for what it

truly was, honorable service. These changes are critical for ensuring that he is no longer barred from receiving the veteran benefits he is entitled to under 38 CFR 3.12a, which stipulates minimum active-duty requirements for eligibility.

3. The applicant enlisted in the Regular Army on 24 April 2000. He served in military occupational specialty 31C (Signal Channel Radio Operator).

4. On 3 May 2001, the applicant was notified by his immediate commander that discharge action was being initiated against him under the provisions of Chapter 15, Army Regulation 635-200 (Personnel Separations - Enlisted Personnel), for homosexual conduct. The commander stated a statement made by the applicant that he was homosexual, or words to that effect, was the basis for the separation action. He recommended an honorable discharge.

5. On 3 May 2001, the applicant acknowledged notification of the proposed discharge action. On 8 May 2001, he waived a personal appearance before an administrative separation board. He also waived his right to consulting counsel. On 9 May 2001, he provided a self-authored statement acknowledging that he was an openly practicing gay man and to respectfully request the command begin paperwork to separate him for homosexual conduct.

6. On 18 May 2001, his intermediate commander recommended the applicant be discharged from the U.S. Army under the provisions of Army Regulation 635-200, Chapter 15, for homosexual conduct and that he receives an honorable discharge certificate.

7. On 22 May 2001, the appropriate separation authority approved his discharge for homosexuality and directed the issuance of an honorable discharge certificate. On 6 June 2001, he was discharged accordingly.

8. The applicant's DD Form 214 shows he was discharged on 6 June 2001, under the provisions of paragraph 15-3b, Army Regulation 635-200, with an honorable characterization of service. He was assigned separation program designator (SPD) "JRB" and RE code "4." The narrative reason for separation is stated as "homosexual admission." He completed 1 year, 1 month, and 13 days of active service with no lost time.

9. The applicant provides a copy of Under Secretary of Defense (Personnel and Readiness) memorandum, dated 20 September 2011, Subject: Correction of Military Records Following Repeal of Section 654 of Title 10, U.S. Code, provides policy guidance for Service Discharge Review Boards (DRBs) and Service Boards for

Correction of Military/Naval Records (BCM/NRs) to follow when taking action on applications from former service members discharged under DADT or prior policies.

10. DADT policy was implemented in 1993 during the Clinton presidency. This policy banned the military from investigating service members about their sexual orientation. Under that policy, service members may be investigated and administratively discharged if they made a statement that they were lesbian, gay, or bisexual; engaged in physical contact with someone of the same sex for the purposes of sexual gratification; or married, or attempted to marry, someone of the same sex.

11. Army Regulation 15-185 (ABCMR) states an applicant is not entitled to a hearing before the ABCMR. Hearings may be authorized by a panel of the ABCMR or by the Director of the ABCMR.

12. The Board should consider the applicant's statements and the evidence she provides in accordance with the 25 July 2018, Under Secretary of Defense for Personnel and Readiness guidance to DRBs and BCM/NRs regarding equity, injustice, or clemency determinations.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition, and executed a comprehensive review based on law, policy, regulation, and published DoD guidance for liberal consideration of discharge upgrade requests.

Changing the characterization of his service to honorable; Deny: The Board noted the applicant's DD Form 214, ending 6 June 2001 already shows his character of service at the time of separation as honorable and did not find an error or injustice in his separation processing.

Removing all references to homosexuality or sexual orientation; Grant: The Board determined in accordance with the repeal of the "Don't Ask Don't Tell" policy the applicant's DD Form 214, narrative reason will be amended to show "Secretarial Authority."

If unable, crediting him active duty service time to 24-months to eliminate barriers to veteran benefits; Deny: The Board determined there was insufficient evidence in the applicant's records to support this request. Therefore, the Board denied relief.

2. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
XXX	XXX	XX	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending the applicant's DD Form 214, for the period ending 6 June 2001 to show in:

- Item 26 (Separation Code) JFF
- Item 27 (Reentry Code) 1
- item 28 (Narrative Reason): Army Regulation 635-200/Secretarial Authority, 5-13

2. As it pertains to the applicant's request for a change in characterization of service and constructive credit of two-years, the evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this portion of the case is insufficient as a basis for correction of the records of the individual concerned.

X //Signed//

CHAIRPERSON

I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Title 10, U.S. Code, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. Army Regulation 635-200:

a. Chapter 15, then in effect, provided general policies concerning homosexual conduct. Paragraph 15-3b states a Soldier will be discharged if the Soldier made a statement that he/she is a homosexual or bisexual, or words to that effect, unless there is a further approved finding that the Soldier has demonstrated that he/she is not a person who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts. A statement by the Soldier that he/she is a homosexual or bisexual, or words to that effect, creates a rebuttable presumption that the Soldier engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts.

b. Paragraph 3-7a(1) stated an honorable discharge was a separation with honor. The honorable characterization was appropriate when the quality of the member's service generally met the standards of acceptable conduct and performance of duty for Army personnel or was otherwise so meritorious that any other characterization would be clearly inappropriate.

c. Paragraph 3-7b(1) stated a general discharge was a separation from the Army under honorable conditions of an individual whose military record was not sufficiently meritorious to warrant an honorable discharge.

3. DADT policy was implemented in 1993 during the Clinton presidency. This policy banned the military from investigating service members about their sexual orientation. Under that policy, service members may be investigated and administratively discharged if they made a statement that they were lesbian, gay, or bisexual; engaged in physical contact with someone of the same sex for the purposes of sexual gratification; or married, or attempted to marry, someone of the same sex.

4. Under Secretary of Defense (Personnel and Readiness) memorandum, dated 20 September 2011, Subject: Correction of Military Records Following Repeal of Section 654 of Title 10, U.S. Code, provides policy guidance for Service DRBs and BCM/NRs to follow when acting on applications from former service members discharged under DADT or prior policies. The memorandum states that, effective

20 September 2011, Service DRBs should normally grant requests, in these cases, to change the:

- narrative reason for discharge (to "Secretarial Authority" with the SPD code of JFF)
- characterization of service to honorable
- the RE code to an immediately-eligible-to-reenter category

5. For the above upgrades to be warranted, the memorandum states both of the following conditions must have been met: the original discharge was based solely on DADT or a similar policy in place prior to enactment of DADT and there were no aggravating factors in the record, such as misconduct. The memorandum further states that although each request must be evaluated on a case-by-case basis, the award of an honorable or general discharge should normally be considered to indicate the absence of aggravating factors.

6. The memorandum also recognized that although BCM/NRs have a significantly broader scope of review and are authorized to provide much more comprehensive remedies than are available from the DRBs, it is Department of Defense (DOD) policy that broad, retroactive corrections of records from applicants discharged under DADT [or prior policies] are not warranted. Although DADT is repealed effective 20 September 2011, it was the law and reflected the view of Congress during the period it was the law. Similarly, DOD regulations implementing various aspects of DADT [or prior policies] were valid regulations during those same or prior periods. Thus, the issuance of a discharge under DADT [or prior policies] should not by itself be considered to constitute an error or injustice that would invalidate an otherwise properly taken discharge action.

7. Army Regulation 15-185 prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires. The ABCMR considers individual applications that are properly brought before it. The ABCMR will decide cases on the evidence of record. It is not an investigative body. The ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

//NOTHING FOLLOWS//