

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 1 July 2025

DOCKET NUMBER: AR20250006440

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, United States Army Garrison, Fort Drum, New York, Orders 111-1003, 21 April 2022
- Void and remove from his Army Military Human Resource Record (AMHRR), his DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 16 May 2022
- Show constructive service credit without a break in service for the period 17 May 2022, through 15 July 2024
- Restore all entitlements to include but not limited to backpay, allowances, and benefits he is otherwise qualified for, for the period 17 May 2022, through 15 July 2024 at the private first class (PFC)/E-3 pay rate, with one adult dependent
- Remove any and all derogatory and disciplinary documents related to him refusing to become fully vaccinated against Coronavirus Disease 2019 (COVID-19) from his AMHRR

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 4856 (Developmental Counseling Form), 21 September 2021
- Two DA Forms 268 (Report to Suspend Favorable Personnel Actions (Flag))
- General Officer Memorandum of Reprimand (GOMOR), 29 November 2021
- Acknowledgement of Receipt of Reprimand, 3 December 2021
- Acknowledgment of Legal Services Availability, 3 December 2021
- Filing Determination of GOMOR, 16 December 2021
- Notification of Separation under Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), Chapter 14-12c (Misconduct (Serious Offense))
- Acknowledgment of Receipt of Separation Notice, 28 March 2022
- Enlisted Record Brief (ERB)
- DD Form 214, 16 May 2022

- DD Form 4 (Enlistment/Reenlistment - Document Armed Forces of the United States), 16 July 2024

FACTS:

1. The applicant states, in effect, he is requesting correction of his service record due to Executive Order 14184 (Reinstating Service Members Discharged Under the Military's COVID-19 Vaccination Mandate).

2. The applicant provides and the service record shows:

- On 19 January 2016, he enlisted in the Regular Army, and was discharged on 7 June 2016, with an uncharacterized character of service for entry level performance and conduct; he completed 4 months and 19 days
- On 5 January 2021, he reenlisted in the Regular Army
- On 24 August 2021, the Secretary of Defense mandated that all service members receive the COVID-19 vaccine
- On 21 September 2021, the applicant refused to become fully vaccinated against COVID-19
- On 29 November 2021, he was reprimanded for disobeying a lawful order by refusing to become fully vaccinated against COVID-19 and received a GOMOR; he acknowledged receipt of the GOMOR
- On 16 December 2022, his commanding general directed that the GOMOR be filed in the applicant's AMHRR
- In an undated memorandum, he was notified that separation action was initiated against him for refusing to become fully vaccinated; he acknowledged receipt of the separation action on 28 March 2022
- On 28 March 2022, his brigade commander directed that he be separated from the Army prior to the expiration of his current term of service, with an under honorable conditions (general) discharge
- On 21 April 2022, he was issued separation Orders 111-1003, which show a separation date of 16 May 2022
- His DD Form 214 shows that on 16 May 2022, he was discharged with a general characterization of service due to misconduct (serious offense); he completed 1 year and 9 months of active federal service
- On 10 January 2023, the Secretary of Defense rescinded the COVID-19 vaccine mandate
- On 12 May 2023, the applicant reenlisted in the Army National Guard (ARNG), and was honorably discharged on 11 May 2024; he completed one year of service with the ARNG
- On 16 July 2024, he reenlisted in Regular Army, and is currently serving at the rank of specialist (SPC)/E-4

BOARD DISCUSSION:

1. 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. The applicant enlisted in the Regular Army on 5 January 2021, serving honorably before the implementation of the COVID-19 vaccine mandate on 24 August 2021. The applicant ultimately refused vaccination on 21 September 2021, leading to a General Officer Memorandum of Reprimand (GOMOR) on 29 November 2021. He was subsequently discharged with an under honorable conditions (General) discharge for misconduct on 16 May 2022 related to failure to comply with the mandate.
2. On 10 January 2023, the COVID-19 mandate was rescinded, leading to reassessment of prior separations related to vaccine refusal. With the applicant reenlisting in the Army National Guard on 11 May 2024 and subsequently returning to the Regular Army on 16 July 2024, the Board finds justification for approving relief, taking into consideration the applicant's service record, and evolving policy decisions.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>
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:XX	:XX	:XX	GRANT FULL RELIEF
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:	:	:	GRANT FORMAL HEARING
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:	:	:	DENY APPLICATION
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BOARD DETERMINATION/RECOMMENDATION:

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 and Army National Guard records of the individual concerned be corrected by:

- Removing the GOMOR, dated 29 November 2021, and all associated allied documents from the applicant's AMHRR

- All derogatory information related to the applicant's alleged disobedience of a lawful order—specifically in relation to the refusal to become fully vaccinated against COVID-19—be removed from the applicant's AMHRR
- Revoking U. S. Army Installation Management Command, Headquarters, United States Army Garrison, Fort Drum, New York, Orders 111-1003, 21 April 2022
- Voiding and removing from his AMHRR, his DD Form 214 for the period ending 16 May 2022
- Showing constructive service credit without a break in service for the period 17 May 2022 through 15 July 2024
- Restoring all entitlements to include but not limited to backpay, allowances, and benefits he is otherwise qualified for, for the period 17 May 2022 through 15 July 2024

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. 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, 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 the guidance.
 - 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 January 27, 2025, the President issued reference (a), concerning the Department of Defense's since-rescinded coronavirus disease 2019 (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:

(1) 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

(2) 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 April 23, 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:

(1) The Secretaries of Military Departments will, through their Boards for Correction of Military/Naval Records, continue to apply guidance, which was issued to facilitate the reinstatement or return of eligible individuals who wish to continue their military service.

(2) 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.

d. This guidance is not intended to interfere with or impede the BCM/NRs' statutory independence, nor does it limit the Boards from considering additional claims related to harms caused by the Department's previous COVID-19 vaccine mandate and providing appropriate remedies.

e. Discharge Upgrade Requests:

(1) Service members who were involuntarily separated solely for refusing to be vaccinated, did not receive the same treatment across the Department. While some Service members were assigned "honorable" discharge characterizations, others received "general (under honorable conditions)" characterization and as a result, lost access to important educational benefits under the Post-9/11 GI Bill and the Montgomery GI Bill, and potentially other veterans benefits.

(2) To correct this injustice and enhance uniformity across the Military services, the Review Boards should generally grant a discharge upgrade request from a former Service member when:

- The former Service member was involuntarily separated
- The separation was based solely on a refusal to receive the COVID-19 vaccine; and
- There are no aggravating factors in the Service member's record, such as misconduct

(3) Review Boards should normally grant requests to upgrade the characterization of service to "honorable," change the narrative reason for enlisted separation (i.e., to "Secretarial Authority"), and change the reentry code to an immediately-eligible-to-reenter code under these specific circumstances. Officer records should be changed to have similar effect.

(4) If an applicant's military records reflect multiple reasons for involuntary separation (i.e., when separation was not solely due to the fact that the former Service member refused to receive the COVID-19 vaccine), the Review Boards should apply existing policies that require the former Service member to establish evidence of an error, impropriety, inequity, or injustice in their discharge in order to warrant relief.

f. Removal of Adverse Actions and Information Solely Associated with COVID-19 Vaccine Mandate:

(1) The Department's COVID-19 vaccine mandate also caused harms that were not reflected on separation documents. For instance, some Service members received administrative letters of reprimand, negative or inconsistent evaluations, or withholding

of opportunities for Reserve Component personnel to perform inactive duty training for pay to achieve a “good year” for participation and retirement purposes.

(2) While previous guidance required the Secretaries of the Military Departments to update Service member personnel records to remove adverse actions solely associated with denials of requests for exemption from the COVID-19 vaccine mandate on religious, administrative, or medical grounds, this relief should not have been limited to Service members who formally filed an exemption request. The inadequacy of the consideration afforded to those who submitted accommodation requests undermined the faith of many Service members, and they should not be penalized for deciding not to request an exemption that had little or no likelihood of success.

(3) To ensure that present and former Service members are not penalized for pursuing religious and other exemptions to the COVID-19 vaccine mandate in good faith, the BCM/NRs will carefully consider applications by individuals who request correction of records containing adverse information or reflecting adverse action solely associated with a request for exemption from the COVID-19 vaccination mandate, or with appeals of denials of such requests. Additionally, any present or former Service member who attests that they would have filed a request for exemption from the COVID-19 vaccine mandate were it not for the Department’s very high rate of disapproval of such requests shall be evaluated as if they had requested, and been denied, such an exemption.

(4) If adverse information associated solely with a request for exemption from the COVID-19 vaccination mandate is found within an applicant’s official military personnel file, the BCM/NR should, as appropriate, exercise its broad discretion to assess the potential impact on the Service member’s career and correct impacted personnel records appropriately.

g. Other Harms or Injustices Suffered by Service Members Not Specifically Addressed in this Guidance:

(1) Present and former Service members may have suffered other harms from the COVID-19 vaccine mandate that are not specifically addressed in this guidance. Adverse action may include the overt withholding of favorable personnel actions, including such actions as removing individuals from approved lists to attend training or professional military education, to assume leadership positions, or to conduct a permanent change of station transfer on schedule.

(2) Many Service members may have been denied these opportunities while waiting for the adjudication of their administrative or medical exemption requests. Even more concerning, some have reported that they were pressured to voluntarily separate

from the military due to their COVID-19 vaccine status, even while awaiting adjudication of their exemptions.

(3) The BCMR/NRs should exercise broad discretion in providing appropriate corrections to the records of Service members and former Service members who suffered harms resulting from the Department's COVID-19 vaccine mandate.

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//