



DEPARTMENT OF THE ARMY  
ARMY REVIEW BOARDS AGENCY  
251 18TH STREET SOUTH, SUITE 385  
ARLINGTON, VIRGINIA 22202-3531

September 17, 2025

Case Management Division  
AR20250005864, Bashaw, Mark Charles

Mark Charles Bashaw  
[REDACTED]

Dear Mr. Bashaw:

This is in response to the recent Army Board for Correction of Military Record (ABCMR) decision rendered in your favor to correct your records to show your **contingent** reinstatement into the Regular Army in accordance with Executive Order 14184.

A copy of the Board's decision was forwarded to the Defense Finance and Accounting Service Indianapolis (DFAS-IN) for final action. You do not need to take any action at this time. DFAS will contact you to obtain the additional information they require.

As each case greatly varies in complexity an estimated date DFAS will fully adjudicate your case can not be provided. You may check on the status of your claim by calling DFAS-IN, Customer Care Center at 1-866-912-6488, (select Correction of Records), or the DFAS website: [www.dfas.mil/debtandclaims/submitclaim.html](http://www.dfas.mil/debtandclaims/submitclaim.html) or <https://www.dfas.mil/MilitaryMembers/Covid-19-Military-Reinstatement/>.

If your mailing address or other contact information changes, please inform DFAS-IN immediately to ensure they are able to contact you.

Sincerely,

[REDACTED]

Kenneth L. Boehme  
Director, Case Management Division

Enclosure



**DEPARTMENT OF THE ARMY**  
**ARMY BOARD FOR CORRECTION OF MILITARY RECORDS**  
251 18TH STREET SOUTH, SUITE 385  
ARLINGTON, VIRGINIA 22202-3531

September 17, 2025

AR20250005864, Bashaw, Mark Charles

Mark Charles Bashaw



Dear Mr. Bashaw:


The Army Board for Correction of Military Records rendered a decision on your application to correct your military records. Full relief to your request was granted. Enclosed is a copy of the Record of Proceedings of the Board for your information.

The approved Record of Proceedings has been forwarded to the Army Review Boards Agency Case Management Division. They will take action to correct your records and will provide you with official notification as soon as the directed correction has been made. However, due to the large number of cases in process, please be advised that it may be several months before corrections are completed.

A copy of this decision was forwarded to the Defense Finance and Accounting Service (DFAS). DFAS pays by Electronic Transfer, veterans separated from the service must submit a SF 1199a (Direct Deposit Form) or a check with the word VOID written across the face, including the ABCMR case number, full social security number, current mailing address, and phone number. You may submit the aforementioned documents through AskDFAS at <https://www.dfas.mil/MilitaryMembers/Covid-19-Military-Reinstatement/> or direct questions to their customer service at 1-866-912-6488.

Sincerely,

Enclosure

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Joseph P. Lister  
Director  
Signed by: LISTER.JOSEPH.PATRICK.1164786028

## ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

### RECORD OF PROCEEDINGS

IN THE CASE OF: Bashaw, Mark Charles

BOARD DATE: 9 September 2025

DOCKET NUMBER: AR20250005864

APPLICANT REQUESTS: correction of his service record due to Executive Order 14184 (Reinstating Service Members Discharged Under the Military's COVID-19 Vaccination Mandate) to, in effect:

- Revoke U.S. Army Garrison, Aberdeen Proving Ground, Aberdeen Proving Ground, Maryland, Orders 160-0001, 9 June 2023
- Void and remove from his Army Military Human Resource Record (AMHRR), his DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 26 June 2023
- Opportunity to personally accept or decline 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 including the Special Court-Martial conviction from his AMHRR
- Retroactive advancement to captain (CPT)/O-3
- Restoration of his security clearance
- Evaluation for further promotion eligibility

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

- DD Form 149 (Application for Correction of Military Record)
- Reason for Discharge Change
- DD Form 214, for the period ending 7 September 2019
- Email correspondence (four pages)
- Request for Religious Accommodation, 21 September 2021
- Two DA Forms 4856 (Developmental Counseling Form)
- Informal Article 138 Uniform Code of Military Justice (UCMJ) Complaint Redress, 30 November 2021
- Emergency Use Authorized (EUA) Laws
- DA Form 268 (Report to Suspend Favorable Personnel Actions (Flag)), 1 December 2021

- Comments submitted in regard to DA Forms 4856
- Fact Sheet for Healthcare Providers Administering Vaccine (Vaccination Providers)
- Formal Article 138 (Complaints of Wrongs) Complaint, Uniform Code of Military Justice, 15 December 2021
- Emergency Use Products document
- U.S. Army Court of Appeals (Docket No. Army 20220213)
- Two Declarations in Support of Investigation into the Safety and Efficacy of COVID-19 Vaccines, 3 March 2022
- Summarized Report of Results of Trial, April 2022
- Initiation of Elimination Rebuttal Statement, 6 September 2022
- DD Form 214, for the period ending 26 June 2023
- Affidavit of Truth, 3 July 2024
- Court of Federal Claims, No. 23-1238C (Filed: January 23, 2025)
- Executive Grant of Clemency, 28 May 2025
- Readiness Documentation, 11 June 2025
- COVID-19 Reinstatement Processing, 22 July 2025
- COVID-19 Reinstatement Certification, 30 July 2025
- Additional documents, which highlight critical issues of misconduct, violations within the U.S. Armed Forces and federal agencies related to the weaponization of COVID-19 mandates, products, procedures, protocols, devices, risk communications, with an accompanying affidavit, exhibits and enclosures (491 pages)

#### FACTS:

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

- Upgrade of his discharge to "Honorable"
- Change the reason for separation to "Completion of Service Obligation" or an equivalent reason
- Removal of all derogatory and disciplinary documents from his record
- Retroactive promotion to CPT with full back pay
- Constructive service credit beginning 27 June 2023
- Option to accept or decline reinstatement and evaluation for further promotion eligibility

a. As a medical officer, it was his duty to ensure that public health policies complied with federal law, medical ethics, and the principles of informed consent. His protected communications under the Military Whistleblower Protection Act, and his lawful refusal

of EUA COVID-19 products were met with retaliatory actions, and prosecution for revealing violations as a whistleblower. This led to his wrongful court-martial conviction, the loss of his security clearance, denial of his promotion to CPT, and his involuntary separation. His court-martial was driven by political aspirations and personal biases, which affected the outcome of the trial.

b. His chain of command engaged in a series of retaliatory actions and procedural misconduct, to include a flag that prevented his advancement to CPT, counselling him, negative evaluations, banned him from Army Public Health Center (APHC) facilities, revoking his security clearance, threats of imprisonment, and labeled him as an insider threat for reporting specific and significant dangers to public health and safety. Furthermore, the chain of command disregarded his complaints, instead of addressing them.

c. He highlights the following critical issues of misconduct and violations within the U.S. Armed Forces and federal agencies related to the weaponization of COVID-19:

- Violation of Federal Laws
- Psychological Operations and Propaganda
- Violations of Constitutional Rights
- Lack of Transparency and Misinformation
- Retaliation Against Whistleblowers
- Labeling of Dissenters as Insider Threats
- Health Risks Ignored
- Unlawful Orders
- Discriminatory Practices
- Lack of Accountability

2. The applicant's request for the reinstatement of his security clearance is outside the jurisdiction of the Army Review Boards Agency and therefore, will not be discussed further in these proceedings.

3. The applicant provides and the service record shows:

- The applicant has prior honorable enlisted service with the U.S. Air Force; he was released 7 September 2019 to accept commission in the Army
- On 8 September 2019, he was appointed as a commissioned officer in the Regular Army, and ordered to active duty at the rank of first lieutenant (1LT)/O-2
- On 4 February 2021, the Secretary of Defense mandated that all individuals on military installations, and those performing official duties on any location other than their home, including outdoor shared spaces, will wear masks in accordance with the current Centers for Disease Control and Prevention (CDC) guidelines

- On 22 February 2021, he requested that his chain of command, change the Department of Defense (DOD) policy on masks to allow service members (SMs) to remove their masks while conducting or recovering from physical training, he was advised that they did not have the authority to make that change
- On 24 August 2021, the Secretary of Defense mandated that all service members receive the COVID-19 vaccine
- On 15 September 2021, the applicant refused to become fully vaccinated against COVID-19
- On 21 September 2021, he requested a religious accommodation for exemption from the COVID-19 vaccine, or any other mandated vaccinations in accordance with the standards provided in Army Regulation 40-562 (Immunizations and Chemoprophylaxis for the Prevention of Infectious Diseases)
- On 24 November 2021, in an email from his commanding officer, shows he informed the applicant that he is free to disagree with his order, and inquired whether he is opting out of the weekly COVID-19 tests; the applicant stated this was discrimination based on his religious convictions, and his orders were illegal
- On 26 November 2021, in an email directed to his commanding officer, the applicant expressed his contemplation of submitting an Article 138 complaint, and this served as his informal inquiry aimed at addressing his grievances concerning the orders he received
- On 30 November 2021, he was counseled for failure to provide evidence of a negative COVID-19 test, for not undergoing testing, for refusing to wear a mask, and for failing to vacate his office after he declined to present proof of a negative COVID-19 test and to telework until further notice, as directed
- Also on 30 November 2021, he advised his commanding officer he has 12 days left to address his complaint; he urges him to cease any acts of discrimination, harassment, or sharing of his medical information, warning him that he will take legal action if these behaviors continue, and advises him to seek legal counsel
- Additionally on 30 November 2021, he was advised by his commanding officer, due to his failure to adhere to two lawful orders, his security clearance has been suspended; should he fail to comply with mandatory COVID-19 testing, access to the installation and all Army Public Health Center facilities will also be suspended
- On 1 December 2021, the applicant was flagged (Report to Suspend Favorable Actions), for pending adverse actions against him
- On 15 December 2021, the applicant filed a formal Article 138 complaint
- On 18 January 2022, the applicant was referred to a special court-martial
- On 19 January 2022, in response to his complaint, it was determined that no further action was warranted under Article 138 or Army Regulation 27-10 (Military Justice) because the alleged wrongs in his case involved inappropriate subject matters that may be resolved through other established and adequate processes

- On 3 March 2022, he declared, in effect, as a whistleblower, under the military whistleblower protection act, that data he collected on the uprising of medical conditions since the introduction of the vaccine, was altered
- On 18 March 2022, his request for a religious accommodation was denied
- On 24 March 2022, he appealed the denial of his religious accommodation request
- On 29 April 2022, he was convicted by a special court-martial of one charge and two specifications of violating Article 92, for having knowledge of a lawful order, and failed to obey the same; he plead not guilty on all charges
- On 21 June 2022, the applicant was ordered to attend a mandatory urine analysis, however prior to that, he was required to undergo testing for COVID-19; he disregarded both directives and declined to participate in the COVID-19 testing, thereby also refusing to comply with the lawful urinalysis
- On 27 June 2022, he was notified that separation action was initiated against him for misconduct of failing to perform duties by failing to comply with lawful orders on 30 November 2021, and again on 21 June 2022; this action was rescinded and a new elimination proceeding initiated, the date is unknown
- His DA Form 67-10-1 (Company Grade Plate (O1-O3; WO1-CW2) Officer Evaluation Report), for the period 9 July 2021 through 8 July 2022, does not reflect any derogatory information concerning the refusal of the COVID-19 vaccine, or misconduct; he received a rating of "Qualified" by his senior rater
- On 17 July 2022, in his rebuttal to the initiation of elimination, he requested to be retained in the Army as a medical officer; he knew his service required sacrifice and selfless service, but not the sacrifice of his oath and adherence to uphold, support and defend the nation's laws and the rights of the people and SMs
- On 27 July 2022, he petitioned the Judge Advocate General, to set aside in whole his court-martial conviction and findings
- On 9 August 2022, he acknowledged receipt of the separation action
- As of 22 November 2022, the applicant's Officer Record Brief (ORB) reflects an Assignment Consideration Code (ASCO) of L4 (Pending COVID-19 Vaccination Action)
- On 5 December 2022, in addressing his request for the annulment of his special court-martial convictions, the Judge Advocate General determined that the applicant failed to demonstrate a valid and specific foundation for relief based on one or more of the listed statutory grounds, and consequently denied his appeal
- Consequently, following the findings of the Judge Advocate General, his commanding general directed the applicant's elimination action be sent to the U.S. Army Human Resources Command (HRC) for processing; this document is undated
- On 10 January 2023, the Secretary of Defense rescinded the COVID-19 vaccine mandate

- On 30 March 2023, he submitted protected communications to the U.S. Army Inspector General Agency (IG), regarding specific and substantial dangers to public health and safety, violations of Federal Statutes, and Army Regulations in recorded testimony
- On 25 April 2023, IG concluded a review of the complaint he made against his commanding general, and his company commander, and found that they were obligated to initiate separation procedures against him for non-compliance of federal COVID-19 policies and mandates, without any indication of misconduct
- On 26 April 2023, in response to the IG review of his complaint, he rebuts the inaccurate and false claims made within an investigation they conducted, and to show that the investigation conducted was insufficient
- On 23 May 2023, the Deputy Assistant Secretary of the Army (Review Boards) determined that the applicant will be involuntarily discharged from the Army under honorable conditions, due to his misconduct and moral or professional dereliction, prior to the completion of his current term of service
- On 26 May 2023, his motion for reconsideration of the denial of the application for grant of review of the decision of the Judge Advocate General, was denied
- On 30 May 2023, the applicant acknowledged receipt of the elimination action
- On 6 June 2023, he declared, in effect, as a whistleblower, under the military whistleblower protection act, in support of his senator's investigation into the safety and efficacy of the COVID-19 vaccine
- On 9 June 2023, he was issued separation Orders 160-0001, which show a separation date of 26 June 2023
- His DD Form 214 shows that on 26 June 2023, he was discharged with a general characterization of service due to unacceptable conduct; he completed 3 years, 9 months, and 19 days of active federal service
- On 28 May 2025, he was granted a full and unconditional presidential pardon for his special court-martial convictions
- On 30 July 2025, he was issued a reinstatement certification, which shows he is physically and medically eligible to serve in the U.S. Army

4. The proceedings of the applicant's Special Court-Martial, 28 April 2022, are available in their entirety, for the Board's review.

5. The applicant provides additional documents, which provide information on the COVID-19 vaccine.

#### BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the applicant's military records, the Board found that relief was/was not 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.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

XX	XXX	XXX	GRANT FULL RELIEF
:	:	:	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:

- Revoke U.S. Army Garrison, Aberdeen Proving Ground, Aberdeen Proving Ground, Maryland, Orders 160-0001, 9 June 2023
- Remove any and all derogatory and disciplinary documents related to him refusing to become fully vaccinated against COVID-19 including the Special Court-Martial conviction 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:

- Void and remove from his Army Military Human Resource Record (AMHRR), his DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending 26 June 2023
- Opportunity to personally accept or decline reinstatement in the Army
- Awarding constructive service credit for the period 27 June 2023 to the date the applicant reenters active duty service
- Restore all entitlements to include but not limited to backpay, allowances, and benefits he is otherwise qualified for
- Retroactive advancement to captain (CPT)/O-3, if eligible

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 26 June 2023 be corrected as follows:
- Item 12b (Separation Date This Period): 2025 10 25
- Item 12c (Net Active Service This Period): 06 01 18
- 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 27 June 2023 to 25 October 2025
- Pay, allowances, benefits, and entitlements due the applicant for the period 27 June 2023 to 25 October 2025 based on the aforementioned correction

9/12/2025

CHAIRPERSON

Signed

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 4 February 2021 the Office of the Secretary of Defense issued a Memorandum for Senior Pentagon Leadership Commanders of the combatant commands Defense Agency And DOD Field Activity Directors, on the use of masks and other public health measures.

a. Effective immediately, all individuals on military installations, as defined below, and all individuals performing official duties on behalf of the Department from any location other than the individual's home, including outdoor shared spaces, will wear masks in accordance with the most current CDC guidelines. Individuals must wear masks continuously while on military installations except:

- When an individual is alone in an office with floor-to-ceiling walls with a closed door
- For brief periods of time when eating and drinking while maintaining distancing in accordance with CDC guidelines and instructions from commanders and supervisors
- When the mask is required to be lowered briefly for identification or security purposes
- When necessary to reasonably accommodate an individual with a disability

b. Individuals must consistently wear a mask that covers the nose and mouth and that comports with all current guidance from the CDC and the Occupational Safety and Health Administration. Locations where masks must be worn include any common areas or shared workspaces (including open floorplan office spaces, cubicle embankments, and conference rooms) and in outdoor shared spaces. Masks recommended by the CDC include non-medical disposable masks, masks made with breathable fabric (such as cotton), masks made with tightly woven fabric (i.e., fabrics that do not let light pass through when held up to a light source), masks with two or three layers, and masks with inner filter pockets. Novelty or non-protective masks, masks with ventilation valves, or face shields are not authorized as a substitute for masks. Masks must fit properly (i.e., snugly around the nose and chin with no large gaps around the sides of the face).

c. All individuals on military installations and all individuals performing official duties on behalf of the Department from any location other than the individual's home will follow CDC guidance and practice physical distancing, specifically by staying at least 6 feet (about 2 arm lengths) from other people who are not from an individual's household in both indoor and outdoor spaces. Social distancing should be practiced in combination with other everyday preventive actions to reduce the spread of COVID-19, including by wearing masks, avoiding touching your face with unwashed hands, and frequently washing your hands with soap and water for at least 20 seconds.

6. 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”.

7. 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.”

8. 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."

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. Title 10, U.S. Code, section 1034 (Military Whistleblower Protection Act (MWPA), enacted 29 September 1988, amended Title 10 provisions relating to communications with a Member of Congress by prohibiting any person from restricting a member of the U.S. Armed Forces to communicate with an Inspector General (IG), except for communications that were prohibited by statute.

a. The law prohibited retaliatory personnel actions against a member for making or preparing to make such a communication.

b. The law also directed the Department of Defense IG (DOD IG) to promptly investigate any allegation that a prohibited personnel action has taken place or been threatened with respect to any communication to a Member of Congress or IG complaining or disclosing information reasonably believed to evidence a violation of law, mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. Within 10 days of completing such an investigation, the IG was required to report the results to the Secretary of Defense.

c. Members of the U.S. Armed Forces could, within 30 days after receipt of a copy of such investigative report, to petition the appropriate military board for correction of his or her military record concerning the matter, and the members were entitled to receive legal assistance by a judge advocate in any such matter before a military corrections board. The Act provided administrative procedures for the hearing of such petitions, together with appropriate corrective and disciplinary action to be taken and allowed for judicial review of any order resulting from such hearing, if petitioned for within 60 days after notice of the hearing's result.

15. Court-martial convictions stand as adjudged or modified by appeal through the judicial process. By law, Title 10 (Armed Forces), U.S. Code, section 1552, this Board is not empowered to set aside a conviction. Rather, it is only empowered to change the severity of the sentence imposed in the court-martial process and then only if clemency

is determined to be appropriate. Clemency is an act of mercy or instance of leniency to moderate the severity of the punishment imposed. The ABCMR does not have authority to set aside a conviction by a court-martial.

16. Army Regulation 600-85 (The Army Substance Abuse Program) prescribes comprehensive alcohol and drug abuse prevention and control policies, procedures, and responsibilities for Soldiers of all components. The comprehensive program is composed of integrated functions that include deterrence, drug testing, prevention and training, and referrals.

a. Unpredictability of testing is a determining factor deterring Soldiers from using drugs. High frequencies of unpredictable random testing events contribute to deterring Soldiers from using drugs. Because they know that they have the possibility of being selected at any time. "Smart testing" is random testing conducted in such a manner that it is unpredictable by the testing population. This randomness must extend beyond random selection of Soldiers; it must include randomness of frequency (how often the commander tests) and periodicity (when during the month/week/day the commander tests).

b. Drug abuse is inconsistent with Army values and readiness. The Army's drug testing policy is dependent on an aggressive and thorough UA program requiring the participation of all Soldiers selected for testing. It is imperative that those selected for testing provide a specimen in a controlled and secure environment. Therefore, Soldiers will not avoid providing a urine specimen when ordered. Commanders at every level will ensure random UA testing at the rate of 10 percent assigned end strength each month.

17. Article II, Section 2 of the U.S. Constitution authorizes the President "to grant Reprieves and Pardons for Offenses against the United States, except in Cases of Impeachment."

a. The Supreme Court has recognized that the authority vested by the Constitution in the President is quite broad, describing it as "plenary," discretionary, and largely not subject to legislative modification. Nonetheless, there are two textual limitations on the pardon power's exercise: first, the President may grant pardons only for federal criminal offenses, and second, impeachment convictions are not pardonable.

b. The pardon power authorizes the President to grant several forms of relief from criminal punishment. The most common forms of relief are full pardons (for individuals) and amnesties (for groups of people), which completely obviate the punishment for a committed or charged federal criminal offense, and commutations, which reduce the penalties associated with convictions.

//NOTHING FOLLOWS//