



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

[REDACTED]
Docket No. 8455-25
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
XXX XX [REDACTED] USMC

Ref: (a) 10 U.S.C. § 1552
(b) Executive Order 14184 of 27 January 2025
(c) SECDEF Memo, subj: Providing Remedies for Service Members and Veterans Negatively Impacted by the Department's Defunct Coronavirus Disease 2019 Vaccination Mandate Based Executive Order, 6 February 2025
(d) USD (P&R) Memo, subj: Updated Guidance on Correction of Military Records for Service Members Involuntarily Separated for Refusal to Comply with Coronavirus Disease 2019 Vaccination Requirements, 1 April 2025
(e) SECDEF Memo, subj: Providing Supplemental Remedies for Service Members and Veteran Negatively Impacted by the Department's Defunct Coronavirus Disease 2019 Vaccination Mandate, 23 April 2025
(f) USD (P&R) Memo, subj: 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

Encl: (1) DD Form 149 w/enclosures
(2) [REDACTED] Docket No. 3759-25 Letter, subj: Review of Naval Record ICO [Petitioner], 3 June 2025

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records, hereinafter referred to as the Board, requesting remedial consideration for selection to gunnery sergeant (GySgt) for Fiscal Year (FY) 2022 through FY 2025.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED], reviewed Petitioner's allegations of error and injustice on 12 August 2025 and, pursuant to its regulations, determined the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's naval records, and applicable statutes, regulations, and policies.

3. Having reviewed all of the evidence of record pertaining to Petitioner's allegations of error or injustice, the Board found as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy (DON).

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b. On 27 January 2025, the President of the United States issued reference (b), Executive Order (EO) 14184 stating:

[t]he 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.

The EO further directed the Secretary of Defense (SECDEF) to take appropriate and necessary action to make reinstatement available to all members of the military (active and reserve) who were discharged solely for refusal to be vaccinated and who request to be reinstated and allow for reversion to their former rank and receipt of full back pay, benefits, bonus payments, or compensation. Additionally, the EO directed the SECDEF to allow any service members “who provide a written and sworn attestation that they voluntarily left the service or allowed their service to lapse according to appropriate procedures, rather than be vaccinated under the vaccine mandate to return to service with no impact on their service status, rank, or pay.”

c. On 6 February 2025, the SECDEF, in reference (c), directed the Department “to make things right for the Service members who were subjected to the Department’s unfair, overbroad, and unnecessary coronavirus disease 2019 (COVID-19) vaccine mandate.” Further, the SECDEF directed Under Secretary of Defense (Personnel and Readiness) (USD (P&R)) to provide detailed guidance to the Military Departments for “rapidly reinstat[ing] individuals who were involuntarily discharged or voluntarily left to avoid vaccination.”

d. On 1 April 2025, USD (P&R), through reference (d), provided updated guidance and procedures for implementing references (b) and (c), to include a requirement for the Secretaries of the Military Departments to “contact Service members” who had been involuntarily separated and “make available to them reinstatement via the Boards for Correction of Military/Naval Records (BCM/NRs) process.” For those cases “where members voluntarily left the service or allowed their service to lapse,” the Secretaries were directed to “continue to broadly communicate (e.g., via social media, external website, newsletters) information to inform these members about the process to return to service.” Should these members elect to return, presenting a “written statement attesting that they chose to leave the service or allowed their service to lapse, rather than be vaccinated under the vaccine mandate,” the Secretaries were directed to “provide an accelerated process for the member to return to service.”

e. On 23 April 2025, the SECDEF, in reference (e), directed the USD (P&R) 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.” The SECDEF specified that the guidance would facilitate removal of adverse actions based solely on refusal to take the COVID-19 vaccine, discharge upgrades for individuals involuntarily separated solely for refusing to take the 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.”

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f. On 7 May 2025, the USD (P&R), in reference (f), provided the below supplemental guidance for the Review Boards when considering requests from present or former Service members who were (1) Involuntarily separated based solely on their refusal to receive the COVID19 vaccine, and who submit discharge upgrade requests (as defined in paragraph 5) pursuant to that separation; (2) Submitted a request for administrative or medical accommodation for exemption from the COVID-19 vaccine mandate, and requested 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.

(1) Review Boards should generally grant a discharge upgrade request from a former Service member when:

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

(2) 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.

(3) 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.

Additionally, the USD (P&R) direct the Review Boards to exercise their "broad discretion to assess the potential impact on the Service member's career and correct impacted personnel records appropriately for those instances where "adverse information associated solely with a request for exemption from the COVID-19 vaccination mandate is found within an applicant's OMPF." The USD (P&R) further noted that "present and former Service members may have suffered other harms from the COVID-19 vaccine mandate that are not specifically addressed in this guidance" such as "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." Further, many Service members "may have been denied these opportunities while waiting for the adjudication of their administrative or medical exemption requests." The USD (P&R) further stated that "[e]ven more concerning, some have reported that they were pressured

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to voluntarily separate from the military due to their COVID-19 vaccine status, even while awaiting adjudication of their exemptions.” In these situations, the USD (P&R) directed the Review Boards to “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.”

g. On 21 May 2025, the Board determined Petitioner’s 6 May 2022 involuntary administrative separation due to refusal of the COVID-19 vaccine was unjust and, based on his subsequent reenlistment on 1 August 2024, granted Petitioner’s requested corrections in accordance with references (b) and (d). The Board’s decision directed the following relief:

(1) Rescission of Petitioner’s discharge from the U.S. Marine Corps effective 6 May 2022;

(2) Correction of Petitioner’s Pay Entry Base Date/Armed Forces Active Duty Base Date to reflect 19 July 2010; and

(3) Correction of Petitioner’s Staff Sergeant/E-6 date of rank from 1 August 2024 to 1 December 2017.

See enclosure (2).

h. Petitioner contends that between his involuntary separation date and voluntarily reenlistment, he missed the four promotion boards convened in FY 2022, FY 2023, FY 2024, and FY 2025. He further contends he would have been eligible for each board according to MARADMINs 080/22, 116/23, 590/23, and 594/24. Petitioner contends his request for remedial consideration for promotion to GySgt is warranted based on reference (b). See enclosure (1).

CONCLUSION:

Upon careful review and consideration of all of the evidence of record, the Board determined equitable relief is warranted in the interests of justice.

EO 14184 declared the COVID-19 vaccine mandate “an unfair, overbroad, and completely unnecessary burden on our Service members” which resulted in the military unjustly discharging those who refused the vaccine. In his memo of 6 February 2025, the SECDEF directed the Department “to make things right” for those Service members by “rapidly reinstat[ing] individuals who were involuntarily discharged or voluntarily left to avoid vaccination.” In response, the USD (P&R) issued guidance on 1 April 2023 that required the Services to contact Service members who had been involuntarily separated to make them aware of the reinstatement process and to broadly communicate reinstatement information to those who had voluntarily left the service or allowed their service to lapse. In his 23 April 2025 memo, the SECDEF directed the USD (P&R) to provide additional guidance to the Review Boards concerning requests from Service members and former Service members “adversely impacted by the COVID-19 vaccine mandate” to include guidance to “facilitate removal of adverse actions,” discharge upgrades, and “appropriate remedies for Service members who suffered a wide variety of other career setbacks

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resulting from their principled refusal to take the COVID-19 vaccine.” The USD (P&R)’s supplemental guidance of 7 May 2025 provided guidance to Review Boards regarding discharge upgrade requests and directed the Boards to exercise their “broad discretion to assess the potential impact on the Service member’s career” and “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.”

Relying on the guidance flowing from EO 14184 and the relief directed by the previous Board, the Board determined the interests of justice warranted remedial consideration for promotion to GySgt for those promotion selection boards Petitioner would have been eligible for had he remained on active duty.

RECOMMENDATION:

In view of the above, the Board recommends the following corrective action be taken on Petitioner’s naval record upon completion of the corrections directed in enclosure (2).

HQMC convene an Enlisted Remedial Selection Board to consider Petitioner for selection by the GySgt selection boards convened in FY 2022 through FY 2025 that he would have been eligible for based on the Board’s rescission of his involuntary separation and correction of his record to reflect no break in service.

That Petitioner’s naval record be scrubbed for any other material or entries referencing his refusal to abide by the former COVID-19 vaccination mandate, and that any such materials or entries be removed. This includes, but is not limited to, all information systems or database entries that may reference or indicate Petitioner’s refusal to abide by the vaccination mandate.

4. It is certified that a quorum was present at the Board’s review and deliberations, and that the foregoing is a true and complete record of the Board’s proceedings in the above entitled matter.

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulation, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

8/25/2025

