

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 September 2025

DOCKET NUMBER: AR20250007182

APPLICANT REQUESTS: in effect, correction of his service record to:

- Change his officer evaluation report (OER) for the period 4 June 2021 through 15 July 2022, to an extended annual OER, to account for an additional 8 months, and amend his senior rater rating from highly qualified to most qualified
- Upgrade his permanent change of station (PCS) award pursuant to Permanent Order Number 032-01, 3 February 2023, from an Army Commendation Medal to a Meritorious Service Medal
- Retroactive promotion with backpay to major (MAJ)/O-4, according to calendar year 2023 promotion selection board for MAJ, along with constructive credit for time in grade (TIG)
- Upon his promotion to MAJ, a choice of duty station, or a utilization tour location upon his completion of advanced civil schooling (ACS) training
- Constructive credit for his current assignment to count as a his key developmental (KD) position
- A letter of commendation endorsing his principled refusal to take the COVID-19 vaccine and his support of the constitution's 1st amendment for free exercise of religion, signed and placed in his AMHRR
- A personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored letter
- Six DA Forms 67-10-1 (Company Grade Plate (O1-O3; WO1 - CW2) Officer Evaluation Report)
- Request for Religious Accommodation for Exemption from the COVID-19 Immunization, 13 September 2021
- Email Correspondence (three pages)
- Request for Exception to Policy for Permanent Change of Station Travel of Unvaccinated Individual, 21 April 2022
- General Court-Martial Convening Authority (GCMCA) Recommendation for Exception to Policy (ETP) Request, 1 June 2022
- DA Form 638 (Recommendation for Award), 3 February 2023

- Six character references
- Evaluation Report Appeal, 29 November 2023
- Army Special Review Board (ASRB) Docket Number AR20240001661, 9 April 2024
- Free Exercise of Religion Being Denied for Military Chaplains & Soldiers, 6 June 2024
- Providing Supplemental Remedies for Service Members and Veterans Negatively Impacted by the Department of Defense Defunct Coronavirus Disease 2019 Vaccination Mandate, 23 April 2025
- 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
- Appeal for ASRB Correction of Records and Backdated Promotion, 12 June 2025

FACTS:

1. The applicant states, in effect, he is requesting correction of his service record due to Executive Order 14184. The adverse actions against him have caused emotional harm and strain on him and his family. He believes he was passed over for promotion due to the poorly written OERs, causing not only a financial loss, but a career setback as well. He has distinguished himself through excellent service, and yet he was not properly recognized for it. For the past 4 years, he has attempted to correct these injustices without any favorable outcome. In light of the recent changes to COVID-19 vaccination policy, and Executive Order 14184, his request for changes to his service record must be corrected.

2. In regard to the applicant's request for a letter of commendation, the Army Board for Correction of Military Records (ABCMR), although considers individual applications that are properly brought before it, it does not issue letters of commendation. In appropriate cases, it directs or recommends correction of military records to remove an error or injustice. The request will not be discussed during these proceedings.

3. The applicant provides and the service record shows:

- On 25 March 2003, he was appointed as Reserve commissioned officer, at the rank of second lieutenant (2LT)/O-1
- On 13 May 2013, he was ordered to active duty for an indefinite period of time
- On 24 August 2021, the Secretary of Defense mandated that all service members receive the COVID-19 vaccine
- On 13 September 2021, the applicant requested a religious accommodation for exemption from the COVID-19 vaccine

- As of 18 November 2021, the applicant's Officer Record Brief (ORB) reflects an Assignment Consideration Code (ASCO) of L4 (Pending COVID-19 Vaccination Action)
- On 8 March 2022, the applicant requested a religious accommodation for exemption from the COVID-19 vaccine for permanent change of station travel
- On 21 April 2022, his brigade commander recommended disapproval of his request for religious accommodation for exemption from the COVID-19 vaccine for permanent change of station travel
- On 1 June 2022, his commanding general also recommended disapproval of his request for religious accommodation for exemption from the COVID-19 vaccine for permanent change of station travel
- On 15 July 2022, his DA Form 67-10-1, shows he was recommended for promotion to MAJ, and received a highly qualified rating from his senior rater; this document does not reflect any derogatory information; nor does it reference his COVID-19 vaccine refusal
- On 10 November 2022, his commanding officer recommend the applicant for the award of the Meritorious Service Medal, for his exceptional service
- On 10 January 2023, the Secretary of Defense rescinded the COVID-19 vaccine mandate
- On 12 January 2023, he was issued permanent change of station Orders 012-03, which show his next assignment location as Fort Sam Houston, Texas, with a report date of no later than 15 March 2023
- On 3 February 2023, the award of the Meritorious Service Medal was downgraded, and the applicant was awarded the Army Commendation Medal for his exceptional service
- On 18 February 2023, DA Form 67-10-1, shows he was recommended for promotion to MAJ, and received a highly qualified rating from his senior rater; this document does not reflect any derogatory information, nor does it reference his COVID-19 vaccine refusal
- On 9 April 2024, in Army Special Review Board (ASRB) Docket Number AR20240001661, he requested deletion or amendment of the contested OERs as they do not reflect his performance during the period of service, are biased, unfair, and inaccurate; this document is in the restricted portion of his AMHRR
- The Board denied relief, as there was no indication of error or injustice nor the result of bias to warrant the removal of the contested OERs; a memorandum issued by ASRB denying the appeal of his evaluations was placed in his performance folder of his AMHRR without referring to COVID-19 vaccine refusal
- On 12 June 2025, the applicant appealed the ASRB's decision due to the recent changes to COVID-19 vaccination policy, and Executive Order 14184
- The applicant was not separated as a result of his refusal of the COVID-19 vaccine, and is currently serving at the rank of captain (CPT)/O-3

- He provides six character references that positively highlight his honorable service, his dedication to his chaplain duties, and his character

2. In an email from the Chief, Exemplary Conduct Screening Team, Officer Promotions, Directorate of Military Personnel Management (DMPM), shows the applicant's 15 July 2022 and 18 February 2023 evaluations were not uploaded into the Integrated Personnel and Pay System-Army (iPERMS) until April 2024 due to his appeal.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial 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.

a. Change his OER for the period 4 June 2021 through 15 July 2022, to an extended annual OER, to account for an additional 8 months, and amend his senior rater rating from highly qualified to most qualified; Upon review of the applicant's petition and available military records, the Board reviewed and concurred with the decision rendered by the ASRB in Docket Number AR20240001661 that the reports were not untrue, unjust, or contained a material error. Furthermore, he did not demonstrate by a preponderance of the evidence that an injustice occurred with his OER. Therefore, the Board denied relief.

b. Upgrade his PCS award pursuant to Permanent Order Number 032-01, 3 February 2023, from an Army Commendation Medal to a Meritorious Service Medal; Upon review of the applicant's petition and available military records, a majority of the Board dissented for upgrading the applicant's Army Commendation Medal, while a minority of the Board was convinced specifically by the original DA Form 638 submitted attesting to the applicant's contributions and achievements. Therefore, the Board determined relief was not warranted.

c. Retroactive promotion with backpay to MAJ/O-4, according to calendar year 2023 promotion selection board for MAJ, along with constructive credit for TIG, upon his promotion to MAJ, a choice of duty station, or a utilization tour location upon his completion of advanced civil schooling training; Upon review of the applicant's petition and available military records, the Board determined he should be considered by a Special Selection Board for promotion to MAJ under the criteria for any years in which he was in or above the primary zone of consideration based on his date of rank for CPT. Therefore, the Board granted partial relief as it relates to the promotion consideration to MAJ. The Board denied relief for any additional requests beyond the SSB for MAJ because the requests are not records corrections.

d. Constructive credit for his current assignment to count as his key developmental position; Upon review of the applicant's petition, available military records, the Board determined there is insufficient evidence to support awarding constructive credit for his current assignment as key developmental. Therefore, the Board denied relief.

e. A letter of commendation endorsing his principled refusal to take the COVID-19 vaccine and his support of the constitution's 1st amendment for free exercise of religion,

signed and placed in his AMHRR; The applicant's request was considered. The Board determined this request is not a function of the Board and is not a record correction. Therefore, the Board denied relief.

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
XXX	XXX	XX	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

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

- referring his records to a SSB to be considered for promotion to MAJ/O-4 under the criteria for any years in which he was in or above the primary zone of consideration based on his date of rank for CPT/O-3
- if selected for promotion by an SSB, retroactively promoting him to MAJ/O-4 and paying him any additional pay and allowances he would then be due as a result of the promotion and correction

2. The Board further determined that the evidence presented is insufficient to warrant a portion of the requested relief:

- Change his officer evaluation report (OER) for the period 4 June 2021 through 15 July 2022, to an extended annual OER, to account for an additional 8 months, and amend his senior rater rating from highly qualified to most qualified
- Upgrade his permanent change of station (PCS) award pursuant to Permanent Order Number 032-01, 3 February 2023, from an Army Commendation Medal to a Meritorious Service Medal
- Upon his promotion to MAJ, a choice of duty station, or a utilization tour location upon his completion of advanced civil schooling (ACS) training
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As a result, the Board recommends denial of so much of the application beyond the SSB.

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 (ABCMR), currently in effect, prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. 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 the evidence. The ABCMR may, in its discretion, hold a hearing (sometimes referred to as an evidentiary hearing or an administrative hearing) or request additional evidence or opinions. Applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.
2. 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.
3. On 24 August 2021, the Secretary of Defense mandated that all service members receive the COVID-19 vaccine.
4. 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".
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. 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.

6. 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.

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

a. Army evaluation reports are independent assessments of how well the rated Soldier met duty requirements and adhered to the professional standards of the Army's Officer Corps within the period covered by the report. Performance will be evaluated by observing actions, demonstrated behavior, and results from the point of view of the Army Leadership Requirements Model, and responsibilities identified on evaluation reports and counseling support forms.

b. There are two types of "Extended Annual" reports; one is mandatory to cover nonrated periods since the previous evaluation when one calendar year has elapsed, the other is optional and used only in exceptional situations.

- A mandatory code 10, "Extended Annual" report, will be prepared when any nonrated time periods have occurred since the "Thru" date of the previous officer evaluation report (OER) (for example, prior to the establishment of a new rating relationship between the rated Soldier and the rater)
- An optional "Extended Annual" report may be prepared under unique circumstances

c. For DA Form 67-10-1 part VI, block a, the senior rater will assess the rated officer's potential compared to all officers of the same rank. This assessment should be based on officers the senior rater has previously senior rated and those in their current senior rater population.

(1) In order to maintain a credible profile, the senior rater must have less than 50 percent of the ratings of a rank in the “Most Qualified” top box. Fifty percent or more in the “Most Qualified” ratings will be processed with a “Highly Qualified” HQDA electronically generated label; however, it will be charged against the senior rater’s profile as a “Most Qualified” OER if it is unresolved, and a documented senior rater profile misfire will occur. To ensure maximum rating flexibility when rating populations change, or to preclude an “Most Qualified” box check from profiling as a “Highly Qualified” rating, senior raters need to maintain a “cushion” in the number of “Most Qualified” ratings given. Senior raters may consider limiting the use of the “Most Qualified” rating box check to roughly one-third of all ratings for officers of a given rank, but this is not a requirement.

(2) If the potential assessment is consistent with the majority of officers in that rank, the senior rater will place an “X” in the “Highly Qualified” box. If the rated officer’s potential exceeds that of the majority of officers in the senior rater’s population, the senior rater will place an “X” in the “Most Qualified” box. The intent is for the senior rater to use this box to identify the upper third of officers for each rank.

(3) If the rated officer’s potential is adequate, but beneath the majority of officers in the senior rater’s population for that rank, and the senior rater believes the rated officer should be retained for further development, the senior rater will place an “X” in the “Qualified” box.

d. Appeals based on substantive inaccuracy. A decision to appeal an evaluation report must not be made lightly. Before deciding whether or not to appeal, the prospective appellant should analyze the case dispassionately. The prospective appellant will note that:

(1) Pleas for relief citing past or subsequent performance or assumed future value to the Army are rarely successful.

(2) Limited support is provided by statements from people who observed the appellant’s performance before or after the period in question (unless performing the same duty in the same unit under similar circumstances), letters of commendation or appreciation for specific but unrelated instances of outstanding performance, or citations for awards, inclusive of the same period.

e. Modifications to previously submitted evaluation reports. Requests for modifications to both completed evaluation reports that are filed in a Soldier’s AMHRR and evaluation reports that are being processed at HQDA prior to completion. An evaluation report accepted by HQDA and included in the official record of a rated Soldier is presumed to:

- Be administratively correct
- Have been prepared by the properly designated rating officials who meet the minimum time and grade qualifications
- Represent the considered opinions and objective judgment of the rating officials at the time of preparation

f. Requests that a completed evaluation report filed in a Soldier's AMHRR be altered, withdrawn, or replaced with another evaluation report will not be honored if the request is based on the following:

- (1) Statements from rating officials that they underestimated the rated Soldier.
- (2) Statements from rating officials that they did not intend to assess the rated Soldier as they did.
- (3) Requests that ratings be revised.
- (4) Statements from rating officials claiming administrative oversight or typographical error in checking blocks for professional competence, performance, or potential. Therefore, it is imperative that rating officials ensure evaluation reports are accurately recorded prior to signing.

8. Army Regulation 600-8-29 (Officer Promotions), in effect at the time, prescribes policies, operating rules, and steps governing promotion of Army commissioned and warrant officers on the active-duty list and the officer promotion function of military human resources support operations. It provides for career progression based upon recognition of an officer's potential to serve in positions of increased responsibility. Additionally, it precludes promoting officers who are not eligible or become disqualified, thus providing an equitable system for all officers.

a. Paragraph 2-7 (Promotion Eligibility) states to be considered for promotion by a selection board, an officer must be on the active-duty list (ADL) on the day the board convenes. Captains, majors, and lieutenant colonels must serve at least 3 years of time in grade to be considered for promotion. If selected, officers may be promoted without regard to any additional TIG requirements. This requirement may be waived by the Secretary of the Army, for consideration from below the zone. Officers currently on active duty based on a recall from retired status.

b. Chapter 7 (Special Selection Boards), states a special selection board may be convened to consider, or reconsider commissioned officers for promotion when Headquarters, Department of the Army, determines that one or more of the following circumstances exists:

(1) Administrative error. An officer was not considered from in or above the promotion zone by a regularly scheduled board because of an administrative error.

(2) Material Unfairness. The action of the promotion board that considered the officer from in or above the promotion zone was contrary to law in a material to the division of the board or involved material error or fact or material administrative error; or the board that considered the officer from in or above the promotion zone did not have before it for its consideration material information.

c. Chapter 6-5 (Convening special selection boards) Special selection boards (SSB) will normally be convened within 120 days after a case is approved for consideration. Authority to approve cases for referral to an SSB is delegated to the CG, HRC, or his or her designee, or the Army Review Boards Agency (ARBA). The same SSB may not consider an officer for the same grade under two successive boards' criteria.

//NOTHING FOLLOWS//