

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 March 2024

DOCKET NUMBER: AR20250003051

APPLICANT REQUESTS: through counsel:

- a. removal of the DA Form 67-10-2 (Field Grade Plate (O4-O5; CW3-CW5) Officer Evaluation Report (OER)) covering the period 1 October 2020 through 30 September 2021 (hereafter referred to as the contested OER) from the performance folder of his Army Military Human Resource Record (AMHRR);
- b. removal of the general officer memorandum of reprimand (GOMOR), dated 20 October 2021, with auxiliary documents from the performance folder of his AMHRR;
- c. reinstatement on the chief warrant officer four (CW4) promotion list; and
- d. a personal appearance hearing before the Board.

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

- DD Form 149 (Application for Correction of Military Record under the Provisions of Title 10, U.S. Code, Section 1552) (online application) with signature page
- Counsel memorandum (Removal of Derogatory Information for (Applicant) and Reinstatement to CW4 Promotion List), 12 March 2025
- Letters of Recommendation (five)
- Office of the Under Secretary of Defense memorandum (Correction of Military Records for Service Members Involuntarily Separated for Refusal to Comply with Coronavirus Disease 2019 (COVID-19) Vaccination Requirements), dated 7 February 2025 with attachments
- Attachment 1 – COVID-19 Reinstatement Guidance
- Attachment 2 – Office of the Under Secretary of Defense memorandum (Correction of Military Records for Service Members Involuntarily Separated for Refusal to Comply with Coronavirus Disease 2019 Vaccination Requirements), dated 7 February 2025 (not the same as above)

FACTS:

1. The applicant states:

a. His unfortunate experience with the COVID vaccine mandate, the Commander in Chief, echoed by the Secretary of Defense, and implemented by the Military Departments, have all unequivocally indicated that Soldiers who were discharged due to COVID vaccination refusals should be reinstated, made completely whole, and returned to active duty. The Office of the Secretary of Defense (OSD) memorandum, 7 February 2025, that cited Executive Order 14184, stated, "The COVID-19 vaccine mandate was an unfair, overbroad, and completely unnecessary burden on our Service members" and the Departments "shall make reinstatement available to all members of the military (active and reserve) who were discharged solely for refusal to receive the COVID-19 vaccine and who request to be reinstated."

b. He should be entitled to similar relief as his counterparts protected by the above orders, who refused the vaccination and faced separation. He states he is in a similar, if not worse, position. Even though he only initially refused the vaccine, he eventually received a Food and Drug Administration approved Pfizer-Biontech vaccination. The punishments he has faced and now face-separation, are the exact injustices the Executive Order and OSD memo intend to rectify. To deny him the same relief (promotion and/or reinstatement if separation occurs before this Board can act) is a fundamental unfairness. He should not be placed in a worse position than Soldiers who are granted the same relief for which he is asking, when he did voluntarily receive the vaccination, and not only that, continued to serve at the highest levels.

2. Counsel states, in effect:

a. In 2021, (Applicant) received a GOMOR stemming from events associated with the administration of the mandatory COVID vaccine. Even though he did not refuse the vaccine, the vaccine mandate led to the entry of errors within his medical records that were ultimately attributed to him, leading to a GOMOR being placed in his permanent file and a referred OER. The cumulative effect of these pieces of derogatory information has led directly to him being passed over for promotion, and finally, pending separation from military service following non-selection for promotion twice, with an end of service date looming on 30 April 2025.

b. He should be entitled to similar relief as his counterparts protected by the OSD memorandum, who refused the vaccination and faced separation. To deny him the same relief (promotion and/or reinstatement if separation occurs before this Board can act) is a fundamental unfairness. He should not be placed in a worse position than Soldiers who are granted the same relief for which he is asking, when he did voluntarily receive the vaccination, and not only that, continued to serve at the highest levels (see

attached letters of support reflecting his continued dedication to service and support from his subordinates, peers, and supervisors).

3. After having prior enlisted service in the U.S. Navy and Regular Army, he was appointed as a Reserve warrant officer of the Army and executed an oath of office on 5 February 2008. Subsequently, he was appointed as a warrant officer in the Regular Army on 15 January 2010, and was promoted to chief warrant officer two (CW2) on 5 February 2010.

4. He was promoted to chief warrant officer three (CW3) effective 1 February 2016.

5. The applicant became the subject of an Army Regulation 15-6 investigation into the facts and circumstances of an allegation of falsifying data entry for COVID-19 vaccinations into the Medical Protection System (MEDPROS) by Specialist (SPC) G____ H____, 4th Squadron, 6th U.S. Cavalry Regiment, 16th Combat Aviation Brigade (CAB), Joint Base Lewis-McChord, WA. On 13 August 2021, an investigation officer (IO) was appointed and instructed, at a minimum, to address the following questions:

a. When, where, and how did the alleged falsification of data entry occur (5 Ws)?

b. Whether SPC H____ offered to alter the COVID-19 vaccination data or whether (Applicant), B Company, 46th Aviation Support Battalion, requested that she alter the data. If the former, to what extent did (Applicant) know about the falsification of data?

c. Whether SPC H____ actually entered incorrect information into MEDPROS?

d. Whether SPC H____ falsely entered inaccurate COVID-19 vaccination data for other Soldiers?

e. Any other relevant facts or details related to the incident.

6. On 9 September 2021, the IO completed the Army Regulation 15-6 investigation and determined the following (see attachment with auxiliary documents for further details):

a. BLUF [Bottom Line Up Front]: Based on a preponderance of the evidence, the IO found SPC G____ H____ did falsify COVID-19 vaccination records in MEDPROS for (Applicant). Additionally, a preponderance of evidence shows that although (Applicant) did not direct or ask for the falsification, he knew of the false vaccination record and was complicit with the false entry to his medical records.

b. Findings. After carefully considering the evidence, he found based on the preponderance of the evidence that:

(1) SPC H_____ did falsify (Applicant's) vaccination records in MEDPROS at Winder Health Clinic on 12 August 2021.

(2) He found that (Applicant) knew of and was complicit with the falsification of his COVID-19 vaccination records. There is a preponderance of evidence that (Applicant) knew that SPC H_____ fraudulently input COVID-19 vaccinations in his MEDPROS on 12 Augus 2021.

(3) Based on SPC H_____ 's admission and Ms. S_____ 's sworn statement, he found that SPC H_____ did not enter false vaccinations into anyone's records other than (Applicant). SPC H_____ said that she only did it for him, and Ms. S_____ s [a civilian worker at the Winder Health Clinic] only heard anything like this on 12 August 2021 during the incident in question. CPT L_____ D_____ is in contact with the MODS Help Desk who is running a query to confirm that all MEDPROS records match MHS Genesis records, which would confirm that all COVID-19 vaccinations are legitimate. However, at the time of writing this report, he did not have the final information. He still finds that SPC H_____ only falsified (Applicant's) vaccination records based on the current information available.

c. Recommendations. In view of the above findings, the IO recommended:

(1) Based on the finding that SPC H_____ did enter false COVID-19 vaccinations into MEDPROS, he recommend that appropriate punitive action be taken.

(2) He recommends that SPC H_____ 's access to update medical records be revoked. She should give a class to other medical personnel in the CAB about what she did, why it was wrong, and what implications it could have if Ms. S_____ did not report the incident. Medical personnel need to know the ethics and morality of delegitimizing the authenticity of medical records before ever being given access to Soldiers' data.

(3) Based on his findings that (Applicant) was complicit with the falsification of his COVID-19 vaccinations. He recommends that appropriate punitive and/or administrative action be taken.

(4) He recommends that medical personnel conduct training to discuss the ethics and sensitivity of medical records. An incident like this, while It seems localized, could have international implications if the United States government guarantees the South Korean government that all personnel going to their country are fully vaccinated, when in reality they are not.

7. The memorandum from the Chief, Administrative and National Security Law, 7th Infantry Division, JBLM, dated 20 September 2021, states a legal review of the IO's investigation report was conducted and it was found legally sufficient.

8. The DA Form 1574-1 (Report of Proceedings by IO) shows in Section VII (Action by Approving Authority), Major General (MG) S____ G. S____, approved the findings and recommendations on 20 October 2021.

9. The applicant was reprimanded in writing by MG S____ G. S____, Commanding General, 7th Infantry Division, Joint Base Lewis-McChord, Tacoma, WA, on 20 October 2021, wherein he stated:

You are hereby reprimanded for willfully disregarding the falsification of your medical records. On 12 August 2021, you knew of a false entry pertaining to your vaccination status within your medical records made by a medical specialist. While you did not direct or ask for the falsification, you were complicit with the falsification by not correcting the data and allowing the Soldier to input false information into your medical record. Your actions were dishonest and unbecoming of an officer in the United States Army, in violation Article 133, UCMJ [Uniform Code of Military Justice].

As a Warrant Officer, you are charged with the responsibility of setting the standard and leading others. Your actions fell below the standard expected of an officer in the United States Army. Further incidents of this nature may result in more serious action being taken against you. I trust that your future duty performance will reflect the degree of professionalism expected of every officer assigned to this command.

This is an administrative reprimand imposed under the provisions of AR (Army Regulation) 600-37 [Unfavorable Information] and not as punishment under Article 15, Uniform Code of Military Justice. You are advised that in accordance with AR 600-37, paragraph 3-5b, I am considering whether to direct this reprimand be filed permanently in your Army Military Human Resource Record. Prior to making my filing decision, I will consider any matters you submit in extenuation, mitigation, or rebuttal. You will be provided, by separate cover, a copy of the evidence which forms the basis for this reprimand. You will immediately acknowledge receipt of this reprimand in writing. You will forward any matters you wish me to consider through your chain of command within seven calendar days, using the format prescribed in Army Regulation 600-37, paragraph 3-7.

10. He acknowledged receipt of the GOMOR on 26 October 2021 and elected to submit rebuttal matters in his defense. (Note: A review of his AMHRR does not contain any rebuttal matters submitted by the applicant)

11. After carefully considering the circumstances of the misconduct, along with recommendations from subordinate commanders, MG S____ directed filing the GOMOR in the applicant's AMHRR on 16 December 2021. The applicant acknowledged the filing on 2 February 2022.

12. A review of the applicant's AMHRR shows the GOMOR, dated 20 October 2021, with auxiliary documents, is filed in the performance folder.

13. The applicant received the contested OER covering the period 1 October 2020 through 30 September 2021, a 12-month period, on 1 June 2022, which addressed his duty performance as the Aviation Maintenance Officer, B Company, 46th Aviation Support Battalion, Joint Base Lewis-McChord (JBLM), Tacoma, WA. His rater is shown as Major (MAJ) R____ G. C____, Company Commander, and his senior rater is shown as Lieutenant Colonel (LTC) D____ N. H____, Battalion Commander, 46th Support Battalion. His rater digitally signed the contested OER on 16 February 2022 and the senior rater each digitally signed the contested OER on 29 April 2022. The applicant digitally signed the contested OER on 1 June 2022. The contested OER shows in:

- a. Part I (Administrative), block i (Reason for Submission), the entry "Annual";
- b. Part II (Authentication), block d (This is a Referred Report, Do You Wish to Make Comments?), a checkmark was placed in the appropriate block, signifying to the applicant that he was receiving a referred report. In that same block, a checkmark was placed in the "Yes" block, indicating the applicant did wish to make comments;
- c. Part IV (Performance Evaluation – Professionalism, Competencies, and Attributes), block d1 (Character), the rater commented:

(Applicant) supports the commander's EO [Equal Opportunity], EEO [Equal Employment Opportunity], and SHARP [Sexual Harassment/Assault Response and Prevention] program but does not embrace the Army value of integrity as demonstrated in an approved AR 15-6 investigation showing his willingness to allow a junior enlisted Soldier to commit fraud on his behalf.
- d. Part IV, block d2 (Provide narrative comments which demonstrate performance regarding field grade competencies and attributes in the Rated Officers current duty position), the rater commented:

(Applicant) is a capable aviation maintainer but has demonstrated exceptionally poor judgement and lack of responsibility while complicit with a junior enlisted Soldier to falsify his medical records. (Applicant) wanted his medical records to indicate he received a vaccination for SARS-CoV-2 without receiving the inoculation. The medic entered false data into (Applicant's) records. This was substantiated by an approved AR 15-6 investigation.
- e. In Part IV, block e (This Officer's Overall Performance is Rated as) and (A completed DA Form 67-10-1A was received with this report and considered in my

evaluation and review), a checkmark was placed in the "Yes" block and the applicant was rated as "Unsatisfactory." The rater entered the following comments:

(Applicant) ranks sixth of six Warrant Officers in my company. His average performance as an aviation maintainer is overshadowed by his unprofessional and reckless breach of good order and discipline while involving a junior Soldier to commit fraud for his benefit. I do not trust (Applicant) to train or lead Soldiers in any capacity.

f. In Part VI (Senior Rater), block a (Potential Compared with Officers Senior Rated in Same Grade), the senior rater marked "Qualified" and entered the following comments:

An AR 15-6 investigation found that (Applicant) was complicit in the falsification of medical records. (Applicant) possesses the technical expertise, ability to train others, and presence to do well in more advanced positions, but this integrity breach limits his potential to be entrusted with such responsibility. Do not promote or program for further professional military education at this time. Assign as a Production Control Officer and mentor for continued service and increased responsibility.

14. The applicant submitted a memorandum ((Applicant) OER Comment), 14 March 2022, in rebuttal to the contested OER's contents, wherein he stated:

a. He disagrees with the comments in Part V I, block d2, Part IV, block e, Part IV, comments, and Part VI, block c..

b. He noted the contested OER is the culmination of an incomplete AR 15-6 investigation that was unsubstantiated by a board on 22 April 2022.

c. An IO verified the medic's (junior Soldier's) account, was not corroborated. He says he was not complicit or responsible for the actions of his medic. There are statements from multiple witnesses that confirm he was not complicit, that he neither asked for nor accept the falsification of his medical records.

d. He understands the investigation was approved; however, there was no effort on the part of the IO or his chain of command to even address the shortfalls. He says he was denied his right to due process, which was confirmed by a member of his command team.

e. His chain of command assured him that he was not the subject of the investigation, and when questioned as a witness, he was not read his rights.

f. He understood that the COVID-19 vaccine was mandated. He had verifiably been vaccinated before he was made aware of an investigation, so the OER should not exist.

g. There is currently evidence of reprisal and two ongoing Inspector General investigations. His report of serious and illegal offenses against him has continued to be minimized and devalued by members within his chain of command. Despite the findings of the board, his chain of command is still issuing the OER. The actions of his chain of command have greatly diminished his ability to trust them.

15. A review of the applicant's AMHRR shows the contested OER is filed in the performance folder.

16. In his appeal to the Department of the Army Special Review Board (DASRB), on 13 February 2024, he provided the following documentation:

a. The results of a Flying Evaluation Board (FEB) which was convened to determine whether his aviation service and aeronautical rating should be terminated due to a number of reasons which included him receiving a GOMOR. On 22 April 2022, the FEB determined he should remain on flying status. This recommendation was approved by MG S____ G. S____, the Commander, 7th Infantry Division on 6 October 2022 (see attachments for further details).

b. A memorandum from the U.S. Army Human Resources Command (HRC), dated 7 March 2023, which informed him that the Fiscal Year 2021 (FY21), Active Component (AC), Chief Warrant Officer Four (CW4), Aviation (AV), Promotion Selection Board (PSB) which convened on 12 April 2021, recommended him for promotion to CW4. However, his name was withheld from the promotion scroll pending a review of the adverse information listed. This information was from his Referred OER and the GOMOR during the post-board screening. It noted this information was not considered by the PSB that recommended him for promotion. Therefore, it was being directed to a Special Selection Review Board (SSRB) for determination.

17. Department of the Army (DA) Orders 0006963208.00, dated 10 January 2024 show he was promoted to CW4 effective 1 February 2022.

18. DA Orders 0006963208.01, dated 11 January 2024 revoked DA Orders 0006963208.00, regarding his promotion to CW4.

19. The applicant provides:

a. Five letters of support recommending his GOMOR be removed and his promotion to the next rank. These letters speak highly of his leadership, being an excellent officer, would perform higher at the next level, deserving of promotion, being

an asset to the unit and Army Aviation, his work ethic and mentorship contributed greatly to the success of the company, and being a dedicated Soldier.

b. An Office of the Under Secretary of Defense memorandum (Correction of Military Records for Service Members Involuntarily Separated for Refusal to Comply with Coronavirus Disease 2019 (COVID-19) Vaccination Requirements), dated 7 February 2025 with attachments (see attachments for further details.) This memorandum directed:

(1) That the Department of Defense shall take all actions necessary to make reinstatement available to all members of the military (Active and Reserve Components) who were discharged solely for refusal to receive the coronavirus disease 2019 (COVID-19) vaccine and who request to be reinstated, in accordance with President Trump's Executive Order (EO) 14184, "Reinstating Service Members Discharged Under the Military's COVID-19 Vaccination Mandate," dated 27 January 2025. This memorandum provides the procedures (attached) by which 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.

(2) Attachment 1 contains the COVID-19 Reinstatement Guidance for the Secretaries of the Military Department to take for those former service members, whether they were involuntarily separated or voluntarily left due to refusing to take the COVID-19 vaccine and the procedures to implement reinstatement to the service if they elect to. It further limits the return to service policy will terminate 1 year after the effective date of this memorandum.

(3) Attachment 2 contains the Office of the Under Secretary of Defense memorandum (Correction of Military Records for Service Members Involuntarily Separated for Refusal to Comply with Coronavirus Disease 2019 Vaccination Requirements), dated 7 February 2025 noted service members were not afforded a timely, fair, or measured process to seek and receive an accommodation from this requirement but were unjustly separated solely for refusal of the vaccine, regardless of their years of service given to our Nation (see attachment for further details.) It notes in pertinent parts:

(a) Because a large number of former Service members may seek reinstatement to active service by applying to the Boards for Correction of Military or Naval Records (BCM/NR), to help ensure consistency across the Military Services and provide swift, full, and fair review of these cases, this memorandum provides supplemental policy guidance for BCM/NRs actions on such applications.

(b) If an impacted Service member desires to apply for a records correction on an additional basis (i.e., not exclusively on an unjust separation due to the COVID-19 mandate) or requests a medical separation or retirement, the Service member will be advised, for purposes of this effort, they must proceed exclusively on a COVID-19 unjust separation basis but may apply for relief on another basis, or seek different relief, using the normal BCM/NR processes.

(c) As with all correction board determinations, applications will be reviewed on a case-by-case basis, and this policy does not address situations where a BCM/NR determines the facts of a particular case warrant a different or additional finding of an error or injustice. In those instances, the BCM/NRs should fashion the remedy they find necessary and appropriate within applicable legal limits.

20. On 13 February 2024 in Docket Number AR20230014938, the Board, by unanimous vote, determined the overall merits of the evidence presented did not warrant removal of his contested OER (see attachment for further details.)

21. He appealed the DASRB decision to the Department of the Army Suitability Evaluation Board (DASEB) for removal of the GOMOR from his AMHRR. On 21 January 2025 in Docket Number AR20240013421, the Board, by unanimous vote, determined the overall merits of the evidence presented did not warrant removal of his GOMOR (see attachment for further details).

22. The applicant is currently serving on active duty in the rank of CW3 with the 16th Combat Aviation Brigade at Joint Base Lewis-McChord.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. After reviewing the application and all evidence outlined in the record, the Board made the following findings and recommendations related to the requested relief:

GOMOR Removal: DENY. The Board determined the AR 15-6 investigation, which found the applicant violated Article 133, UCMJ by knowing his medical records had been falsified and taking no action to correct them, to be thorough and the evidence within credible. The Board agreed that the applicant's conduct violated Article 133, UCMJ (Conduct Unbecoming an Officer and Gentleman). The Board noted that the GOMOR was not issued for refusal to take the COVID-19 vaccination, but rather for being complicit with the falsification of information placed in his medical record. The Board considered the applicant's argument that his situation was unfair compared with servicemembers who were discharged for COVID-19 vaccine refusal now being offered




reinstatement, but the Board again noted that the conduct at issue is the falsification of medical records and not taking the vaccine itself. The Board also considered the applicant's arguments that the 15-6 investigation was inaccurate and that witnesses who were not interviewed would have attested to the applicant's innocence, but there were no examples of inaccuracies provided and no witness names or statements were included. The Board noted that both the medic who falsified the records and a third party corroborated the applicant's conduct. Finally, the Board also considered the Flight Evaluation Board's conclusion that the conduct was not substantiated. The Board noted that the FEB's findings are not binding on it, and that the FEB did not provide the underlying rationale for its conclusions.

OER Removal: DENY. The Board noted that the entries on the questioned Officer Evaluation Report (OER) were that the applicant displayed a lack of integrity by knowingly allowing falsification of his medical records, not that he refused to take the COVID-19 vaccination. The Board determined that the evidence presented in the AR 15-6 investigation, which was found legally sufficient, was credible and supported the comments in the OER. For the same reasons as outlined above, the Board found the OER comments were supported by the applicant's conduct and were not erroneous or unjust.

Restoration on the CW4 Promotion List: DENY. Based upon the applicant's actions in violation of Article 133, UCMJ as substantiated by the 15-6 investigation, the Board concluded his lapse in integrity falls short of the special trust and confidence required from the Secretary of the Army for those recommended for promotion to the next grade. As a result, the Board concluded his removal from the promotion list was warranted and appropriate.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
			DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.



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. Army Regulation 15-185 (Army Board for Correction of Military Records (ABCMR)) prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. 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 evidence. The ABCMR may, in its discretion, hold a hearing (sometimes referred to as an evidentiary hearing or an administrative hearing) or request additional evidence or opinions. 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.
2. Army Regulation 15-6 (Procedures for Administrative Investigations and Boards of Officers) establishes procedures for conducting preliminary inquiries, administrative investigations, and boards of officers when such procedures are not established by other regulations or directives. Paragraph 5-2 states IOs may use whatever method they deem most efficient and effective for acquiring information. Although witnesses may be called to present formal testimony, information may also be obtained by personal interview, correspondence, telephone inquiry, or other informal means.
3. Army Regulation 600-8-104 (Army Military Human Resource Records Management) prescribes Army policy for the creation, utilization, administration, maintenance, and disposition of the AMHRR. The AMHRR includes, but is not limited to the OMPF, finance-related documents, and non-service related documents deemed necessary to store by the Army. Paragraph 3-6 provides that once a document is properly filed in the AMHRR, the document will not be removed from the record unless directed by the Army Board for Correction of Military Records or other authorized agency.

4. Army Regulation 600-37 (Unfavorable Information) sets forth policies and procedures to ensure the best interests of both the Army and Soldiers are served by authorizing unfavorable information to be placed in, transferred within, or removed from an individual's AMHRR.

a. An administrative memorandum of reprimand may be issued by an individual's commander, by superiors in the chain of command, and by any general officer or officer exercising general court-martial jurisdiction over the Soldier. The memorandum must be referred to the recipient and the referral must include and list applicable portions of investigations, reports, or other documents that serve as a basis for the reprimand. Statements or other evidence furnished by the recipient must be reviewed and considered before a filing determination is made.

b. A memorandum of reprimand may be filed in a Soldier's Official Military Personnel File (OMPF) only upon the order of a general officer-level authority and is to be filed in the performance folder. The direction for filing is to be contained in an endorsement or addendum to the memorandum. If the reprimand is to be filed in the OMPF, the recipient's submissions are to be attached. Once filed in the OMPF, the reprimand and associated documents are permanent unless removed in accordance with chapter 7 (Appeals).

c. Paragraph 7-2 (Policies and Standards) states that once an official document has been properly filed in the OMPF, it is presumed to be administratively correct and to have been filed pursuant to an objective decision by competent authority. Thereafter, the burden of proof rests with the individual concerned to provide evidence of a clear and convincing nature that the document is untrue or unjust, in whole or in part, thereby warranting its alteration or removal from the OMPF.

d. Paragraph 7-3c states an officer who directed filing of an administrative memorandum of reprimand, admonition, or censure in the AMHRR may request its revision, alteration, or removal, if evidence or information indicates the basis for the adverse action was untrue or unjust, in whole or in part. An officer who directed such a filing must provide the Department of the Army Suitability Evaluation Board a copy of the new evidence or information to justify the request.

5. Army Regulation 623-3 (Evaluation Reporting System) prescribes the policy for completing evaluation reports and associated support forms that are the basis for the Army's Evaluation Reporting System.

a. Paragraph 1-11 provides that during the evaluation process or after it has been completed, when a commander or commandant discovers that an evaluation report rendered by a subordinate or a subordinate command may be illegal, unjust, or

otherwise in violation of this regulation, he or she will conduct an inquiry into the matter. The definition of a rendered evaluation report is one that is authenticated by all designated rating officials with a senior rater's intent to present the final evaluation report to the rated Soldier for authentication or apply the appropriate statement in the absence or inability for the rater Soldier to authenticate. The Commander's or Commandant's Inquiry will be confined to matters related to the clarity of the evaluation report, the facts contained in the evaluation report, the compliance of the evaluation with policy and procedures established by Headquarters, Department of the Army (HQDA), and the conduct of the rated Soldier and members of the rating chain. The official does not have the authority to direct that an evaluation report be changed; command influence may not be used to alter the accurate evaluation of a rated Soldier by a rating official that was made in good faith. The procedures used by the commander or commandant to process such an inquiry are described in chapter 4.

b. Paragraph 2-5 states the rater will be the immediate supervisor of the rated Soldier responsible for directing and assessing the rated Soldier's performance. The rater will normally be senior to the rated Soldier in grade or date of rank. Commanders will normally rate commanders. For the DA Form 67-10 series, a rater will be an officer of the U.S. Armed Forces, U.S. Coast Guard, allied armed forces, or an employee of a U.S. Government agency (including nonappropriated fund employee). A civilian rater has no minimum grade requirement. The rater will be the supervisor of the rated officer for a minimum period of 90 calendar days. Note: For U.S. Army Reserve troop program unit, drilling individual mobilization augmentation, and drilling Individual Ready Reserve Soldiers; and Army National Guard Soldiers; the rater must have served as the supervisor for a minimum of 120 calendar days versus 90 calendar days.

c. Paragraph 3-27 (Referred Evaluation Reports) provides that any report with negative remarks about the rated officer's values or leader attributes/skills/actions in the rating official's narrative evaluations will be referred to the rated officer by the senior rater for acknowledgment and comment before being forwarded to HQDA.

d. Paragraph 3-29 provides that the referral process ensures the rated Soldier knows that his/her OER contains negative or derogatory information and affords him/her the opportunity to sign the evaluation report and submit comments, if desired.

(1) The senior rater will refer a copy of the completed OER (an OER that has been signed and dated by the rating officials) to the rated Soldier for acknowledgment and comment.

(2) Upon receipt of the rated officer's acknowledgment (for example, receipt of a signed OER, email, signed certified mail document, signed acknowledgment statement accompanying memorandum submission of signed comments, and so forth), the senior rater will enclose it, any written comments provided by the rated officer, and the referral memorandum with the original OER for forwarding to the reviewer (if applicable).

(3) If the senior rater decides the comments provide significant new facts about the rated Soldier's performance that could affect the evaluation of the rated Soldier, he or she may refer the comments to the other rating officials, as appropriate. The rating officials, in turn, may reconsider their evaluations of the rated Soldier. The senior rater will not pressure or influence another rating official. Any rating official who elects to raise his or her evaluation as a result of this action may do so. However, the evaluation may not be lowered because of the rated Soldier's comments. If the OER is changed but still requires referral, the OER will again be referred to the rated Soldier for acknowledgment and the opportunity to provide new comments, if desired. Only the latest acknowledgment ("YES" or "NO" on OER signed by the rated Soldier) and the rated Soldier's comments, if submitted, will be forwarded to HQDA.

e. Paragraph 4-7 provides that evaluation reports accepted for inclusion in the official record of an officer are presumed to be administratively correct, been prepared by the proper rating officials, and represent the considered opinion and objective judgment of rating officials at the time of preparation. To justify deletion or amendment of a report, the appellant must produce evidence that establishes clearly and convincingly that the presumption of regularity should not be applied to the report under consideration or that action is warranted to correct a material error, inaccuracy, or injustice. Clear and convincing evidence must be of a strong and compelling nature, not merely proof of the possibility of administrative error or factual inaccuracy. The burden of proof rests with the appellant.

f. Paragraphs 4-11a states the burden of proof rests with the appellant. Accordingly, to justify deletion or amendment of an evaluation report, the appellant will produce evidence that establishes clearly and convincingly that:

(1) the presumption of regularity referred to in paragraphs 3-37a and 4-7a will not be applied to the evaluation report under consideration; or

(2) action is warranted to correct a material error, inaccuracy, or injustice.

g. Paragraph 4-12b states clear and convincing evidence will be of a strong and compelling nature, not merely proof of the possibility of administrative error or factual inaccuracy. If the adjudication authority is convinced that an appellant is correct in some or all of the assertions, the clear and convincing standard has been met with regard to those assertions.

h. Paragraph 4-11d states for a claim of inaccuracy or injustice of a substantive type, evidence will include statements from third parties, rating officials, or other documents from official sources (see Department of the Army Pamphlet 623-3 (Evaluation Reporting System)). Third parties are persons other than the rated officer or

rating officials who have knowledge of the appellant's performance during the rating period. Such statements are afforded more weight if they are from persons who served in positions allowing them a good opportunity to observe firsthand the appellant's performance as well as interactions with rating officials. Statements from rating officials are also acceptable if they relate to allegations of factual errors, erroneous perceptions, or claims of bias. To the extent practicable, such statements will include specific details of events or circumstances leading to inaccuracies, misrepresentations, or injustice at the time the report was rendered.

6. Department of the Army Pamphlet 623-3 (Evaluation Reporting System) provides procedural guidance for completing and submitting evaluation reports and associated support forms to HQDA. Paragraph 2-28 provides that:

a. If a referred OER is required, the senior rater will place an "X" in the appropriate box in Part II, block d, of the completed OER. The OER will then be given to the rated officer for signature and placement of an "X" in the appropriate box in Part II, block d.

b. The rated officer may comment if he or she believes the rating and/or remarks are incorrect. The comments must be factual, concise, and limited to matters directly related to the evaluation rendered in the OER; rating officials may not rebut rated officer's referral comments.

c. The rated officer's comments do not constitute an appeal. Appeals are processed separately. Likewise, the rated officer's comments do not constitute a request for a Commander's Inquiry. Such a request must be submitted separately.

7. Secretary of Defense memorandum (Rescission of August 24, 2021, and November 30, 2021, COVID-19 Vaccination Requirements for Members of the Armed Forces), 10 January 2023, states, in part:

On December 23, 2022, the James M. Inhofe National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2023 was enacted. Section 525 of the NDAA for FY 2023 requires me to rescind the mandate that members of the Armed Forces be vaccinated against COVID-19, issued in my August 24, 2021, memorandum, "Mandatory Coronavirus Disease 2019 Vaccination of Department of Defense Service Members." I hereby rescind that memorandum. I also hereby rescind my November 30, 2021, memorandum, "Coronavirus Disease 2019 Vaccination for Members of the National Guard and the Ready Reserve."

No individuals currently serving in the Armed Forces 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 Military Departments will update the records of such individuals to remove any adverse

actions solely associated with denials of such requests, including letters of reprimand. The Secretaries of the Military Departments will further cease any ongoing reviews of current Service member religious, administrative, or medical accommodation requests solely for exemption from the COVID-19 vaccine or appeals of denials of such requests.

Other standing Departmental policies, procedures, and processes regarding immunizations remain in effect. These include the ability of commanders to consider, as appropriate, the individual immunization status of personnel in making deployment, assignment, and other operational decisions, including when vaccination is required for travel to, or entry into, a foreign nation.

8. Secretary of the Army memorandum ((Army Policy Implementing the Secretary of Defense Coronavirus Disease 2019 (COVID-19) Vaccination Mandate Rescission), 24 February 2023, states, in part:

On 10 January 2023, the Secretary of Defense rescinded the COVID-19 vaccination mandate across the Department of Defense (DoD). Accordingly, I hereby rescind all Department of the Army policies specifically associated with the implementation of the COVID-19 vaccination mandate.

Former Soldiers may petition the Army Discharge Review Board and the Army Board for Correction of Military Records to request corrections to their personnel records, including records regarding the characterization of their discharge.

Additional Army policy and guidance to affect this rescission and implement DoD policy will be issued by the Assistant Secretary of the Army (Manpower and Reserve Affairs) as necessary and appropriate.

9. Office of the Under Secretary of Defense memorandum (Correction of Military Records for Service Members Involuntarily Separated for Refusal to Comply with Coronavirus Disease 2019 (COVID-19) Vaccination Requirements), 7 February 2025, with attachments, it directed in pertinent part (see attachment for further details):

(1) That the DOD shall take all actions necessary to make reinstatement available to all members of the military (Active and Reserve Components) who were discharged solely for refusal to receive the coronavirus disease 2019 (COVID-19) vaccine and who request to be reinstated, in accordance with President Trump's Executive Order (EO) 14184, "Reinstating Service Members Discharged Under the Military's COVID-19 Vaccination Mandate," 27 January 2025. This memorandum provides the procedures (attached) by which 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.

(2) Attachment 1 contains the COVID-19 Reinstatement Guidance for the Secretaries of the Military Department to take for those former service members, whether they were involuntarily separated or voluntarily left due to refusing to take the COVID-19 vaccine and the procedures to implement reinstatement to the service if they elect to. It further limits the return to service policy will terminate 1 year after the effective date of this memorandum.

(3) Attachment 2 contains the Office of the Under Secretary of Defense memorandum (Correction of Military Records for Service Members Involuntarily Separated for Refusal to Comply with Coronavirus Disease 2019 Vaccination Requirements), 7 February 2025 noted service members were not afforded a timely, fair, or measured process to seek and receive an accommodation from this requirement but were unjustly separated solely for refusal of the vaccine, regardless of their years of service given to our Nation (see attachment for further details.) It notes in pertinent parts:

(a) Because a large number of former Service members may seek reinstatement to active service by applying to the Boards for Correction of Military or Naval Records (BCM/NRs), to help ensure consistency across the Military Services and provide swift, full, and fair review of these cases, this memorandum provides supplemental policy guidance for BCM/NR actions on such applications.

(b) If an impacted Service member desires to apply for a records correction on an additional basis (i.e., not exclusively on an unjust separation due to the COVID-19 mandate) or requests a medical separation or retirement, the Service member will be advised, for purposes of this effort, they must proceed exclusively on a COVID-19 unjust separation basis but may apply for relief on another basis, or seek different relief, using the normal BCM/NR processes.

(c) As with all correction board determinations, applications will be reviewed on a case-by-case basis, and this policy does not address situations where a BCM/NR determines the facts of a particular case warrant a different or additional finding of an error or injustice. In those instances, the BCM/NRs should fashion the remedy they find necessary and appropriate within applicable legal limits.

//NOTHING FOLLOWS//