

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 3 June 2025

DOCKET NUMBER: AR20250005801

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:

- In effect, revoke U.S. Army Installation Management Command, Headquarters, U.S. Army Garrison, Fort Bliss, Texas, Orders 165-0528, dated 14 June 2022
- In effect, void and remove his DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 17 June 2022
- In effect, show constructive service credit for the period 18 June 2022 through 2 September 2024, without a break in service
- In effect, restore all entitlements, pay, allowances, and benefits for the period 18 June 2022 through 2 September 2024
- In effect, remove General Officer Memorandum of Reprimand (GOMOR), dated 22 October 2021 from his Army Military Human Resource Record (AMHRR)

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 4/3 (Enlistment/Reenlistment Document used by the Armed Forces of the United States), dated 24 February 2020
- DA Form 4856 (Developmental Counseling Form), dated 18 September 2021
- DA Form 268 (Report to Suspend Favorable Actions), dated 29 September 2021
- Memorandum, Subject: GOMOR, dated 22 October 2021
- Memorandum, Subject: Acknowledgement of Receipt of Reprimand, dated 27 October 2021
- Three Memoranda, Subject: Commander Recommendation on Filing Determination, dated 27 October 2021, 3 November 2021, and 15 November 2021
- Memorandum Subject: Filing Determination on Reprimand, dated 18 November 2021
- Memorandum Subject: Acknowledgement of Filing Determination of Reprimand, dated 19 November 2021
- Enlisted Record Brief (ERB)

- Memorandum, Subject: Commander's Report for Separation under Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), Chapter 14-12c, Commission of a Serious Offense, dated 27 May 2022
- Memorandum, Subject: Commander's Recommendation for Separation under Army Regulation 635-200, Chapter 14-12c, Commission of a Serious Offense
- Memorandum, Subject: Administrative Separation under Army Regulation 635-200, Chapter 14-12c, Chapter 14-12c, Commission of a Serious Offense, dated 8 June 2022
- Memorandum, Subject: Legal Sufficiency, dated 10 June 2022
- Orders 165-0528, dated 14 June 2022
- DD Form 214 (Certificate of Release or Discharge from Active Duty), for the period ending 17 June 2022

FACTS:

1. The applicant states, in effect, throughout his service, he did not engage in any other misbehavior, he was involuntary and unjustly separated solely for refusing to comply with the COVID-19 vaccination requirements. It was a matter of personal preference and it had nothing to do with him attempting to defy the U.S. Army. His enlistment timeframe happened to coincide with the vaccination mandate, however his choice to refuse the COVID-19 vaccine would have been the same, had he been a civilian. The COVID-19 vaccine requirement has since been rescinded, and a recent executive order also mandates the reinstatement of service members who were released due to the refusal of the vaccine, along with reimbursement of lost pay and allowances.

2. The applicant provides and the service record shows:

- On 24 February 2020, he enlisted in the Regular Army
- On 24 August 2021, the Secretary of Defense mandated that all service members receive the COVID-19 vaccine
- On 18 September 2021, the applicant refused to become fully vaccinated against COVID-19
- On 22 October 2021, he was reprimanded for disobeying a lawful order by refusing to become fully vaccinated against COVID-19
- On 27 October 2021, he acknowledged receipt of the reprimand
- On 18 November 2021, his commanding general directed the GOMOR be placed permanently in the applicant's AMHRR
- On 19 November 2021, he acknowledged receipt of the filing determination of the GOMOR
- On 18 May 2022, separation action was initiated against him, under the provisions of Army Regulation 635-200, Chapter 14-12c, for commission of a serious offense; he acknowledged receipt of the separation initiation action

- On 17 June 2022, he was discharged with an under honorable conditions (General) characterization of service, due to misconduct (serious offense); he completed 2 years, 3 months, and 24 days of service
- On 10 January 2023, the Secretary of Defense rescinded the COVID-19 vaccine mandate
- On 3 September 2024, the applicant reenlisted in the Regular Army and is currently still serving

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board found that 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, and regulation. Based upon the available documents showing the applicant's previous military service ended solely based upon failing to take the COVID-19 vaccine and the change in policy related to that issue, the Board concluded there was an injustice warranting changing the applicant's military record as requested.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

Contingent upon the applicant agreeing to the reinstatement terms and conditions for revoking his discharge and the applicant re-entering active duty, the Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of Army records of the individual concerned be corrected by:

- Removing the GOMOR, dated 22 October 2021 from the applicant's AMHRR, and associated allied documents
- Removing all derogatory information related to the applicant disobeying a lawful order by refusing to become fully vaccinated against COVID-19 from his AMHRR
- Revoking U.S. Army Installation Management Command, Headquarters, U.S. Army Garrison, Fort Bliss, Texas, Orders 165-0528, dated 14 June 2022
- Voiding and removing the applicant's DD Form 214 for the period ending 17 June 2022
- Awarding constructive service credit for the period 18 June 2022 through 2 September 2024, without a break in service
- Restoring all entitlements, pay, allowances, and benefits for the period 18 June 2022 through 2 September 2024

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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)) 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. On 7 May 2025 the Office of the Under Secretary of Defense issued a Memorandum for Secretaries of Military Departments, "Supplemental Guidance to the Military Department Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests from Service Members Adversely Impacted by Coronavirus Disease 2019 Vaccination Requirements." It provides:

a. On 27 January 2025, the President issued Executive Order 14184, "Reinstating Service Members Discharge Under the Military's COVID-19 Vaccination Mandate," concerning the Department of Defense's since-rescinded COVID-19 vaccination mandate, which was unlawful as implemented, and "an unfair, overbroad, and completely unnecessary burden" on Service members. The Secretary of Defense has taken decisive action to execute the President's guidance to correct this injustice:

- All former Service members discharged solely for refusing to receive the COVID-19 vaccine may pursue reinstatement in the military, and be considered for eligibility to receive backpay; and
- Former Service members who attest that they voluntarily left the military or allowed their service to lapse according to appropriate procedures due to the military's previous COVID-19 vaccination mandate may pursue a return to military service

b. In addition, some Service members were separated with less than a fully honorable discharge characterization for their refusal to take a COVID-19 vaccine, depriving them of veterans' benefits. Other Service members, who remained in service and requested religious, administrative, or medical accommodations related to the COVID-19 vaccine requirement, may still have adverse information in their records connected to those requests.

c. To remedy these harms, on 23 April 2025, the Secretary of Defense directed the Under Secretary of Defense for Personnel and Readiness to issue additional guidance to the Military Department Review Boards concerning the review of requests from Service members and former Service members adversely impacted by the COVID-19 vaccine mandate. The following is directed:

- The Secretaries of Military Departments will, through their Boards for Correction of Military/Naval Records, continue to apply the guidance contained, which was issued to facilitate the reinstatement or return of eligible individuals who wish to continue their military service
- Carefully consider claims by individuals who filed formal requests for administrative or medical accommodation, including requests for religious accommodation, related to the Department's previous COVID-19 vaccine mandate, yet continued to serve. Adverse actions in a Service member's records

solely associated with their refusal to take a COVID-19 vaccination or seek an exemption from that COVID-19 vaccine mandate should be removed

10. 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.

11. 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.

12. Army Regulation 600-8-10 (Leaves and Passes) prescribes the policies and mandated operating tasks for the leave and pass function of the Military Personnel System. It provides a single-source operating document to the field, and as such, is binding on all communities involved in granting leaves and passes. It applies to the Regular Army, the Army National Guard/Army National Guard of the United States, and the U.S. Army Re-serve, unless otherwise stated.

a. Transition leave (formerly called terminal leave) is a chargeable leave granted together with transition from the Service, including retirement. The unit commander or designee is the approval authority for transition leave requests.

b. The leave and pass program is designed to allow Soldiers to use their authorized leave to the maximum extent possible.

c. Soldiers who do not take leave, may lose leave at the end of the fiscal year (FY). Also, Soldiers who maintain a 60-day leave balance, and wait late in the FY to take leave, will be informed that they risk loss of leave over 60 days if the operational situation requires their presence. Accrued leave that exceeds 60 days at the end of the fiscal year is lost except as authorized.

//NOTHING FOLLOWS//