

DMCA 2 AIDE-MEMOIRE - CDS DIRECTIVE 002 ON CAF COVID-19 VACCINATION IMPLEMENTATION OF ACCOMMODATIONS AND ADMINISTRATIVE ACTION

1.0 Identification

1.1 Date of issue [8 November 2021]

1.2 Application This aide-memoire applies to all officers and non-commissioned members of the Canadian Armed Forces (CAF), Regular Force and Reserve Force. The Reserve Force includes the Primary Reserve, Cadet Organizations Administration and Training Service, and Canadian Rangers. Director Military Careers Administration (DMCA) is responsible to conduct Administrative Review (AR) for misconduct of everyone below the rank of Colonel (Col). AR for Col and above are conducted by DMCA but approved by a higher authority (DGMC or MPC).

1.3 General

As the country's largest employer, the Government of Canada (GC) is leading by example with COVID-19 vaccination to protect the health and safety of public servants and the communities where they live and work. Requiring the vaccination of the federal workforce will contribute to reaching the overall levels of vaccination Canada needs to sustain a resilient economic recovery in the face of more transmissible and dangerous COVID-19 variants of concern. Widespread immunization will also help protect those who are currently unable to be vaccinated as well as those who remain vulnerable to infection even after vaccination, such as individuals with compromised immune systems due to other illnesses.

The Department of National Defence (DND) and Canadian Forces Code of Values and Ethics includes the ethical principle to obey and support lawful authority. This principle requires DND employees and CAF members to carry out their duties in accordance with legislation, policies, and directives in a non-partisan and objective manner. As such, it is essential that CAF members understand that the CAF's application of the GC Policy on COVID-19 Vaccination via the adherence of the CDS Directives on CAF COVID-19 Vaccination is an expected behaviour applicable to all CAF members, regardless of their level, position, or rank. Those that don't comply with the Directive on CAF COVID-19 Vaccination are in breach of the behaviours expected in the Code.

COs, Commanders and leadership at all levels are to note that vaccination is a two-stage process and that there must be a 28-day time provision between first and second vaccinations. This time period must be factored into the process.

It must also be noted that the monitoring period for **Recorded warning is to be three (3) months**, and the monitoring period for **Counselling and Probation is to be six (6) months**.

- 1.4 Approval authority** This aide-memoire is issued under the authority of the DMCA.
- 1.5 Enquiries** Questions related to policies: CMP Administrative Response Centre (ARC) at +**CMP ARC CRA CPM@CMP DGMP@Ottawa-Hull**
 Questions related to remedial measures: DMCA 2 – at
 ++**DMCA 2 - 2 DACM@CMP DMCA @Ottawa-Hull**
- 1.6 Table of Contents** This aide-mémoire contains the following topics:

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2.0 DEFINITIONS

2.1 Administrative Review (AR):

An AR is the process used to determine the most appropriate administrative action required as a result of an incident, special circumstance or a professional deficiency that calls into question a CAF member's continued ability to serve.

2.2 Balance of Probabilities:

The standard of proof in an administrative case is different from that applied in a criminal case (beyond a reasonable doubt). The accepted standard of proof in an administrative case is the civil standard of proof based on the balance of probability (is it more likely than not that the alleged incident occurred, and what are the facts and justifications supporting it). Sometimes, the balance of probability is referred to as preponderance of the evidence or greater than 50 percent likelihood of occurrence.

2.3 Procedural Fairness:

The legal principle that reflects the duty to act fairly. It requires that, at a minimum, a person subject to a decision having a life altering impact upon them, be made aware that a decision is being made, have relevant evidence being considered disclosed to them and have a fair opportunity to make representations to the decision maker. The four important steps based on natural justice are: advisory, disclosure, representations and decision.

Defence Administrative Orders and Directives (DAOD) 5019-2 provides the guidelines of how to achieve procedural fairness.

3.0 AUTHORITIES FOR ADMINISTRATIVE ACTION FOR CONDUCT DEFICIENCIES

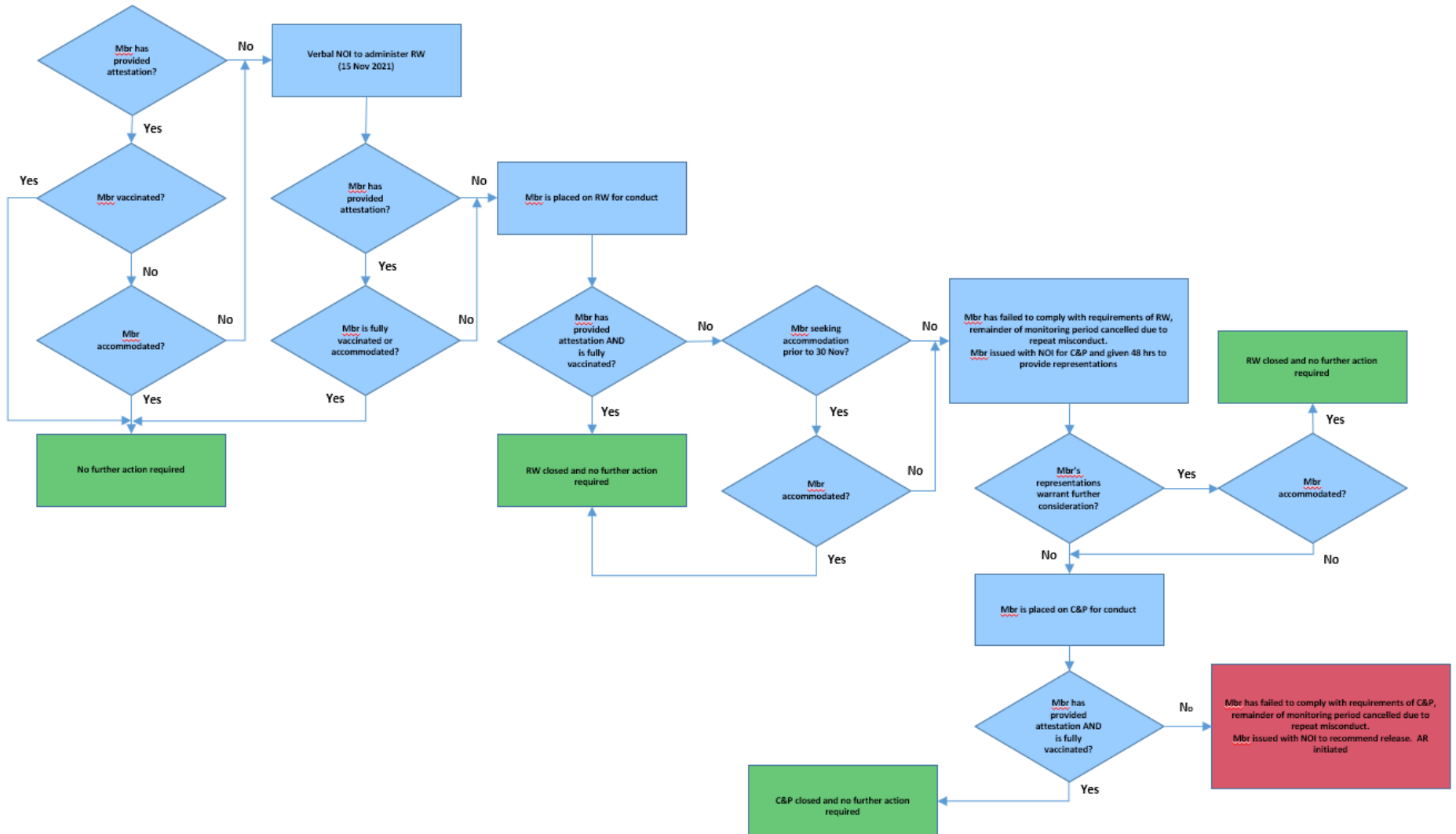
3.1 Overview

DAOD 5019-4 Remedial Measures delegates the responsibility for administering remedial measures for all forms of misconduct up to and including Counselling and Probation (C&P) to Commanding Officers (COs).

For all misconduct cases where the CO determines a member's conduct is beyond rehabilitation and recommends the member's release in lieu of a remedial measure, the file must be forwarded to DMCA for action with the CO's recommendation for release.

The figure at 4.0 General Process Overview illustrates the overall process for COs to manage incidents of alleged conduct deficiency within their unit. This diagram should be consulted by units for clarification of the process.

4.0 General Process Overview



ATTESTATION LETTER - TEMPLATE

CAF member Attestation Form

Name:

Rank:

SN:

Supervisor:

I attest that my COVID-19 vaccination status is

- Fully Vaccinated
- Unvaccinated because I am requesting an accommodation
- Unvaccinated

I am requesting accommodation - Determination on all accommodations must be completed No Later than **30 November 2021**.

- Due to a medical contraindication
- Under a prohibited ground of discrimination under s.3(1) of the *Canadian Human Rights Act (CHRA)*

Indicate CHRA ground

- Religion
- Another prohibited ground under s.3(1) of the CHRA

By submitting this form, I certify that the statements I have made and the information I have disclosed in this form are true, complete, correct and in accordance with the DND and CF Code of Values and Ethics. I understand that if my vaccination status changes, I must complete a new vaccination status attestation. I acknowledge that the information I submit in this form is subject to verification and audit and I specifically acknowledge that my Unit CO reserves the right, at the Unit CO's sole discretion, to request proof of vaccination.

CAF member Accommodation Acknowledgement

- My Unit CO and I have discussed my request for accommodation and the resulting decision.

CAF member signature

Date

ACCOMODATION AGREEMENT - TEMPLATE

Process request for accommodation, if applicable

Note: Assess potential operational impacts that would result from removing CAF members from the workforce, determine the circumstances under which those impacts may warrant exemptions from the administrative action, and document those impacts in support of requests for exemption. Any requests for exemption will be accompanied by a fully documented plan for mitigation measures that will be implemented to protect the remainder of the workforce.

Unit CO to complete the following:

I have received and reviewed the documentation (required)

- Necessary supporting documentation; or
- Alternative documentation in consultation with my HR specialists; and
- The supporting documentation will be retained as per information management protocols, retention guidelines and in accordance with the Privacy Act and its Regulations (required)

Decision Duty to accommodate (required):

- Duty to accommodate DOES NOT APPLY
- Duty to accommodate APPLIES (I have reviewed and accepted the justification)

Accommodation duration (required):

- Permanent; or,
- Time limited, expiring on (enter DATE): _____(required)

Accommodation Measure (required):

- Performing regular duties/responsibilities through telework supported by a telework agreement as per the Directive on Telework, **if operationally feasible**;
- Assigning alternate duties/responsibilities that can be done through telework supported by a telework agreement as per the Directive on Telework;
- Testing if access to the workplace is required; and/or,
- Other measures (must specify): (For privacy reasons, only include information related to the accommodation measure being taken, not information related to the CAF member's personal accommodation request. Examples could include: adjusted hours, flexible schedule, etc.)

Acknowledgement of Discussion:

- The CAF member and I have discussed this request for accommodation and the resulting decision.

Unit CO signature:

Date:

- My Unit CO and I have discussed my request for accommodation and the resulting decision.

CAF member signature:

Date:

ACCOMMODATION IS REQUESTED DUE TO MEDICAL CONTRAINDICATION - TEMPLATE

Note: Rapid COVID-19 testing three times a week (Monday-Wednesday-Friday) will commence for members who are required to access the workplace and are unvaccinated or unable to be vaccinated and have received an accommodation.

To be exempted from COVID-19 vaccination based on a recognized medical contraindication:

1. A member must provide a signed form completed by a healthcare provider indicating that they have a recognized medical contraindication which renders them unable to be fully vaccinated;
2. The completed healthcare provider form will indicate whether the medical contraindication is permanent or temporary and if temporary, the expected end date of the condition after which the member could receive a COVID-19 vaccination; and
3. COs must seek advice from their Senior Medical Advisors or local Base/Wing surgeon if they have questions with respect to a member's documentation related to a medical exemption from vaccination.

Determination on all accommodations must be completed no later than 30 November 2021 and will be evaluated on a case to case basis.

Example: <https://www.canada.ca/content/dam/tbs-sct/documents/forms/medical-statement.pdf>

ACCOMMODATION IS REQUESTED DUE TO RELIGION - TEMPLATE

Note: Rapid COVID-19 testing three times a week (Monday-Wednesday-Friday) will commence for members who are required to access the workplace and are unvaccinated or unable to be vaccinated and have received an accommodation.

A member must articulate the requirement for the religious request by sworn attestation using the GC affidavit form Religious Belief, explaining the basis of the religious nature of the exemption and why it prevents vaccination:

1. COs must be satisfied that the member has a sincere belief that can be reasonably connected to religious grounds;
2. The CO can request more information if the explanation provided in the affidavit is not sufficient; and
3. Advice from the Royal Canadian Chaplain Service (RCChS) **and** LEGAD must be sought before making any determinations. Assessment tools have been developed, and are accessible to all chaplains in order to facilitate this process.

Determination on all accommodations must be completed no later than 30 November 2021 and will be evaluated on a case to case basis.



RCChS Assessment Tool_Accommodatic
EN-FR Religious Accommodation
Affidavit_Religious Tra Accommodationt.pdf

Example of affidavit:

<https://www.canada.ca/content/dam/tbs-sct/documents/forms/religion-affidavit.pdf>

<https://www.canada.ca/en/department-national-defence/corporate/policies-standards/defence-administrative-orders-directives/7000-series/7000/7000-1-completion-of-affidavits-and-statutory-declarations.html>

ACCOMMODATION IS REQUESTED DUE TO INABILITY TO BE VACCINATED BASED ON THE GROUNDS OF DISCRIMINATION UNDER THE CHRA - TEMPLATE

Note: Rapid COVID-19 testing three times a week (Monday-Wednesday-Friday) will commence for members who are required to access the workplace and are unvaccinated or unable to be vaccinated and have received an accommodation.

The CHRA makes it illegal to discriminate on a wide range of grounds including sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. To be exempted from COVID-19 vaccination and be accommodated based on the grounds of discrimination under the CHRA:

1. A member must articulate the requirement for accommodation articulating the grounds of discrimination under the CHRA by using an affidavit, explaining the grounds for discrimination basis of the request and why it prevents vaccination;
2. The affidavit must be signed before an authorized official (commissioner for taking affidavits) by a full-time CAF commissioned officer who is authorized under DAOD 7000-1; and
3. COs must seek advice from DND/CF LA and local JAG before making any determinations regarding accommodation on the basis of grounds of discrimination under the CHRA.

Determination on all accommodations must be completed no later than 30 November 2021 and will be evaluated on a case to case basis.

Example of affidavit:

<https://www.canada.ca/en/department-national-defence/corporate/policies-standards/defence-administrative-orders-directives/7000-series/7000/7000-1-completion-of-affidavits-and-statutory-declarations.html>

RECORDED WARNING TEMPLATE

Note: You must give verbal notice of intent and give the member 24 hours to provide representations as per DAOD 5019-4. Monitoring period should be 3 months.

Remedial Measure

DAOD Form 5019-4A

Service number	Rank	Name and initials
		SAMPLE
Unit	Military occupation	
1. You have demonstrated a <i>(Select one)</i> <input checked="" type="radio"/> Conduct or <input type="radio"/> Performance deficiency		
2. The detailed description of the deficiency is as follows: On 15 Nov 21, you violated both CDS Directive on CAF COVID-19 Vaccination and CDS Directive 002 on CAF COVID-19 Vaccination - Implementation of Accommodation and Administrative Action by (select wording appropriate to the mbr's circumstances) a. failing to provide attestation of your COVID-19 vaccination status to the CoC; or b. refusing to be vaccinated for COVID-19 You have not provided the CoC with proof that you are unable to be vaccinated IAW CDS Directive 002. Your refusal to comply with this directive is considered to be a failure to follow a direct order. This violates the DND and CF Code of Values and Ethics, which includes the ethical principle to obey and support lawful authority		
3. Therefore, the following remedial measure <i>(Select one)</i> is initiated: <input type="radio"/> Initial counselling; <input checked="" type="radio"/> Recorded warning; or <input type="radio"/> Counselling and Probation (which was preceded by a Notice of Intent to Initiate Counselling and Probation delivered on _____ Date _____).		
4. The monitoring period begins _____ Date _____ and ends _____ Date _____ .		
5. During the monitoring period, in order to overcome the deficiency you are required to <i>(identify action required to correct the conduct or improve the performance of the CF member and to ensure proper conduct and performance after the monitoring period)</i> : a. If not already completed, participate in virtual training on the DLN for "COVID-19 Vaccine Information for CAF-2021" within 3 days of signing this remedial measure form. You shall provide your course certificate to your supervisor upon completion; b. Comply with CDS Directive 002 by providing your CoC with attestation of your COVID-19 vaccination status within 7 days of signing this remedial measure form; and c. The member must become fully vaccinated in 35 days from the date of signature or verify an inability to be vaccinated.		
6. To assess the effectiveness of the monitoring period, regular progress-briefing sessions will be held <i>(identify dates)</i> : 3 days after this form is signed to confirm completion of the course "COVID-19 Vaccine Information for CAF-2021", and 7 days after this form is signed to confirm compliance with CDS Directive 002 (attestation of vaccination status).		

NOTICE OF INTENT TO PLACE THE MEMBER ON COUNSELLING AND PROBATION
TEMPLATE

The IA must provide the CAF member with a reasonable opportunity, not less than 48 hours, in which to make written representations to the IA. A CAF member must be informed that assistance may be requested from an officer or senior non-commissioned member and that additional time to make representations may be requested. The IA may grant such a request if appropriate in the circumstances.

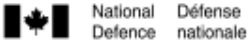
Notice of Intent to Initiate Counselling and Probation

DAOD Form 5019-4B

Service number	Rank	Name and initials SAMPLE
Unit	Military occupation	
1. This Notice of Intent to Initiate Counselling and Probation (NOI) is to inform you that I, as an initiating authority, intend to initiate counselling and probation (C&P) in your case in accordance with DAOD 5019-4, <i>Remedial Measures</i>		
2. The deficiency in your (Select one) <input checked="" type="radio"/> Conduct or <input type="radio"/> Performance for which I intend to initiate C&P and the reasons that support this measure are:		
<p>You were previously placed on Recorded Warning for conduct for failing to follow a direct order concerning your COVID-19 Vaccination status. You were given a clear deadline to resolve this deficiency and comply with CDS directives 001 and 002. You have failed to follow this order, which is a repeat of the same deficiency which led to the Recorded Warning. An escalation of remedial measures is therefore appropriate.</p>		
3. The following documents (list additional documents on reverse if insufficient space) will be considered when deciding whether to initiate C&P, and are hereby disclosed to you (provide a copy of the documentation to CF member):		
<ul style="list-style-type: none"> - CDS Directive 001 on CAF COVID-19 Vaccination; - CDS Directive 002 on CAF COVID-19 Vaccination - Implementation of Accommodation and Administrative Action - Canadian Forces Code of Values and Ethics - includes the ethical principle to obey and support lawful authority - DAOD 5019-4 Remedial Measures - Recorded Warning for Conduct, signed on 16 Nov 21 		
4. Should you wish to make written representations to explain why C&P should not be initiated, you may submit them to me before _____ (date and time shall not be less than 24 hours following delivery of this NOI).		
5. If you consider that you do not have sufficient time to make representations, you may request additional time from me in writing no later than the date and time indicated above.		
Rank	Name and initials	Position of initiating authority
_____ Signature of initiating authority		_____ Date and time
6. I acknowledge receipt of this NOI and that I have read and understood it.		
_____ Signature of CF member		_____ Date
7. I (Select one) <input type="radio"/> do or <input type="radio"/> do not wish to submit written representations to be considered prior to any final decision being taken. Any representations that I make shall become part of my personnel record only if C&P is initiated.		
_____ Signature of CF member		_____ Date

COUNSELLING AND PROBATION TEMPLATE

Monitoring period should be 6 months.



PROTECTED B (When completed)

Remedial Measure

DAOD Form 5019-4A

Service number	Rank	Name and initials
		Sample
Unit	Military occupation	
1. You have demonstrated a (Select one) <input checked="" type="radio"/> Conduct or <input type="radio"/> Performance deficiency		
2. The detailed description of the deficiency is as follows: You were previously placed on Recorded Warning for conduct for failing to follow a direct order concerning your COVID-19 Vaccination status. You were given a clear deadline to resolve this deficiency and comply with CDS Directive 002 on CAF COVID-19 Vaccination - Implementation of Accommodation and Administrative Action. Your refusal to comply with this directive is considered to be a failure to follow a direct order. This violates the Canadian Forces Code of Values and Ethics, which includes the ethical principle to obey and support lawful authority. This is a repeat of the deficiency which led to your Recorded Warning for conduct.		
3. Therefore, the following remedial measure (Select one) is initiated: <input type="radio"/> Initial counselling: <input type="radio"/> Recorded warning; or <input checked="" type="radio"/> Counselling and Probation (which was preceded by a Notice of Intent to Initiate Counselling and Probation delivered on _____ Date).		
4. The monitoring period begins _____ Date and ends _____ Date .		
5. During the monitoring period, in order to overcome the deficiency you are required to (identify action required to correct the conduct or improve the performance of the CF member and to ensure proper conduct and performance after the monitoring period): a. Take action within 7 days of signing this form in order to comply with CDS Directive 002 on CAF COVID-19 Vaccination - Implementation of Accommodation and Administrative Action.		
6. To assess the effectiveness of the monitoring period, regular progress-briefing sessions will be held (identify dates): 3 days after this form is signed to confirm you have initiated action to comply with the directive, and 7 days after this form is signed to confirm compliance with CDS Directive 002 (attestation of vaccination status).		
7. If you fail to overcome the above-mentioned deficiency, you may be subject to further administrative action.		
<div style="border: 1px solid black; width: 100%; height: 20px; margin-bottom: 5px;"></div> Signature of the Initiating Authority		<div style="border: 1px solid black; width: 100%; height: 20px; margin-bottom: 5px;"></div> Date

REMEDIAL MEASURES - RECORD OF PROGRESS BRIEFING SESSIONS

Reference: DAOD 5019-4 Administrative Measures

PROTECTED B (WHEN COMPLETED)

SN	Rank	Surname and Initials	Unit
Remedial Measure: Recorded Warning			
Reason : Conduct			
Monitoring Period Start Date: 15 Nov 21		Monitoring Period End Date: 15 Feb 22	
Scheduled Progress Briefings Sessions (list):			

1. Progress Briefing Session Date:	
a. Background:	
Pte Bloggins was placed on RW for conduct on 15 Nov 21 with a three month monitoring period ending 15 Feb 22.	
b. Assessment:	
Appointment made, which date :	
Attestation completed:	
Course completed:	
c. I have been briefed and understand that I have received my counselling session on _____. I also acknowledge that any further conduct of performance deficiencies may warrant additional administrative or disciplinary action.	
Signature of Member	Name and Signature of Supervisor

Distribution (on completion):

- Member
- Member's Pers File
- Unit Remedial Measures Files

PROTECTED B (WHEN COMPLETED)

REMEDIAL MEASURE COMPLETION LETTER

PROTECTED B (WHEN COMPLETED)

(Insert National Defence or unit letterhead)

File Number

November 2021

Distribution List

**(INSERT REMEDIAL MEASURE TYPE) COMPLETION –
(SERVICE NUMBER, RANK, NAME AND INITIALS)**

References: A. DAOD 5019-4 - Remedial Measures
B. Recorded Warning, Conduct – Failure to Follow Orders, 16 November 2021

1. In accordance with reference, the purpose of this letter is to recognize the successful completion of the (insert remedial measure type) for (rank and name) initiated on (insert date). (A short summary of the incident that caused the remedial measure should be included here).
2. (Rank and name) participated in the progress-briefing sessions, exhibited a clear understanding of the deficiencies outlined, and successfully completed the requirements of their (insert remedial measure) during the monitoring period. I consider this remedial measure to have been concluded as of (insert date). (Rank and name) has received a copy of this letter.
3. If you have any questions, please contact (name, position, contact number).

I.B. Neat
Lieutenant-Colonel
Commanding Officer

Distribution List

Action

Pers file

Information

Member
Director Military Careers XX

PROTECTED B (WHEN COMPLETED)

REMEDIAL MEASURE FAILURE LETTER

PROTECTED B (WHEN COMPLETED)

(Insert National Defence or unit letterhead)

File Number

November 2021

Distribution List

(INSERT REMEDIAL MEASURE TYPE) –
(SERVICE NUMBER, RANK, NAME AND INITIALS)

Reference: A. DAOD 5019-4 - Remedial Measures
B. Recorded Warning, Conduct – Failure to Follow Orders, 16 November 2021
C. Progress Briefing Sessions

1. In accordance with reference, the purpose of this letter is to recognize the failure of the recorded warning for (rank and name) initiated on (insert date).
2. (Rank and name) repeated the conduct deficiency in failing to be vaccinated and confirming that status within prescribed timelines.
3. (Rank and name) did not overcome the deficiency in that he did not comply with CDS Directive 002 to provide his CoC with attestation of his COVID-19 vaccination status within seven days of signing the remedial measure form at reference B.
4. As (Rank and name) has failed to follow this order, which is a repeat of the same deficiency which led to the Recorded Warning. An escalation of remedial measures to Counselling and Probation is therefore appropriate.
5. If you have any questions, please contact (name, position, contact number).

I.B. Neat
Lieutenant-Colonel
Commanding Officer

Distribution List

Action

Pers file

Information

Member
Director Military Careers XX

PROTECTED B (WHEN COMPLETED)

NOTICE OF INTENT TO RECOMMEND RELEASE – REG FORCE TEMPLATE

REGULAR FORCE – NOTICE OF INTENT TO RECOMMEND RELEASE

(TO BE COMPLETED IAW QR&O 15.21 / 15.22 / 15.36)

Part 1 – Member's Particulars

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
SN	Rank	Surname	Initials
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
MOS ID	Unit Name	Dept ID	

Part 2 –Notice to the Member

1. Release Item. This notice is to advise you that it is intended to recommend your release from the CF under the provisions of the Table to QR&O 15.01: (Check one)

- a. Item 1(b), Misconduct – Service Misconduct
- b. Item 1(d), Misconduct – Fraudulent Statement on Enrolment
- c. Item 2(a), Unsatisfactory Service – Unsatisfactory Conduct
- d. Item 2(b), Unsatisfactory Service – Unsatisfactory Performance
- e. Item 5(d), Service Completed – Not Advantageously Employable
- f. Item 5(f), Service Completed – Unsuited for Further Service

This Notice of Intent to Recommend Release is made for the following reasons:

You have repeatedly failed to follow direct orders concerning your COVID-19 vaccination status. You were provided clear direction to comply with CDS Directive 002 on CAF COVID-19 Vaccination - Implementation of Accommodation and Administrative Action but refused to do so. This violated the Canadian Forces Code of Values and Ethics, which includes the ethical principle to obey and support lawful authority.

The CoC addressed this misconduct by placing you on escalating remedial measures in the form of a Recorded Warning on XX NOV 21. When you continued to fail to comply with this directive, you were placed on Counselling and Probation for conduct on XX DEC 21 and warned of the consequences of failing to follow direction. In spite of these warnings you continued to disobey this direct order, thus violating the terms and conditions of your Counselling and Probation for conduct.

2. Right to Object. You are hereby required to make known in writing to your Commanding Officer within 14 days any objections to this Notice of Intent to Recommend your release. If you do not reply within 14 days it will be deemed that you have no objection to this notice.

NOTICE OF INTENT TO RECOMMEND RELEASE – RES FORCE TEMPLATE

RESERVE FORCE – NOTICE OF INTENT TO RECOMMEND RELEASE

(to be completed IAW QR&O 15.21 / 15.22 / 15.36)

Part 1 – Member's Particulars

_____	_____	_____	_____
SN	Rank	Surname	Initials
_____	_____	_____	_____
MOS ID	Unit Name	Dept ID	

Part 2 – Commanding Officer's Notice to the Member

1. Release Item.

This notice is to advise you that it is intended to recommend your release from the Reserve Force under the provisions of the Table to QR&O 15.01: (Check one)

- Item 1(b), Misconduct – Service Misconduct.
- Item 1(d), Misconduct – Fraudulent Statement on Enrolment.
- Item 2(a), Unsatisfactory Service – Unsatisfactory Conduct.
- Item 2(b), Unsatisfactory Service – Unsatisfactory Performance.
- Item 5(d), Service Completed – Not Advantageously Employable.
- Item 5(f), Service Completed – Unsuitable for Further Service.

2. Right to Object.

You are hereby required to make known, in writing, to your Commanding Officer within 14 days (30 days for Canadian Rangers), any objections to this Notice of Intent to Recommend your release. If you do not reply within 14 days, it will be deemed that you have no objections to this notice.

3. Comments. (if applicable):

You have repeatedly failed to follow direct orders concerning your COVID-19 vaccination status. You were provided clear direction to comply with CDS Directive 002 on CAF COVID-19 Vaccination - Implementation of Accommodation and Administrative Action but refused to do so. This violated the Canadian Forces Code of Values and Ethics, which includes the ethical principle to obey and support lawful authority.

The CoC addressed this misconduct by placing you on escalating remedial measures in the form of a Recorded Warning on XX NOV 21. When you continued to fail to comply with this directive, you were placed on Counselling and Probation for conduct on XX DEC 21 and warned of the consequences of failing to follow direction. In spite of these warnings you continued to disobey this direct order, thus violating the terms and conditions of your Counselling and Probation for conduct.

PROTECTED B (WHEN COMPLETED)

5705-1 (Adjt)

December 2021

Distribution List

RECOMMENDATION FOR RELEASE

A12 345 678 PRIVATE I.M. BLOGGINS 1-00010-01 INFMN

References: A. Notice of Intent (NOI) to Recommend Release, Pte Bloggins, I.M., XX December 2021

B. 5705 (678) - Member's Representations to NOI to Recommend Release, XX December 2021

C. Unit Level Admin Review (ULAR), XX December 2021

D. DAOD 5019-2 - Administrative Review

E. QR&O Volume I - Chapter 15 (Release)

1. I recommend that Private (Pte) I.M. Bloggins be released from the Canadian Armed Forces (CAF) for conduct deficiency – failure to follow orders that is well within the member's control. References A through C substantiate my recommendation.

2. Pte Bloggins received a Notice of Intent (NOI) to Recommend Release on XX December 2021 (reference A) and submitted representations for consideration on XX December 2021 (reference B). At the time the NOI for release was presented to the member, Pte Bloggins had violated his Counselling and Probation for Conduct – Failure to Follow Orders.

3. I have taken Pte Bloggins's representations into consideration and I strongly recommend the member be released under release item 5(f) as he continues to violate the conditions his remedial measure. Pte Bloggins will receive a copy of this recommendation letter and has been made aware of the administrative process and procedures used by DMCA following this release recommendation.

4. Should you have any questions, please bring them to the attention of my Regimental Adjutant, Capt D.R. Smith, at CSN xxx-xxxx.

T. White

Lieutenant-Colonel

Commanding Officer

Enclosures: 3

Distribution List

Action

Director Military Careers and Administration 2

Information

Director Military Careers XX

Private I.M. Bloggins

PA Pers File

UNIT LEVEL ADMINISTRATIVE REVIEW

1. General information.

A55 555 555 CPL BLOGGINS A.B. 1-00010-01 INFMN
(SN) (Rank, Name, Inits) (Occupation)

2. Reason for submission.

Cpl Bloggins is alleged to have contravened the Canadian Armed Forces (CAF) policy regarding Ethics (DAOD 7023 series) and DAOD 5019-4 – Remedial Measures.

3. Summary of Relevant Information

01 Jan 09	The member enrolled in the CAF as an Infantryman.	Flag A
15 Dec 09	The member became intoxicated at the unit Christmas party and shouted inappropriate and crude comments at a guest speaker. The member later fell asleep at the table. The member had to be carried out and driven home by a friend.	Flag B
06 Jan 10	The member was placed on Initial Counselling (IC) for a conduct deficiency involving alcohol related to the incident of 15 Dec 09.	Flag C
	The member was referred to CAF Health Services as a result of the alcohol abuse as defined by DAOD 5019-7 Alcohol Misconduct.	Flag D
06 Apr 10	The member successfully completed the conditions of their IC; a memo was entered on the member's file.	Flag E
13 Mar 13	The member arrived 30 minutes late for work, appearing to be in an intoxicated state. Their supervisor noted that they had alcohol on their breath, glassy eyes and slurred speech. The Member was sent home for the rest of the day.	Flag F
14 Mar 13	The member was issued a Recorded Warning (RW) for a conduct deficiency involving alcohol (an escalation from the IC issued 06 Jan 10), and an IC for failing to report for duty on time.	Flag G
	The member was referred to CAF Health Services as a result of the alcohol abuse.	Flag H
26 Mar 13	A counselling session was conducted with the member to discuss their progress relating to the RW. They mentioned that they had decided to start attending Alcoholics Anonymous (AA) meetings to overcome their alcohol problems.	Flag I
02 Apr 13	The member was charged and found guilty by Court Martial for the events of 13 Mar 13 (absenting them self without leave, drunkenness, and for conduct to the prejudice of good order and discipline). They were sentenced to a \$500 fine and 3 days confinement to barracks.	Flag J

15 Apr 13	A counselling session was conducted with the member to discuss his progress relating to the RW. The member reported that they were completing the required training, going to AA meetings, and that there had been no further incidents, which suggested that they were progressing well.	Flag K
8 Nov 21	Cpl Bloggins was informed of the CDS Directives 001 & 002 on CAF COVID-19 Vaccination – Implementation of Accommodation and Administrative Action. As per this directive, he was informed of the requirement for CAF members to provide confirmation of their COVID-19 vaccination status was directed by CDS Directive on CAF COVID-19 Vaccination 002 stating that: All CAF members who have not completed their attestation will be considered unvaccinated. CAF members who have chosen to not provide an attestation will be considered as not compliant (i.e. unvaccinated) with the CAF COVID-19 vaccination policy. CAF members that have not complied with the CAF COVID-19 vaccination policy will be subject to administrative action	Flag L
15 Nov 21	Cpl Bloggins received a NOI (verbal) to initiate RW as he failed to follow a legitimate order to provide his COVID-19 vaccination status attestation.	Flag M
16 Nov 21	Cpl Bloggins was placed on RW in that he failed to follow a legitimate order to provide his COVID-19 vaccination status attestation.	Flag N
18 Nov 21	Cpl Bloggins completed the virtual training on the DLN for COVID-19 Vaccine Information.	Flag O
23 Nov 21	Cpl Bloggins failed to comply with CDS Directives 001 & 002 by providing his CoC with attestation of his COVID-19 vaccination status within seven days of signing his RW.	Flag P
	Cpl Bloggins received a NOI to C&P as he failed to follow a legitimate order to provide his COVID-19 vaccination status attestation.	Flag Q
25 Nov 21	Cpl Bloggins was placed on C&P for failure of his RW in that he failed to follow a legitimate order to provide his COVID-19 vaccination status attestation	Flag R
3 Dec 21	Cpl Bloggins failed to comply with CDS Directive 001 & 002 by not providing his CoC with attestation of his COVID-19 vaccination status within seven days of signing his C&P	Flag S
6 Dec 21	The CO ordered that a ULAR be conducted to determine the appropriate course of action.	Flag T

4. Applicable Regulations

IAW DAOD 5019-4, each CAF member is responsible for meeting standards of conduct and performance. If a CAF member has demonstrated a conduct or performance deficiency, an appropriate remedial measure may be initiated. Remedial measures are serious steps to assist a CAF member in overcoming their conduct or performance deficiency and are based on established CAF standards. The standard of conduct for a CAF member is based on established military standards, ethics and values identified in regulations, orders, instructions and policies. CAF members are required to meet the

applicable standard of conduct. Remedial measures are part of the range of administrative actions which may be initiated in respect of a CAF member and are intended to: make the CAF member aware of any conduct or performance deficiency; assist the CAF member in overcoming the deficiency; and provide the CAF member with time to correct their conduct or improve their performance.

DAOD 7023-1 stipulates that the CAF has a special responsibility for the defence of Canada and its people which necessitates a commitment by the CAF and its members to apply the highest ethical standards in all decisions and actions, whether at home or abroad. Annex A, Statement of Defence Ethics, identifies specific values and expected behaviours for all CAF members. *Respect the dignity of all persons, Serve Canada before self* and *Obey and Support lawful authority* are the three ethical principles and expected behaviours of all CAF members. Furthermore, Annex A stipulates that there are five core values and expected behaviours required by all CAF members: *integrity, loyalty, courage, stewardship and excellence*.

The CDS Directive 001 & 002 on CAF COVID-19 vaccination – implementation of accommodations and administrative action direct that all CAF member be fully vaccinated with the COVID-19 vaccine in order to continue to show leadership, protect the health of the Forces, the Defence Team, and that of Canadians unless they are unable to comply to this order due to contraindication, religious grounds, or any other prohibited ground of discrimination

5 Analysis

Despite repeated attempts to counsel, administer to and correct Cpl Bloggins's distinct refusal to comply with a direct, clear and lawful order, Cpl Bloggins has demonstrated an inability to meet the ethics and values required by members of the CAF, and in his disobedience has brought tremendous discredit to himself. Cpl Bloggins was placed on RW on 16 Nov 21 and on C&P on 7 Dec 21, for refusal to obey a direct order as he did not comply with directives 001 and 002 of the CDS on the COVID-19 vaccination.

Clearly, the member failed to comply with the Code of ethics and Values. He did not respect the dignity of all persons, he did not serve Canada before self, and Obey and Support lawful authority.

6. Recommendation

Possible decisions that could be rendered from this ULAR include:

- a. A second C&P for Ethics; or
- b. Issuing the member a NOI to Recommend Release from the CAF under item 5(d) Not Advantageously Employable; or
- c. Issuing the member a NOI to Recommend Release from the CAF under item 5(f) Unsuitable for Further Service.

Based on the information available at this time, the most appropriate administrative action would be to issue the Cpl Bloggins a NOI to Recommend Release under QR&O, Chapter 15 item 5(f) – Unsuitable for Further Service.

S.S. Smith
Capt
Adj

Date

LIST OF FLAGS:

6.0 REFERENCES

- Queen's Regulations and Orders Chapter 15 Release
- Queen's Regulations and Orders Chapter 19 Conduct and Discipline
- DAOD 5019-0, Conduct and Performance Deficiencies
- DAOD 5019-1, Personal Relationships and Fraternalization
- DAOD 5019-2, Administrative Review
- DAOD 5019-3, Canadian Forces Drug Control Program
- DAOD 5019-4, Remedial Measures
- DAOD 5019-6, Academic Misconduct
- DAOD 5019-7, Alcohol Misconduct
- DAOD 5019-8, Private Debts
- DAOD 5044-4, Family Violence
- DAOD 5023-0, Universality of Service (U of S)
- DAOD 7023-0, Defence Ethics
- DAOD 7023-1, Defence Ethics Programme
- DAOD 9004-1, Use of Cannabis by CAF Members
- DAOD 9005-1, Sexual Misconduct Response
- CFAO 15-2, Release - Regular Force
- CDS Designated release authorities dated 1 December 2017 (Regular Force)
- CDS Designated release authorities dated 1 December 2017 (Reserve Force)
- CANFORGEN 190/17, CDS Designated Release Authorities Amendments
- CANFORGEN 257/10, Expedited Release Processing of Reg F Members on the Basic Training List
- CANFORGEN 022/03, Release Policy - First Three Years of Service
- A-AD-005-DCP/AG-000, CF Drug Control Program Manual, Appendix N
- NDSI Chapter 36 (36.80) Security Clearances
- CF MP GP Orders 2-130 and Annexes A and D
- CF Mil Pers Instruction 01/20 - Hateful Conduct
- CANFORGEN 090/20 Hateful Conduct
- CF Mil Pers Instructions 01/20
- Defence Team FAQs on COVID-19
- VCDS Directive for DND/CAF COVID-19 Rapid Antigen Detection Test (RADT) campaign, 28 May, 2021
- CDS/DM Directive – Response to Reviews of Information Operations and Influence Activities, 9 June, 2021
- CDS/DM Directive on DND/CAF Reopening Strategy (Summer 2021 Posture), 22 June, 2021
- Government of Canada announcement of intent to require vaccination of the federal workforce, 13 August, 2021
- Draft PHAC public health rationale for a Federal COVID-19 Vaccination Policy, 17 August, 2021
- Update on COVID-19 in Canada: Epidemiology and Modelling, 3 September, 2021

- Framework for Implementation of the Policy on COVID-19 Vaccination for the Core Public Administration Including the Royal Canadian Mounted Police, 6 October, 2021
- Statement from the Chief Public Health Officer of Canada, 24 September, 2021
- DAOD 5019-4 Remedial Measures
- DAOD 5516 Series Human Rights
- DAOD 1000-8 Policy Framework for Safety and Security Management
- DAOD 7000-1 Completion of Affidavits and Statutory Declarations
- DAOD 5516-3, Religious or Spiritual Accommodation and DND Form 2983, Request for Religious or Spiritual Accommodation
- DND and CF Code of Values and Ethics
- National Defence Security Orders and Directives, Standard 4B: Individual Security Screening Program
- Canada Labour Code Part II Occupation Health and Safety
- Policy on COVID-19 Vaccination for the Core Public Administration Including the Royal Canadian Mounted Police, 6 October, 2021
- CDS Directive on CAF COVID-19 Vaccination, 8 October, 2021
- CDS Directive 002 on CAF COVID-19 Vaccination – Implementation of Accommodations and Administrative Action, 3 November 2021