

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 August 2025

DOCKET NUMBER: AR20250006813

APPLICANT REQUESTS: through counsel reconsideration of his previous request specifically for:

- a. removal of the general officer memorandum of reprimand (GOMOR), dated 20 October 2021, with auxiliary documents from the performance folder of his Army Military Human Resource Record (AMHRR);
- b. reinstatement on the chief warrant officer four (CW4) promotion list and his selection to CW4 be backdated when he would have been promoted;
- c. award of backpay and allowances corresponding to the pay grade of CW4 as a result of being promoted; 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 letter (Brief in Support of Application for Correction of Records – Request for Reconsideration), 15 June 2025 with supporting evidence labeled and organized in enclosures –
- Enclosure 1 – Attorney memorandum for record (Chain of Command and Brigade Judge Advocate Disclosures on (Applicant's) involvement in an AR [Army Regulation] 15-6 investigation), 11 March 2022 with associated documents
- Enclosure 2 –
 - Attorney memorandum (Legal Analysis for (Applicant)) to Commander, 7th Infantry Division, Joint Base Lewis-McChord, WA, 15 November 2021
 - Applicant's rebuttal memorandum (GOMOR Response), 15 November 2021 with associated documents

- Enclosure 3 – 16th Combat Aviation Brigade memorandum (Appointment of Flying Evaluation Board (FEB)) for (Applicant)), 22 March 2022
- Enclosure 4 – DA Form 2823 (Sworn Statement), 3 February 2022
- Enclosure 5 – Declarative Statement, 12 January 2022
- Enclosure 6 – 14 – Character Statements
- Enclosure 15 – DA Form 2823, 17 February 2022
- Enclosure 16 – Declarative Statement, 21 April 2022
- Enclosure 17 – FEB Findings and Recommendations, 22 April 2022 with associated document
- Enclosure 18 –
 - Commander, 7th Infantry Division memorandum (Approval of FEB – (Applicant)), 6 October 2022 with associated document
 - Commander, 7th Infantry Division memorandum (Restoration of Aviation Service – (Applicant)), 6 October 2022
- Enclosure 19 – Investigating Officer (IO) memorandum (Finding and Recommendations Memorandum for AR 15-6 [Procedures for Administrative Investigations and Boards of Officers] Administrative Investigation into allegations of sexual harassment, cyber stalking, and improperly obtaining and disseminating protected health information (PHI) of (Applicant) by (Redacted), GS-7), 1 October 2022 with allied documents
- Enclosure 20 - 22 – Letters of Support (17)
- Enclosure 23 – Lieutenant Colonel (LTC) C_____ T_____ memorandum (Removal of GOMOR for (Applicant)), 7 October 2024 with associated document
- Enclosure 24 – Secretary of Defense memorandum (Providing Supplemental Remedies for Service Members and Veterans Negatively Impacted by Department of Defense (DOD) Defunct Coronavirus Disease 2019 Vaccination Mandate), 23 April 2025
- Enclosure 25 – Office of the Under Secretary of Defense memorandum (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, 7 May 2025

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20250003051 on 27 March 2024.
2. The applicant defers to counsel.

3. Counsel states the applicant requests reconsideration of the Board's previous decision concerning his GOMOR filed in the performance folder of his AMHRR. The request is made on the grounds of newly available evidence that was not before the Board at the time of its original decision. This evidence is the DOD's two memoranda addressing the illegal implementation of the COVID-19 vaccine mandate. These two memoranda were issued after the ABCMR's original ruling and directly challenge the legal basis for imposing a reprimand on (Applicant) for non-compliance with the vaccine policy.

a. Background.

(1) On 12 August 2021, he received a GOMOR for allegedly failing to correct a false COVID-19 vaccination record entry made by Specialist (SPC) G____ H____. It was placed in his permanent file. An FEB unanimously found the allegations to be unsubstantiated on 6 October 2022.

(2) His original request to the ABCMR on 16 October 2024, requested removal of the GOMOR citing procedural errors, lack of evidence, and the FEB's findings. The ABCMR denied relief. His opposition to the COVID-19 vaccine mandate was due to health concerns and its non-Food and Drug Administration (FDA) approval which led to alleged retaliation by his command. This included: excessive restrictions; threats to prevent him from attending his wife's high-risk childbirth; and reprisals following his congressional inquiries and Inspector General (IG) complaint. The Secretary of Defense later acknowledged the mandate's unlawful implementation, supporting his original concerns.

b. Basis for Reconsideration. This request presents new evidence justifying a review of his record, specifically the removal of a GOMOR related to COVID-19 refusal.

(1) On 23 April 2025, Secretary of Defense P____ H____ issued a memorandum calling the COVID-19 vaccine mandate "unfair, overbroad, and unnecessary." It supports the President's Executive Order that mandates reinstatement of discharged service members and correction of related records.

(2) On 7 May 2025, the Under Secretary of Defense J____ W. H____ III, issued supplemental guidance to military review boards. This guidance directed review boards to carefully consider requests urging the removal of vaccine-related reprimands and corrections for those harmed – even if they didn't formally request exemptions.

(3) These policies apply to (Applicant) as the GOMOR resulted from an investigation linked to his refusal to take a non-FDA approved vaccine.

c. Legal Basis for GOMOR Removal.

(1) Violation of AR 15-6, paragraph 3-9 in which the IO failed to formally designate him as a suspect. This denied him the procedural protections and the opportunity to submit exculpatory evidence.

(2) He was not informed of his rights under Article 31 of the Uniform Code of Military Justice, despite being a suspect, violating his due process rights.

(3) Non-compliance with AR 15-6, paragraph 5-4 wherein he was not given a chance to rebut the adverse findings before they were finalized.

(4) The investigation lacked a preponderance of credible evidence as it relied solely on statements from SPC G____ H____ and Ms. J____ S____, both of whom were shown to lack credibility. Key witnesses were not interviewed and critical evidence (e.g., Walgreen receipt, vaccine card, phone records) was excluded from the initial findings.

(5) He faced reprisal for filing congressional inquiries and an IG complaint, as confirmed by LTC C____ T____'s sworn statement. This included travel restrictions, mask mandates despite lifted base policies, and threats to prevent him from attending his wife's childbirth during a high-risk pregnancy.

(6) The FEB, finalized on 6 October 2022, unanimously found the GOMOR's allegations unsubstantiated, supported by additional evidence gathered by him as well as a subsequent AR 15-6 investigation substantiating Ms. S____ sexual harassment of the applicant.

(7) SPC H____'s lack of credibility was validated as she admitted in her statement that she acted alone in altering his record, and her credibility was further undermined by false claims of being a licensed nurse and multiple witness statements attesting to her lack of integrity.

d. Analysis of Legal Basis for Relief. His GOMOR is both improper and inequitable due to significant administrative due process violations and the arbitrary and capricious actions by his chain of command. This coupled with the new DOD policy memoranda provides a compelling justification for removing the GOMOR, backdated promotion to CW4, and restoration of his professional reputation.

e. Supporting Evidence. He provides overwhelming evidence of his innocence, by sworn statements, his documentary evidence, FEB findings, the subsequent investigation against Ms. S____ sexual harassment undermine her credibility, and his letters of support are more than sufficient for the Board to grant his requested relief.

4. 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.

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

6. The applicant became the subject of an AR 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 investigating 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.

7. On 9 September 2021, the IO completed the AR 15-6 investigation and determined the following:

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 August 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 recommends 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.

8. 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.

9. 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.

10. 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.

11. He acknowledged receipt of the GOMOR on 26 October 2021 and elected to submit rebuttal matters in his defense.

12. He submitted a response by memorandum on 15 November 2021 wherein he requested his GOMOR be eradicated or filed in his local file. He noted interacting with SPC H____ who said the vaccine was not safe and he should not take it. He noted his viewpoint was the same as well as the reason for its administration. He also had interaction with Ms. S____ on the subject. SPC H____ asserted he should not get the vaccine and that no one should be forced to get it. He says, "SPC H____ stated, "I got

you, Sir." Subsequently, he received the Pfizer COVID-19 vaccine at a Walgreens on 17 August 2021. He acknowledged the severity of the incident and the impact the decision would have on his career but asked it to be filed locally so he could rehabilitate.

13. 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.

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

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

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

17. 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 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 Officer Evaluation Report (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.

18. He appealed the 13 February 2024 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).

19. On 27 March 2024, the ABCMR denied his request for removal of a 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, the GOMOR, and reinstatement on the chief warrant officer four (CW4) promotion list. The Board found (excluding the OER):

a. GOMOR. 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.

b. Restoration on the CW4 Promotion List. 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.

20. The applicant, through counsel, provides the following organized and labeled enclosures in addition to those documents discussed above (see enclosures for further details):

a. Enclosure 1 contains a memorandum for record (Chain of Command and Brigade Judge Advocate Disclosures on (Applicant's) involvement in an AR 15-6 investigation),

11 March 2022 with associated documents from his previous attorney highlighting the fact that he was informed that (Applicant) was not under investigation.

b. Enclosure 4 contains DA Form 2823 (Sworn Statement), 3 February 2022 in which CW4 S____ B. B____ provided a sworn statement that he was in the clinic at the same time as (Applicant). He saw the interaction between him and SPC H____ and Ms. S____ but cannot recall their conversation. He did note although he did not recall the conversation, he would have noted any conversation that would be considered nefarious in nature.

c. Enclosure 5 contains a declarative witness statement, 12 January 2022 from a member at the (Applicant's) gym. He noted he overheard a phone conversation (the phone was on speaker) between (Applicant) and CW4 B____ regarding a female medic and a false vaccine annotation.

d. Enclosures 6 through 14 contains nine character statements and letters of support noting SPC H____'s unprofessional actions toward him and that she was untruthful and an unreliable person. Numerous statements noted Ms. S____'s unprofessional actions as well and her advances and infatuation towards him.

e. Enclosure 15 contains DA Form 2823, 17 February 2022 in which Private E____ Q____ states that the 7th Infantry Division 71D sent out an email to the S1 with an attachment that a SPC placed round one COVID vaccine into this record without his knowledge or consent. She further noted she did not keep the email.

f. Enclosure 16 contains a declarative statement, 21 April 2022 from one of his friends where he asked him to listen in on conversations he had with a SGT B____. One of the conversations he was privy to noted that SGT B____ had extra duty with SPC H____ on 11 October 2021. During the conversation SGT B____ admitted that he knew SPC H____ lied about (Applicant). SGT B____ said she lied to make it seem like (Applicant) had forced her to place a vaccine in his record. She wanted to avoid getting into trouble. SPC H____ stated multiple times throughout their conversation on 11 October that she hated the vaccine, and that no one should be forced to take it. SGT B____ also said that the medic "helped" people out before with other vaccines.

g. Enclosure 19 contains an IO memorandum (Finding and Recommendations Memorandum for AR 15-6 Administrative Investigation into allegations of sexual harassment, cyber stalking, and improperly obtaining and disseminating protected health information (PHI) of (Applicant) by (Redacted), GS-7), 1 October 2022 with allied documents, wherein the Commander, Madigan Army Medical Center, Joint Base Lewis-McChord, WA appointed an IO to investigate the complaint (Applicant) filed with the DOD IG in January 2022 and a subsequent reprisal complaint in March 2022 surrounding the allegations in the subject title. The IO found there was sufficient,

credible evidence that Ms. (Redacted) sexually harassed (Applicant) on or between August 2018 and the present. The IO did not find a sufficient or credible evidence that would support the allegations that (Redacted) cyber stalked, improperly obtained or disclosed PHI of (Applicant) as blackmail.

h. Enclosure 20 through 22 contains 17 letters of support, including one from a retired Lieutenant General and a Member of Congress, 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.

i. Enclosure 23 contains a LTC C____ T____ memorandum (Removal of GOMOR for (Applicant)), 7 October 2024 with associated document, noting he served as the 46th Aviation Support Battalion Executive Officer and initially the investigation was intended for SPC H____ but shifted to (Applicant) without his knowledge. He believes the command mistreated him and the investigation against him was flawed.

j. Enclosure 24 contains Secretary of Defense memorandum (Providing Supplemental Remedies for Service Members and Veterans Negatively Impacted by Department of Defense (DOD) Defunct Coronavirus Disease 2019 Vaccination Mandate), 23 April 2025, it states in part:

(1) On 6 February 2025, the Secretary of Defense directed the Department to make things right for the Service members who were subjected to the Department's unfair, overbroad, and unnecessary corona virus disease 2019 (COVID-19) vaccine mandate.

(2) He further directed the Under Secretary of Defense for Personnel and Readiness to provide 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. This guidance will facilitate, as appropriate, the removal of adverse actions based solely on refusal to take the COVID-19 vaccine (or requesting a medical or religious/administrative accommodation), discharge upgrades for individuals involuntarily separated solely for refusing to take the COVID-19 vaccine whose service was characterized as less than fully honorable, and appropriate remedies for Service members who suffered a wide variety of other career setbacks resulting from their principled refusal to take the COVID-19 vaccine.

k. Enclosure 25 contains the Office of the Under Secretary of Defense memorandum (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, 7 May 2025, it states in part:

(1) On 27 January 2025, the President issued Executive Order 14184, 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:

(a) 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

(b) 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.

(2) The supplemental guidance noted in part:

(a) The requirement that Service members receive a COVID-19 vaccine without an adequate due process mechanism for vaccine accommodations was an injustice.

(b) This document provides clarifying guidance to Discharge Review Boards (DRBs) and Board for Correction of Military / Naval Records (BCM/NRs) considering request from present or former Service members to correct records, when such present or former Service members:

(1) Were involuntarily separated based solely on their refusal to receive the COVID-19 vaccine, and who submit discharge upgrade requests pursuant to that separation;

(2) Submitted a request for administrative or medical accommodation for exemption from the COVID-19 vaccine mandate, and request correction of service records containing adverse information or reflecting adverse action (including withholding of favorable personnel actions solely associated with such requests; or

(3) Suffered additional harms or injustices not specifically addressed within this guidance, that were solely related to a Service member's refusal to receive the COVID-19 vaccine.

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

22. DA Order Number 0023799193, 30 July 2025 shows he will be placed on the permanent disability retired list effective 7 October 2025 in the grade of CW3.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that 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 and auxillary documents from the AMHRR: 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 the fact still remains 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 record. The Board considered counsel's argument and new position based on the Department of Defense memoranda addressing the implementation of the COVID-19 vaccine mandate. These two memoranda were issued after the ABCMR's original ruling and directly challenged the legal basis for imposing a reprimand on the applicant for non-compliance with the vaccine policy. The Board also considered the applicant's new position supported by sworn statements, his documentary evidence, FEB findings, the subsequent investigation against Ms. S____ sexual harassment which undermine her credibility, and his letters of support. The Board considered the previous Board's position that both the medic who falsified the records and a third party corroborated the applicant's conduct. Finally, the Board considered the FEB's conclusion that the conduct was not substantiated. The evidence of record did not show the underlying rationale for its conclusions; however, the Board noted that the FEB's findings are not binding on it.

Restoration on the CW4 Promotion List with applicable back pay and allowances: DENY. Based upon the applicant's actions in violation of Article 133, UCMJ as substantiated by the AR 15-6 investigation, the Board concluded his lapse in integrity is unbecoming of the trust and confidence required of a CW3 and 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.

2. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable


decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
XXX	XXX	XXX	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 amendment of the ABCMR decision rendered in Docket Number AR20250003051 on 27 March 2024.



//Signed//

CHAIRPERSON
Signed by: USA

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

REFERENCES:

1. Title 10, U.S. Code, Chapter 47, Section 831 (Article 31 – Compulsory self-incrimination prohibited) states:

a. No person subject to this chapter may compel any person to incriminate himself or to answer any question the answer to which may tend to incriminate him.

b. No person subject to this chapter may interrogate, or request any statement from, an accused or a person suspected of an offense without first informing him of the nature of the accusation and advising him that he does not have to make any statement regarding the offense of which he is accused or suspected and that any statement made by him may be used as evidence against him in a trial by court-martial.

c. No person subject to this chapter may compel any person to make a statement or produce evidence before any military tribunal if the statement or evidence is not material to the issue and may tend to degrade him.

d. No statement obtained from any person in violation of this article, or through the use of coercion, unlawful influence, or unlawful inducement may be received in evidence against him in a trial by court-martial.

2. 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.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. Secretary of Defense memorandum (Providing Supplemental Remedies for Service Members and Veterans Negatively Impacted by Department of Defense (DOD) Defunct Coronavirus Disease 2019 Vaccination Mandate), 23 April 2025, states, in part:

On February 6, 2025, I directed the Department to make things right for the Service members who were subjected to the Department's unfair, overbroad, and unnecessary corona virus disease 2019 (COVID-19) vaccine mandate. Since that time the Department has sent a formal apology to each former Service member involuntarily separated solely due to the COVID-19 vaccine mandate and invited them, along with anyone who voluntarily left the military due to that mandate, to apply to return to service. While those actions represent major progress, I believe that additional guidance is necessary to take care of the thousands of Service members who were unjustly impacted by the COVID-19 vaccine mandate.

I hereby direct the Under Secretary of Defense for Personnel and Readiness to provide 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. This guidance will facilitate, as appropriate, the removal of adverse actions based solely on refusal to take the COVID-19 vaccine (or requesting a medical or religious/administrative accommodation), discharge upgrades for individuals involuntarily separated solely for refusing to take the COVID-19 vaccine whose service was characterized as less than fully honorable, and appropriate remedies for Service members who suffered a wide variety of other career setbacks resulting from their principled refusal to take the COVID-19 vaccine.

10. Office of the Under Secretary of Defense memorandum (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, 7 May 2025, it states in part (see attachment for further details):

(1) On 27 January 2025, the President issued Executive Order 14184, 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:

(a) 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

(b) 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.

(2) The supplemental guidance noted in part:

(a) The requirement that Service members receive a COVID-19 vaccine without an adequate due process mechanism for vaccine accommodations was an injustice.

(b) This document provides clarifying guidance to Discharge Review Boards (DRBs) and Board for Correction of Military / Naval Records (BCM/NRs) considering request from present or former Service members to correct records, when such present or former Service members:

(1) Were involuntarily separated based solely on their refusal to receive the COVID-19 vaccine, and who submit discharge upgrade requests pursuant to that separation;

(2) Submitted a request for administrative or medical accommodation for exemption from the COVID-19 vaccine mandate, and request correction of service records containing adverse information or reflecting adverse action (including withholding of favorable personnel actions solely associated with such requests; or

(3) Suffered additional harms or injustices not specifically addressed within this guidance, that were solely related to a Service member's refusal to receive the COVID-19 vaccine.

//NOTHING FOLLOWS//