

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 4 September 2025

DOCKET NUMBER: AR20250008388

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 and remove Installation Management Command, Directorate Of Personnel & Family Readiness, Joint Base Lewis-Mcchord, Washington, Orders 203-0005, 22 July 2022, from his Army Military Human Resource Record (AMHRR)
- Void and remove, his DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 1 September 2022, from his AMHRR
- Reinstatement in the Army
- Show constructive service credit without a break in service
- Restore all entitlements to include but not limited to backpay, allowances, and benefits he is otherwise qualified for
- Remove any and all derogatory and disciplinary documents related to him refusing to become fully vaccinated against COVID-19, from his AMHRR
- Remove his officer evaluation report (OER) for the period 2 June 2021 through 5 May 2022, from his AMHRR
- Retroactive promotion with backpay to captain (CPT)/O-3, with a date of rank (DOR) of 1 May 2023, along with constructive credit for time in grade (TIG), accordingly

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored letter
- Three DA Forms 4856 (Developmental Counseling Form)
- DA Form 268 (Report to Suspend Favorable Personnel Actions (Flag)), 4 November 2021
- Commander Recommendation on Initiation of Reprimand, 17 November 2021
- Signature Delegation Authority, 7 January 2022
- Order to Receive First COVID Shot, 20 January 2022
- General Officer Memorandum of Reprimand (GOMOR), 25 January 2022

- Acknowledgement of Receipt of Reprimand
- Three Commander Recommendations on Filing Determination
- Filing Determination on Reprimand
- Acknowledgement of Filing Determination of Reprimand
- Officer Record Brief (ORB), 23 February 2022
- Orders 203-0005, 22 July 2022
- DD Form 214, 1 September 2022
- COVID-19 Reinstatement Certification, 5 August 2025

### FACTS:

1. The applicant states, in effect, he is requesting correction of his service record due to Executive Order 14184.

a. Due to his refusal to adhere to this unlawful directive, he encountered severe punitive repercussions, which included being flagged to obstruct his promotion to CPT, receiving disparaging and unfounded evaluations, and suffering considerable harm to his reputation. He was wrongfully denied the chance to seek a religious accommodation exemption and was instead subjected to persecution, humiliation, and separation from the Army. Reinstatement and the expungement of all negative records will help restore trust and morale for those who upheld their principles.

b. These actions inflicted moral injury and significant distress on him and his family, resulting in unemployment and marital dissolution. Such derogatory actions have adversely affected his future job opportunities and diminished his faith and trust in the military. It is crucial to rectify these injustices to confront the intentional assaults on his character and to amend the unlawful actions taken against him.

2. The applicant provides and the service record shows:

- On 19 May 2019, he was appointed as a commissioned officer in the Regular Army
- On 25 November 2020, pursuant to promotion Orders 328-174, he was promoted to the rank first lieutenant (1LT)/O-2
- On 24 August 2021, the Secretary of Defense mandated that all service members receive the COVID-19 vaccine
- On 8 September 2021, the applicant refused to become fully vaccinated against COVID-19
- On 25 January 2022, 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

- Also on 25 January 2022, his commanding general directed that the GOMOR be filed in the applicant's AMHRR; he acknowledged receipt of the filing determination of the GOMOR
- On 5 May 2022, his DA Form 67-10-1 (Company Grade Plate (O1-O3; WO1 - CW2) Officer Evaluation Report), shows his rater noted that he refused to follow the lawful order to receive the COVID-19 vaccine; his senior rater noted that he ranked in the bottom half of 31 lieutenants he senior rates
- On 22 July 2022, he was issued separation Orders 203-0005, which show a separation date of 1 September 2022
- His DD Form 214 shows that on 1 September 2022, he was honorably discharged due to miscellaneous/general reasons; he completed 3 years, 3 months, and 13 days of active federal service
- As of 28 November 2022, the applicant's ORB reflects an Assignment Consideration Code (ASCO) of L4 (Pending COVID-19 Vaccination Action)
- On 10 January 2023, the Secretary of Defense rescinded the COVID-19 vaccine mandate
- On 5 August 2025, he was issued a reinstatement certification, which shows he is physically and medically eligible to reenlist in the U.S. Army

3. The applicant does not provide, and the service record does not show an administrative separation packet.

#### BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the available documents showing the applicant's previous military service ended solely based upon failing to take the COVID-19 vaccine and the change in policy related to that issue, the Board concluded there was an injustice warranting changing the applicant's military.

BOARD VOTE:

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

BOARD DETERMINATION/RECOMMENDATION:

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

- Removing any and all derogatory and disciplinary documents related to him refusing to become fully vaccinated against COVID-19, from his AMHRR
- Remove the GOMOR in his record, dated 25 January 2022
- Remove his officer evaluation report (OER) for the period 2 June 2021 through 5 May 2022, from his AMHRR

2. Relief Contingent on Reinstatement Agreement. Should the applicant agree to reinstatement terms and conditions for revocation of discharge and return to active duty, the Board further recommends the following corrective actions:

- Revoke and remove Installation Management Command, Directorate Of Personnel & Family Readiness, Joint Base Lewis-Mcchord, Washington, Orders 203-0005, 22 July 2022, from his Army Military Human Resource Record (AMHRR)
- Void and remove, his DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 1 September 2022, from his AMHRR
- Reinstatement in the Army
- Show constructive service credit without a break in service
- Restore all entitlements to include but not limited to backpay, allowances, and benefits he is otherwise qualified for
- Retroactive promotion with backpay to captain (CPT)/O-3, with a date of rank (DOR) of 1 May 2023, along with constructive credit for time in grade (TIG), accordingly

3. Alternative Relief if Reinstatement Not Accepted. In the alternative, should the applicant not agree to reinstatement in the Regular Army, the Board recommends the following corrective actions:

- the applicant's DD Form 214 for the period ending 19 August 2022 be corrected as follows:
  - Item 12b (Separation Date This Period): 2025 10 25
  - Item 12c (Net Active Service This Period): 06 06 06
  - Item 24 (Character of Service): Honorable
  - Item 26 (Separation Code): MBK
  - Item 27 (Reentry Code): 1
  - Item 28 (Narrative Reason for Separation): Completion of Required Service
- show service in the Regular Army from 2 September 2022 to 25 October 2025
- pay, allowances, benefits, and entitlements due the applicant for the period
- 2 September 2022 to 25 October 2025 based on the aforementioned correction

4. Another possible outcome was that the Board minority voted to grant partial relief in regards to the applicant request for a backdated promotion to CPT/O3. The Board minority found that after a review of his service records and available documents, no orders were found to show he was promoted to the rank of CPT/O3 and therefore, denied relief for his promotion request.

[REDACTED]

[REDACTED]

[REDACTED]

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.

13. 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. 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.

14. Department of Defense Instruction 1310.01 (Rank and Seniority of Commissioned Officers) states the Secretary of the Military Department concerned may adjust the DOR of an officer, except a general or flag officer, appointed to a higher grade under Title 10, USC, sections 624(a) or 14308(a) if the appointment of that officer to the higher grade is delayed by unusual circumstances. The Secretary of the Military Department concerned must determine that the unusual circumstance caused an unintended delay in processing or approval of the selection board report or promotion list in order for an officer's DOR to be adjusted.

15. Wright Memorandum, dated 8 January 2015, states. The Under Secretary of Defense issued guidance on Limitations on the Authority of Military Department Correction Boards. This guidance affirms that Military Department Correction Boards do not have the authority to appoint military officers.

a. The President may appoint Regular officers above the grade of O-3 and Reserve officers above the grade of O-5 following Senate confirmation. Only the Secretary of Defense may appoint all officers in the grade of O3 and below because Congress, has vested such appointment authority in the President alone, and the President has assigned that function to the Secretary of Defense.

b. This decision affirms that Military Department Correction Boards do not have the authority to remedy perceived errors or injustices by correcting records to show that an officer has been appointed to a certain grade when the officer has not been appointed to that grade by the President or the Secretary of Defense. Boards may only make such a correction to reflect that a proper appointment has occurred. They may also adjust the date of rank (DOR) of an officer who has been properly appointed.

16. 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. Second and first lieutenant. An officer must have at least 18 months of TIG to be promoted from 2LT to 1LT and 2 years of TIG to be promoted from 1LT to CPT unless the SECARMY prescribes a longer period of service in grade based on the needs of the Army.

b. Date of rank and effective date of promotion after a delay. When a delay in promotion is ended, the promotion approval authority will determine if the officer was, in fact, unqualified (as opposed to ineligible, as described in this regulation) for promotion during all or part of the delay and will adjust the date of rank (DOR) and effective date of promotion accordingly.

//NOTHING FOLLOWS//