

IN THE CASE OF [REDACTED]

BOARD DATE: 25 April 2025

DOCKET NUMBER: AR20250004117

APPLICANT REQUESTS: correction of his service record due to Executive Order 14184 (Reinstating Service Members Discharged Under the Military's COVID-19 Vaccination Mandate) to:

- revoke Headquarters, III Corps and Fort Hood Orders 238-0177, 26 August 2022
- void his DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 7 September 2022
- show constructive service credit for the period 8 September 2022 through 19 March 2024
- restore all entitlements, pay, allowances, and benefits for the period 8 September 2022 through 19 March 2024

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

- DD Form 149 (Application for Correction of Military Record)
- Request for Interservice Transfer, 8 January 2020
- DD Form 368 (Request for Conditional Release), 9 March 2020
- Enlisted Record Brief (ERB)
- Memorandum, Subject: Adoption and Appointment of the Standing Administrative Board for 1st Cavalry Division Artillery (DIVARTY), 1st Cavalry Division, Fort Hood, Texas 76544, 26 August 2021
- Two DA Forms 4856 (Developmental Counseling Form), 12 October 2021 and 26 October 2021
- Memorandum, Subject: Denial of COVID-19 Vaccination, 20 October 2021
- Memorandum, Subject: Request for GOMOR [General Officer Memorandum of Reprimand] - Vaccination Refusal, 29 October 2021
- Memorandum, Subject: General Officer Memorandum of Reprimand, 1 November 2021, with acknowledgement 2 November 2021
- Four photographs
- Four Character Reference Letters
- Memorandum, Subject: Response to General Officer Memorandum of Reprimand, [Applicant], 15 November 2021
- Memorandum, Subject: Filing Determination on Reprimand, 10 December 2021

- Memorandum, Subject: Army Directive 2022-02 (Personnel Actions for Active Duty Soldiers Who Refuse the COVID-19 Vaccination Order and Accession Requirements for Unvaccinated Individuals), 31 January 2022
- Leave and Earnings Statement for February 2022
- Memorandum, Subject: Acknowledgment of Receipt of Separation Notice, Chapter 14-12c, Commission of a Serious Offense [Applicant], 2 March 2022, with acknowledgement 2 March 2022
- Memorandum, Subject: Statement in Response to Administrative Separation, 9 March 2022
- DA Form 268 (Report to Suspend Favorable Personnel Actions (Flag)), 11 March 2022
- Memorandum, Subject: Request for Conditional Waiver-Separation under Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), Chapter 14-12c, 5 April 2022
- Memorandum, Subject: Advisement of Service Member (SM) Consult for Pending Article 15/Administrative Separation, 5 April 2022
- Memorandum, Subject: Election of Rights Regarding Separation Under Army Regulation 635-200, Chapter 14-12c, Commission of a Serious Offense, [Applicant], 5 April 2022
- Memorandum, Subject: Commander's Report - Proposed Separation Under Army Regulation 635-200, Chapter 14-12c, Commission of a Serious Offense, [Applicant], 6 April 2022
- Two Memoranda, Subject: Separation Under Army Regulation 635-200, Chapter 14-12c, Commission of a Serious Offense, [Applicant], 8 April 2022
- Chain of Command Recommendations - Conditional Waiver
- Memorandum, Subject: Separation Under the Provisions of Army Regulation 635-200, Active Duty Enlisted Administrative Separations, Chapter 14-12c, Commission of a Serious Offense, 21 April 2022
- Memorandum, Subject: Referral of Respondent, Separation Under Army Regulation 635-200, Chapter 14-12c, Commission of a Serious Offense, [Applicant], 9 May 2022
- Memorandum, Subject: Notification to Appear Before Board of Officers, Separation Under Army Regulation 635-200, Chapter 14-12c, Commission of a Serious Offense, 20 May 2022, with acknowledgement 23 May 2022
- Memorandum, Subject: Appointment of Board Members for [Applicant], 1 June 2022
- DA Form 1574-2 (Report of Proceedings by Board of Officers), 3 June 2022, with findings and recommendations
- DA Form 3881 (Rights Warning Procedure/Waiver Certificate), 3 June 2022
- Memorandum, Subject: Separation Under the Provisions of Army Regulation 635-200, Active Duty Enlisted Administrative Separations, Chapter 14-12c, Commission of a Serious Offense – [Applicant]

- DD Form 214 for the period ending 7 September 2022
- DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States), 20 March 2024
- Email correspondence with the Army Review Boards Agency (ARBA)

FACTS:

1. The applicant states, in effect, he requests his DD Form 214 be voided, revocation of his discharge orders, constructive service credit, and restoration for all entitlements, pay, allowances and benefits for the period 8 September 2022 through 19 March 2024. His discharge was deemed unnecessary once the determination was made that the COVID-19 vaccine mandate was incorrect.

2. The applicant provides and/or the service record shows:

- The applicant has prior honorable service with the U.S. Marine Corps (USMC) from 17 March 2014 through 16 December 2017
- On 9 March 2020, he enlisted in the Regular Army (RA)
- On 21 October 2021, he refused to comply with the COVID-19 vaccination requirements
- On 1 November 2021, he was issued a GOMOR for failing to comply with a lawful order, when he was ordered to become fully vaccinated with the COVID-19 vaccine and failed to do so
- On 2 November 2021, the applicant acknowledged receipt of the GOMOR
- On 15 November 2021, he requested that the GOMOR be filed locally vice his Army Military Human Resource Record (AMHRR)
- On 10 December 2021, the commanding general directed the GOMOR be filed in the applicant's AMHRR (Note: The GOMOR is located in the applicant's performance folder of his AMHRR)
- On 2 March 2022, separation action was initiated against the applicant for a commission of a serious offense for failure to follow a lawful order by refusing to become fully vaccinated; he subsequently acknowledged receipt of the separation initiation
- On 5 April 2022, he requested a conditional waiver contingent upon receiving an honorable discharge; he subsequently requested consideration of his case by an administrative separation board
- On 8 April 2022, his chain of command recommended that he be discharged before the expiration of his term of service, with an honorable discharge, and further approved his conditional waiver
- On 21 April 2021, the commanding general disapproved his conditional waiver, and referred his case to an administrative separation board

- On 3 June 2022, the administrative separation board convened; the finding warranted his separation due to his failure to follow a lawful order to become fully vaccinated
- On 6 August 2022, the separation authority directed he be discharged with an honorable characterization of service, pursuant to Army Regulation 635-200, Chapter 14-12c, Commission of a Serious Offense
- On 7 September 2022, he was honorably discharged due to misconduct (serious offense); he completed 2 years, 5 months, and 29 days of active service
- On 20 March 2024, the applicant reenlisted in the RA and is currently serving on active duty

3. The applicant provides four character reference letters that highlight his honorable service and accomplishments.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition, Department of Defense guidance for service members involuntarily separated for refusal to comply with COVID-19 vaccination requirements and executed a comprehensive review based on law, policy, and regulation. The Board determined the applicant was involuntarily separated due solely to refusal to comply with COVID-19 vaccination requirements and is reenlisted back on active duty and therefore his DD Form 214 for the period ending 7 September 2022 should be voided to reflect continuous service from 9 March 2020 to present as well as Order 238-0177, dated 26 August 2022 separating the applicant from active duty.

2. Prior to closing the discussion, the Board determined the General Officer Memorandum of Reprimand permanently filed in the applicant's Army Military Human Resource Record (AMHRR) for refusal of the COVID-19 vaccination should be removed based on the updated guidance and the misconduct involving only the refusal to comply with the vaccination requirements.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by:

- revoking Headquarters, III Corps and Fort Hood Orders 238-0177, 26 August 2022
- voiding DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 7 September 2022
- showing constructive service credit for the period 8 September 2022 through 19 March 2024
- restoring all entitlements, pay, allowances, and benefits for the period 8 September 2022 through 19 March 2024

2. Prior to closing the discussion, the Board determined additional relief was appropriate. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by removing the General Officer Memorandum of Reprimand, dated 1 November 2021, with auxiliary documents from his AMHRR.

5/5/2025

X

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. Army Regulation 15-185 (ABCMR) states the Army, by law, may pay claims for amounts due to applicants as a result of correction of military records. The ABCMR will furnish the Defense Finance and Accounting Service (DFAS) copies of decisions potentially affecting monetary entitlement or benefits. The DFAS will treat such decisions as claims for payment by or on behalf of the applicant and settle claims on the basis of the corrected military record. The applicant's acceptance of a settlement fully satisfies the claim concerned.
2. Army Regulation 637-1 (Army Compensation and Entitlements Policy) provides Department of the Army (DA) policies for entitlements and collections of pay and allowances for active duty Soldiers. It is used in conjunction with the Department of Defense (DoD) Financial Management Regulation (FMR), Volume 7A. For the purpose of this regulation, active duty is defined in accordance with Title 37, United States Code (37 USC). The term "active duty" means full-time duty in the active service of a uniformed service and includes full-time training duty, annual training duty, full-time National Guard duty, and attendance, while in the active service, at a school designated as a service school by law or by the Secretary of the Army (SECARMY).
3. Title 10 (Armed Forces), United States Code (USC), section 1552 (c)(1) states, the Secretary concerned may pay, from applicable current appropriations, a claim for the loss of pay, allowances, compensation, emoluments, or other pecuniary benefits, or for the repayment of a fine or forfeiture, if, as a result of correcting a record under this section, the amount is found to be due the claimant on account of his or another's service in the Army.
4. Army Regulation 635-8 (Separation Processing and Documents) prescribes the transition processing function of the military personnel system. It provides principles of support, standards of service, policies, tasks, rules, and steps governing required actions in the field to support processing personnel for separation and preparation of separation documents. When a DD Form 214 has been prepared and distributed, and subsequently determined that it was prepared in error, the responsible transition center will void the DD Form 214 by memorandum. Distribute this memorandum to all addressees that received the erroneously prepared DD Form 214, advising them of the error and requesting the voided DD Form 214 be destroyed and removed from the Soldier's Army Military Human Resource Record (AMHRR).
5. On 24 August 2021, the Secretary of Defense mandated that all service members receive the COVID-19 vaccine. The Secretary of Defense later rescinded the mandate on January 10, 2023. It states, "the vaccine mandate was an unfair, overbroad, and completely unnecessary burden on our service members. Further, the military unjustly discharged those who refused the vaccine, regardless of the years of service given to

our Nation, after failing to grant many of them an exemption that they should have received. Federal Government redress of any wrongful dismissals is overdue”.

6. On 27 January 2025, President Donald J. Trump signed Executive Order (EO) 14184, “Reinstating Service Members Discharged Under the Military's COVID-19 Vaccination Mandate.”

7. On 6 February 2025 the Secretary of Defense issued Memorandum, "Providing Remedies for Service Members and Veterans Negatively Impacted by the Department's Defunct Coronavirus Disease 2019 Vaccination Mandate Based Executive Order."

8. On 1 April 2025 the Office of the Under Secretary of Defense issued a Memorandum for Secretaries of the Military Departments, “Updated Guidance on Correction of Military Records for Service Members Involuntarily Separated for Refusal to Comply with Coronavirus Disease 2019 Vaccination Requirements.” It provides:

a. As directed by the Secretary of Defense, 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. 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, consistent with this guidance.

b. In cases where the Service member was involuntarily separated (EO, sec. 2(a) and (b)), 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 as described in Attachment 2 to the Memorandum.

c. The BCM/NRs will give COVID-19 reinstatement cases priority consideration, subject to existing statutorily specified priority consideration for post traumatic stress disorder, traumatic brain injury, and military sexual trauma.

d. The BCM/NRs, using the attached guidance in the memorandum, will 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.

9. 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. Paragraph 1-1 states, in relevant part, that the intent of Army Regulation 600-37 is to ensure that unfavorable information that is unsubstantiated, irrelevant, untimely, or incomplete is not filed in individual official personnel files; and, to ensure that the best interests of both the Army and the Soldiers are served by authorizing unfavorable information to be placed in and, when appropriate, removed from official personnel files.

b. Paragraph 1-4 stipulates that the objectives of Army Regulation 600-37 are to apply fair and just standards to all Soldiers; protect the rights of individual Soldiers and, at the same time, permit the Army to consider all available relevant information when choosing Soldiers for positions of leadership, trust, and responsibility; to prevent adverse personnel action based on unsubstantiated derogatory information or mistaken identity; to provide a means of correcting injustices if they occur; and, to ensure that Soldiers of poor moral character are not continued in Service or advanced to positions of leadership, trust, and responsibility.

10. Army Regulation 600-8-104 (Army Military Human Resource Records Management), in effect at the time, 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 (Authority for Filing or Removing Documents in the AMHRR Folders) provides that once a document is properly filed in the AMHRR, the document will not be removed from the record unless directed by the ABCMR or another authorized agency.

//NOTHING FOLLOWS//