



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

NOV 24 1998

Office of the Assistant Secretary

AFBCMR 98-01634

MEMORANDUM FOR THE CHIEF OF STAFF

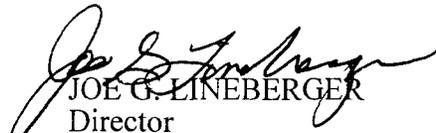
Having received and considered the recommendation of the Air Force Board for Correction of Military Records and under the authority of Section 1552, Title 10, United States Code (70A Stat 116), it is directed that:

The pertinent military records of the Department of the Air Force relating to [REDACTED], be corrected to show that the Enlisted Performance Report, AF Form 910, rendered for the period 17 July 1993 through 24 June 1995, was amended to reflect a "5" rating in Section IV, Promotion Recommendation, by the rater and the indorser.

It is further directed that applicant be provided supplemental consideration for promotion to the grade of technical sergeant for all appropriate cycles beginning with cycle 97E6.

If AFPC discovers any adverse factors during or subsequent to supplemental consideration that are separate and apart, and unrelated to the issues involved in this application, that would have rendered the applicant ineligible for the promotion, such information will be documented and presented to the board for a final determination on the individual's qualification for the promotion.

If supplemental promotion consideration results in the selection for promotion to the higher grade, immediately after such promotion the records shall be corrected to show that applicant was promoted to the higher grade on the date of rank established by the supplemental promotion and that applicant is entitled to all pay, allowances, and benefits of such grade as of that date.


JOE G. LINEBERGER
Director
Air Force Review Boards Agency

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

NOV 24 1998

IN THE MATTER OF:

DOCKET NUMBER: 98-01634

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

The Enlisted Performance Report (EPR) rendered for the period 17 July 1993 through 24 June 1995 be upgraded from a "4" to a "5" in Section IV, Promotion Recommendation.

APPLICANT CONTENDS THAT:

The "4" rating was given due to a single incident over a two year period. His rater and indorser at the time felt they were coerced in giving the "4" rating.

In support of the appeal, applicant submits a personal statement; statements from the rater and the indorser which states they feel that applicant's EPR should be upgraded to a 5 because the 4 rating was based on a single incident and a non-regulation hospital rule. If not for the hospital's policy, he would have been given a 5; and, a statement from an individual outside the rating chain.

Applicant's complete submission is attached at Exhibit A

STATEMENT OF FACTS:

The applicant is currently serving in the Regular Air Force in the grade of staff sergeant.

The applicant filed two similar appeals under AFI 36-2401, Correcting Officer and Enlisted Evaluation Reports, which were denied by the Evaluation Reports Appeal Board (ERAB).

EPR profile since 1991 reflects the following:

<u>PERIOD ENDING</u>	<u>EVALUATION OF POTENTIAL</u>
30 Dec 91	4
30 Dec 92	4
16 Jul 93	4

*24 Jun 95	4
24 Jun 96	5
28 Mar 97	4
28 Mar 98	5

* Contested report.

AIR FORCE EVALUATION:

The Chief, BCMR and SSB Section, AFPC/DPPPAB, reviewed this application and states that Air Force policy is that an evaluation report is accurate as written when it becomes a matter of record. They also point out, the first sergeant, whose policy the applicant and his raters claim influenced their promotion recommendation, was not an official member of the rating chain. He was required by directive to review the applicant's personal information file (PIF), and report any derogatory information or quality control factors (occurring during the reporting period) to the applicant's rating chain. They state, evaluators who change their evaluations after talking with a first sergeant but before the report becomes a matter of record have not necessarily been coerced. Instead, they may have simply been made aware of disqualifying factors. They further state that it is obvious, by their lack of willingness to go to bat for him at the time the report was rendered, they were not convinced he deserved a "5" promotion recommendation. Had the evaluators been thoroughly convinced the applicant was ready for immediate promotion, it's not likely they would have lowered their promotion assessment of the applicant to a "4" after meeting with the first sergeant. Since the applicant does not include any clear evidence to prove his rater's or indorser's rating rights were violated, they conclude the rater and indorser changed the report willingly, and the EPR was accomplished in direct accordance with applicable regulations. They further state, every military member is briefed about proper storage of firearms when they in-process each military installation. The applicant used poor judgment when he left his firearm stored in a locked suitcase in his locker in his dormitory room and received an Article 15. They find it interesting, the applicant did not believe the report was unjust for over two years. Then, after he was nonselected for promotion to the grade of technical sergeant, he realized that had he receive a "5" rating on the contested report, he would have been a promotion selectee. However, the report is not unjust or erroneous simply because he believes it is. Therefore, based on the evidence provided, they recommend denial of applicant's request.

A complete copy of the evaluation is attached at Exhibit C.

The Chief, Inquiries/AFBCMR Section, AFPC/DPPPWB, also reviewed this application and states that should the Board void the contested report in its entirety, upgrade the overall rating, or

make any other significant change, providing the applicant *is* otherwise eligible, the applicant will be entitled to supplemental promotion consideration commencing with cycle 96E6,

A complete copy of their evaluation is attached at Exhibit D.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

On 13 July 1998, copies of the Air Force evaluations were forwarded to applicant for review and response within 30 days. As of this date, no response has been received by this office.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing laws or regulations.
2. The application was timely filed.
3. Sufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. Applicant contends the "4" rating was given due to a single incident over a two-year period. His rater and indorser at the time felt they were coerced into giving the "4" rating. Statements from the rater and the indorser have been provided and indicate that they feel the applicant's EPR should be upgraded to a "5" rating because the 4 rating was based on a single incident and a non-regulation hospital rule. In view of the foregoing, and in an effort to offset any possibility of an injustice, we believe the contested EPR should be upgraded from a "4" to a "5". In addition, we recommend he be provided supplemental promotion consideration for all appropriate cycles beginning with cycle 97E6.

THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT, be corrected to show that the Enlisted Performance Report, AF Form 910, rendered for the period 17 July 1993 through 24 June 1995, was amended to reflect a "5" rating in Section IV, Promotion Recommendation, by the rater and the indorser.

It is further recommended that applicant be provided supplemental consideration for promotion to the grade of technical sergeant for all appropriate cycles beginning with cycle 97E6.

If AFPC discovers any adverse factors during or subsequent to supplemental consideration that are separate and apart, and

unrelated to the issues involved in this application, that would have rendered the applicant ineligible for the promotion, such information will be documented and presented to the board for a final determination on the individual's qualification for the promotion.

If supplemental promotion consideration results in the selection for promotion to the higher grade, immediately after such promotion the records shall be corrected to show that applicant was promoted to the higher grade on the date of rank established by the supplemental promotion and that applicant is entitled to all pay, allowances, and benefits of such grade as of that date.

The following members of the Board considered this application in Executive Session on 15 October 1998, under the provisions of AFI 36-2603:

Mr. Robert D. Stuart, Panel Chair
Mr. Henry Romo, Jr., Member
Mr. Richard A. Peterson, Member
Ms. Phyllis L. Spence, Examiner (without vote)

All members voted to correct the records, as recommended. The following documentary evidence was considered:

Exhibit A. DD Form 149, dated 1 Jan 98, w/atchs.
Exhibit B. Applicant's Master Personnel Records.
Exhibit C. Letter, AFPC/DPPPAB, dated 26 Jun 98, w/atchs.
Exhibit D. Letter, AFPC/DPPPWB, dated 22 Jun 98.
Exhibit E. Letter, AFBCMR, dated 13 Jul 98.



ROBERT D. STUART
Panel Chair



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE PERSONNEL CENTER
RANDOLPH AIR FORCE BASE TEXAS

22 JUN 1998

MEMORANDUM FOR AFPC/DPPPAB
AFBCMR

FROM: HQ AFPC/DPPPWB
550 C Street West, Ste 9
Randolph AFB TX 78150-4711

SUBJECT: Application for Correction of Military Records [REDACTED]

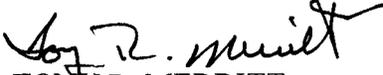
Requested Action. The applicant is requesting the AFBCMR replace his Enlisted Performance Report (EPR) closing 24 Jun 95 with an upgraded EPR. We will address the supplemental promotion consideration issue should the request be approved.

Reason for Request. Applicant believes the 4 rating was given due to a single incident and that his rater and endorser felt they were coerced in giving the 4 rating.

Facts. See AFPC/DPPPAB Ltr.

Discussion. The first time the report was considered in the promotion process was Cycle 96E6 to technical sergeant (promotions effective Aug 96 - Jul 97). Should the AFBCMR void the contested reports in their entirety, or upgrade the overall rating, providing he is otherwise eligible, the applicant will be entitled to supplemental promotion consideration beginning with cycle 96E6. The applicant will not become a select during cycle 96E6 if the AFBCMR grants the request but would become a select for the 97E6 cycle pending a favorable data verification and the recommendation of the commander.

Recommendation. We defer to the recommendation of AFPC/DPPPAB.


TONY R. MERRITT
Chief, Inquiries/AFBCMR Section
Enlisted Promotion & Mil Testing Br

[REDACTED]

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DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE PERSONNEL CENTER
RANDOLPH AIR FORCE BASE TEXAS

26 JUN 1998

MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/DPPPAB
550 C Street West, Suite 8
Randolph AFB TX 78150-4710

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Requested Action. The applicant requests the Board upgrade his 24 Jun 95 enlisted performance report (EPR) to a "5" in Section IV, Promotion Recommendation.

Basis for Request. The applicant contends the rater and indorser of the contested report were coerced into changing their promotion recommendation from a "5" to a "4" in Section IV. He also contends an unwritten policy existed in his unit during the contested reporting period that precluded recipients of Articles 15 from receiving a "5" promotion recommendation.

Recommendation. Deny.

Facts and Comments.

a. The application is timely. The applicant filed two similar appeals under AFI 36-2401, Correcting Officer and Enlisted Evaluation Reports, which were denied by the Evaluation Reports Appeal Board (ERAB). Copies of the ERAB's 30 Sep 97 and 31 Mar 98 decision memorandums are included with this advisory.

b. AFI 36-2403, The Enlisted Evaluation System, 15 Jul 94, is the governing directive.

c. In support of his appeal, the applicant submits a copy of an AF Form 948, Application for Correction/Removal of Evaluation Reports; a copy of the 24 Jun 95 EPR; a copy of a revised version of the 24 Jun 95 report; memorandums from his rater and indorser; a personal brief; and a memorandum from outside the rating chain.

d. The applicant and his rating chain contend they were coerced into changing their intended promotion recommendation in Section IV, from a "5" to a "4" based on an "unwritten policy" in effect at the time. Air Force policy is that an evaluation report is accurate as written when it becomes a matter of record. To effectively challenge an EPR, it is necessary to hear from all the members of the rating chain—not only for support, but for clarification/explanation. AFI 36-2403, para 4.6, charges a **rater** with choosing the block that best describes the ratee's promotion potential. The **indorsers** of the report are required to either concur or nonconcur with the rater's promotion recommendation. If they concur, they simply mark the concur block. However, if they nonconcur, they are required to mark the nonconcur block and initial the block with which they agree. Since there are provisions in place to properly handle discrepancies between members of the rating chain, we determine it was the rater's and indorser's choice to change their ratings from a "5" to a "4."

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e. We would also like to point out to the Board, the first sergeant, whose policy the applicant and his raters claim influenced their promotion recommendation, was not an official member of the rating chain. Rather, he was required by directive to review the applicant's personal information file (PIF), and report any derogatory information or quality control factors (occurring during the reporting period) to the applicant's rating chain. Evaluators who change their evaluations after talking with a first sergeant but before the report becomes a matter of record have not necessarily been coerced. Instead, they may have simply been made aware of disqualifying factors. It is obvious, by their lack of willingness to "go to bat" for him at the time the report was rendered, they were not convinced he deserved a "5" promotion recommendation. It is not uncommon for raters to soften their opinions of an applicant's duty performance in retrospect, as memories fade over time. Had the evaluators been thoroughly convinced the applicant was ready for immediate promotion ("5") it is not likely they would have lowered their promotion assessment of the applicant to a "4" (Ready) after meeting with the first sergeant. Since the applicant does not include any clear evidence to prove his rater's or indorser's rating rights were violated, we conclude and they admit, they changed the report willingly, and the EPR was accomplished in direct accordance with applicable regulations.

f. Every military member is briefed about proper storage of firearms when they in-process each military installation. The applicant used poor judgment when he left his firearm stored in a locked suitcase, in his locker, in his dormitory room and received an Article 15. We find it interesting, the applicant did not believe the report was unjust for over two years. Then, after he was nonselected for promotion to the grade of technical sergeant (TSgt), he realized that had he received a "5" rating on the contested EPR, he would have been a promotion selectee. We understand the applicant's desire to have the report removed because of the promotion advantage. However, the report is not unjust or erroneous simply because he believes it is.

Summary. Based on the lack of evidence provided, our recommendation of denial is appropriate.



Chief, BCMR and SSB Section
Directorate of Pers Program Mgt

Attachments:

1. HQ AFPC/DPPPAE Ltr, 30 Sep 97
 2. HQ AFPC/DPPPAE Ltr, 31 Mar 98
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31 MAR 1998

MEMORANDUM FOR 60 MSS/DPMPE

FROM: HQ AFPC/DPPPAE
550 C Street West, Ste 8
Randolph AFB, TX 78150-4710

SUBJECT: AFI 36-2401 Decision: [REDACTED]
Report Closing: 24 Jun 95

The Evaluation Reports Appeal Board (ERAB) denied the attached appeal application. The Board considers an evaluation report to be an accurate assessment when rendered; therefore, substantial evidence is required to challenge a report's accuracy. **As** you are aware, the Military Personnel Flight is responsible for providing members **counseling on their application** submitted under AFI 36-2401. **As** such, to assist you in counseling [REDACTED], this memorandum provides **our** assessment of the application.

The Board wasn't convinced by [REDACTED] documentation. The additional documentation he **has** submitted still **hasn't convinced the Board that the rating chain was coerced** by this "policy" regarding individuals who received an Article 15 (or that it ever existed). Evaluators who change their evaluations after talking with a superior have not necessarily been coerced. *Clear* evidence must exist proving that the superior violated the evaluator's rating rights. Supporting statements must identify the person who did the coercing, list the specific threats that were made, and identify any witnesses who can corroborate the incident. The fact that the First Sergeant may have told the rater, [REDACTED], that individuals receiving an Article 15 would not receive a "5" rating **doesn't mean he was coerced** into changing any ratings. Both [REDACTED] and the indorser, [REDACTED] indicate they gave a "4" rating with the knowledge that "a 4 rating was also a good EPR." This strongly suggests they were satisfied with the rating they elected to give at that time (especially since they didn't challenge this hospital "policy"). A willingness by evaluators to change or void a report isn't a valid basis for doing **so** unless there is also clear evidence of error or injustice being involved, nor are retrospective views of how a report may affect **future career opportunities**. **Again, as** we recommended in **our** 30 Sep 97 memorandum, perhaps [REDACTED] should request an IG inquiry into this "policy" and requests the results be forwarded to our **office** for review in accordance with **AFI 36-2401**, paragraph 3.4.3.

After counseling, please provide [REDACTED] with a copy of this memorandum announcing the Board's decision. He may gather new material evidence and reapply under **AFI 36-2401**, but the original documentation should be included with the new application. While we cannot guarantee a favorable decision will result, we will ensure the case is processed **as fast as** possible. Another avenue available is to appeal under AFI 36-2603 to the Air Force Board for

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Correction of Military Records. If you have any questions or concerns, please contact MSgt Mike Williams, HQ AFPC/DPPPAE, at DSN: 487-5611.

SIGNED

ANN M. LACEY, CMSgt, USAF
Chief, Evaluation Reports Appeals Section
Directorate of Pers Prgm Mgt



9801634

30 SEP 1997

MEMORANDUM FOR 60 MSS/DPMPE

FROM: HQ AFPC/DPPPAE
550 C Street West, Ste 8
Randolph AFB, TX 78150-4710

SUBJECT: AFI 36-2401 Decision: [REDACTED]
Report Closing: 24 Jun 95

The Evaluation Reports Appeal Board (ERAB) denied the attached appeal application. The Board considers an evaluation report to be an accurate assessment when rendered; therefore, substantial evidence is required to challenge a report's accuracy. As you are aware, the Military Personnel Flight is responsible for providing members counseling on their application submitted under AFI 36-2401. As such, to assist you in counseling the applicant, this memorandum provides our assessment of the application.

We believe the Board wasn't convinced by [REDACTED]'s documentation. While the rating chain supports the request, the rationale for doing so is not clear. What is known now that wasn't known when the contested report was rendered? [REDACTED] states [REDACTED] received an Article 15 during the reporting period and because of "an unwritten hospital rule" his rating chain felt obliged to submit a "4" (although they felt he deserved a "5"). No substantial proof, however, has been submitted to indicate such a policy ever existed or that the rating chain was coerced by this "policy." Why is [REDACTED] and the rest of the rating chain, willing to fight the "policy" and give [REDACTED] a "5" now (two years after the report was rendered), but not willing to do so at that time? Was this the Commander's "unwritten policy"? If so, why is he/she now willing to upgrade the report? If not, exactly who's policy was it so that it can be substantiated? Specific information is required from those in the rating chain, as well as anyone who can substantiate such a policy ever existed. If [REDACTED] feels such a policy may have impacted the ratings of those in his rating chain, perhaps he should request in IG inquiry and request the results be forwarded to our office in accordance with AFI 36-2401, paragraph 3.4.3. A willingness by evaluators to change or void a report isn't a valid basis for doing so unless there is also clear evidence of error or injustice being involved.

After counseling, please provide [REDACTED] with a copy of this memorandum announcing the Board's decision. He may gather new material evidence and reapply under AFI 36-2401, but the original documentation should be included with the new application. While we cannot guarantee a favorable decision will result from the additional evidence submitted by the member, we will ensure the case is processed as fast as possible. Another avenue available to the

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applicant is to appeal under AFI 36-2603 to the Air Force Board for Correction of Military Records.

SIGNED

ANN M. LACEY, CMSgt, USAF
Chief, Evaluation Reports Appeals Section
Directorate of Pers Prgm Mgt



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