

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 97-03510 . . .

COUNSEL: NONE

HEARING DESIRED: YES

APPLICANT REQUESTS THAT:

His Enlisted Performance Report (EPR), rendered for the period 16 May 1993 through 15 May 1994, be declared void and removed from his records.

APPLICANT CONTENDS THAT:

The contested report is an inaccurate account of his performance because the rater did not gather input from other sources pertaining to his duty performance. The rater did not deduct the time he (rater) was assigned temporary duty (TDY) from the reporting period and the rater did not conduct an initial feedback session during the reporting period. The indorser did not have sufficient knowledge of his duty performance to properly evaluate him. The report is inconsistent when compared to his other EPRs.

In support of his request, the applicant submits a personal statement, copies of his AFI 36-2401 applications, with statements from the rater and former squadron commander, the contested EPR and additional documents associated with the issues cited in his contentions. These documents are appended at Exhibit A.

STATEMENT OF FACTS:

Information extracted from the Personnel Data System (PDS) indicates that the applicant contracted his initial enlistment in the Regular Air Force on 23 June 1981. He has been progressively promoted to the grade of technical sergeant, effective 1 March 1992. The following is a resume of his EPR ratings subsequent to his promotion to that grade.

<u>Period Ending</u>	<u>Evaluation</u>
15 May 92	5 - Ready for Immediate Promotion
15 May 93	5

* 15 May 94	4 - Ready for Promotion
15 May 95	5
15 May 96	5
15 May 97	5

* Contested report

Similar appeals by the applicant, under Air Force Instruction (AFI) 36-2401, were considered and denied by the Evaluation Report Appeal Board (ERAB) on 27 May 1997 and 23 March 1995.

AIR FORCE EVALUATION:

The Airman Promotion Branch, HQ AFPC/DPPPWB, stated that the first time the contested report was considered in the promotion process was Cycle 95E7 to master sergeant (E-7), promotions effective Aug 95 - Jul 96. Should the Board void the report in its entirety, providing he is otherwise eligible, the applicant will be entitled to supplemental promotion consideration commencing with Cycle 95E7. It is noted that the applicant will not become a selectee for promotion during cycles 95E7, 96E7 or 97E7 if the Board grants his request. Thus, it would serve no useful purpose to provide him supplemental consideration for these cycles. They defer to the recommendation of HQ AFPC/DPPPAB (Exhibit C).

The Directorate of Personnel Program Management, HQ AFPC/DPPPAB, reviewed this application and recommended denial. DPPPAB stated that the applicant did not submit documentation to validate his contention that the rater did not have the 120 days of supervision required to write an evaluation. DPPPAB noted the applicant was previously informed that the safety schedules are not official documents to confirm the absence of the rater. The rater's letter does not substantiate the claim concerning the TDY issue. The applicant further asserted that he was also TDY during the reporting period. DPPPAB indicated that had the applicant been assigned elsewhere for a sufficient time period, a Letter of Evaluation would have been written to evaluate the applicant's performance for use by the rater in creating the applicant's EPR. DPPPAB stated that while Air Force policy does charge a rater to get meaningful information from the ratee and as many sources as possible, it is his ultimate responsibility to determine which accomplishments are included on the EPR and whether or not it is necessary for him to gather additional information from other sources in order to render an accurate assessment of the individual. With regard to the indorser's not having first-hand knowledge of the applicant's duty performance, DPPPAB stated that the short length of time the indorser was in the role before the closeout date is not an issue. Air Force policy allows evaluators, other than the rater, to be assigned at any point. As to the allegation that he was not rendered an initial performance feedback, the governing instruction states

that a rater's failure to conduct a required or requested feedback session does not by itself invalidate an EPR. DPPPAB indicated that it is not feasible to compare one report covering a certain period of time with another report covering a different period of time. DPPPAB stated that a review of the documents provided does not reveal a violation of regulatory provisions or indicate an injustice occurred. A complete copy of this evaluation is appended at Exhibit D.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

The applicant reviewed the advisory opinions and indicated that it is not a question of providing more evidence as suggested, he feels there is enough hard evidence available in his application package to prove his case. The letters and statements that were provided were made by individuals and supervisors in the unit and wing who benefited directly as a result of his outstanding work during the period covered by the contested report. They would have provided this testimony to the rater had they been asked. The rater acknowledged he was with him (applicant) only a very short period of time, no more than 55 days during the rating period. His reporting official was notified in early December 1993 that he was responsible to give him a feedback. However, he never signed off on it until March 1994, two months before the closeout of the contested EPR. He did tell the rater that feedback was due. He is unable to provide additional information concerning the rater's travel vouchers to prove he was TDY. He is an enlisted NCO and, as a result of the privacy act, that information would not be released to him. Furthermore, the individual is no longer in the service and he would have no contact with him. He strongly feels that he has justified the removal of the contested report. This officer's unjustified, unverified report has caused and will continue to have an adverse effect on his career and chances for early promotions. A complete copy of this response is at Exhibit-F.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed.
3. Insufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. Evaluators are required to assess a ratee's performance, honestly and to the best of their ability, based on their observance of an individual's performance. We have noted the documents provided with the applicant's submission. However, they do not, in our opinion, support a finding that the evaluators were unable to

render unbiased evaluations of the applicant's performance or that the ratings on the contested report were based on factors other than applicant's duty performance during the contested rating period. There is no indication in the record before us that the rater did not have reasonable information available concerning the applicant's performance during the contested rating period on which to base a reasonably accurate assessment. As to the days of supervision, insufficient evidence has been presented to substantiate the applicant's contention that the rater did not have the required 120 days of supervision. The applicant further alleges that the contested report is inconsistent when compared to his other EPRs. The fact that the applicant received more favorable ratings both prior and subsequent to the period under review, alone, does not substantiate a finding that the report is inaccurate. Additionally, we found no evidence that the contested report was prepared contrary to the governing regulation nor did we find the rater's failure to conduct feedback sessions to be a sufficient basis to invalidate the report. In view of the foregoing, and in the absence of evidence to the contrary, we are in agreement with the opinion of the respective Air Force office (HQ AFPC/DPPPAB) and find no basis on which to favorably consider this appeal.

4. The applicant's case is adequately documented and it has not been shown that a personal appearance with or without counsel will materially add to our understanding of the issue(s) involved. Therefore, the request for a hearing is not favorably considered.

THE BOARD DETERMINES THAT:

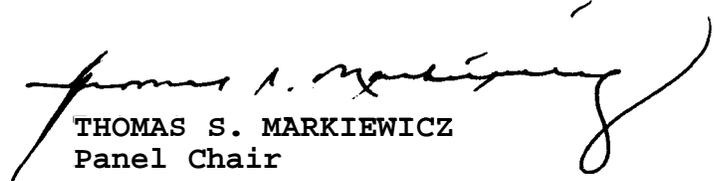
The applicant be notified that the evidence presented did not demonstrate the existence of probable material error or injustice; that the application was denied without a personal appearance; and that the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

The following members of the Board considered this application in Executive Session on 9 July 1998, under the provisions of AFI 36-2603:

Mr. Thomas S. Markiewicz, Panel Chair
Mr. Jackson A. Hauslein, Member
Mr. Michael P. Higgins, Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 12 Nov 97, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, HQ AFPC/DPPPWB, dated 3 Dec 97.
- Exhibit D. Letter, HQ AFPC/DPPPAB, dated 7 Jan 98.
- Exhibit E. Letter, SAF/MIBR, dated 27 Jan 98.
- Exhibit F. Letter from applicant, dated 16 Feb 98.



THOMAS S. MARKIEWICZ
Panel Chair



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

3 DEC 1997

MEMORANDUM FOR AFPC/DPPPAB
AFBCMR
IN TURN

FROM: HQ AFPC/DPPPWB
550 C Street West, Ste 09
Randolph AFB TX 78150-4711

SUBJECT: Application for Correction of Military Records

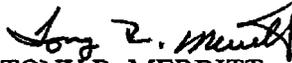
Requested Action. The applicant is requesting the **AFBCMR** void his Enlisted Performance Report (**EPR**) closing 15 May 94. We will address the supplemental promotion issue should the request be approved.

Reason for Request. The applicant states the contested **EPR** was not an accurate account of his **performance** during the reporting period.

Facts. See **Hq AFPC/DPPPAB** Memorandum.

Discussion. The first **time** the contested report was considered in the promotion process **was** cycle 95E7 to MSgt (promotions effective Aug 95 - Jul 96). Should the **AFBCMR** void the contested report **as** requested, and providing the applicant is otherwise eligible, he would **normally** be entitled to supplemental consideration beginning with cycle 95E7. He **will** not be a selectee for the **95E7, 96E7, or 97E7** cycles **and** it would serve no useful purpose to provide him supplemental consideration for these cycles. Promotion selections for the next cycle, 98E7, will be done in May 98.

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


TONY R. MERRITT
Chief Inquiries/AFBCMR Section
Airman Promotion Branch

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

7 JAN 1998

MEMORANDUM FOR AFBCMR

FROM. HQ AFPC/DPPPAB

550 C Street West, Suite 8
Randolph AFB TX 781504710

SUBJECT: AFI 36-2603 Application—

Requested Action. Applicant requests the enlisted performance report (EPR) that closed out on 15 May 94 be removed ~~from~~ his records.

Basis for Request. Applicant contends the contested report is an inaccurate account of his performance during the reporting period because the rater did not gather input ~~from~~ other sources pertaining to the applicant's duty performance; the rater did not deduct the time he ~~was~~ assigned temporary duty (TDY) ~~from~~ the reporting period; the indorser ~~from~~ the contested report did not have sufficient knowledge of his duty performance to properly evaluate it; his rater did not conduct an initial feedback session during the reporting period; and the report is inconsistent ~~when compared~~ to his other EPRs.

Recommendation. Deny.

Facts and Comments.

a. Application is timely. The application is timely. The applicant submitted two similar requests under MI-36-2401 Correcting Officer and Enlisted Evaluation Reports, which were denied by the Evaluation Report Appeal Board (ERAB). A copy of the letters announcing the ERAB's decisions, dated 25 May 95 and 27 May 97, are included in the applicant's appeal package.

b. AFR 39-62, Enlisted Evaluation System (EES), 1 May 89, is the governing directive.

c. In support of his appeal, the applicant submits a personal brief; copy of a decoration printout extracted from personnel data system (PDS); copies of his EPRs, and decorations; a copy of a performance feedback worksheet (PFW), copy of his ERAB packages; memorandum ~~from~~ the rater ~~from~~ the contested report; statements from outside the rating chain of the contested report, and extraneous material.

e. Air Force policy is that an evaluation report is accurate as Written when it becomes a matter of record, It takes substantial evidence to the contrary to have a report

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changed or voided. To effectively challenge an EPR, it is important to hear ~~from~~ all the evaluators on the contested report—not only for support, but for clarification/explanation. The applicant ~~has~~ provided a memorandum from the rater of the contested report. However, he does not substantiate the report was inaccurate, nor that he made ~~an~~ error when he evaluated the applicant's performance. He does not include any substantial information ~~from~~ the indorser of the report. The statements from outside the rating chain are not germane to this case. While the individuals ~~are~~ entitled to their opinions of the applicant, we are provided no reason to believe they were in a better position to assess the applicant's duty performance during the contested rating period than those specifically charged with ~~his~~ evaluation. In the absence of information from the evaluators, official substantiation of error or injustice from the Inspector General (IG) or Social Actions is appropriate, but not provided in this case. It appears the contested report was accomplished in direct accordance with Air Force policy in effect at the time it was rendered.

f. The applicant claims the rater did not deduct the days he was assigned Temporary Duty (TDY) ~~from~~ the total number of days supervision covered during this reporting period and therefore, did not have the necessary 120 days supervision required to write an evaluation. However, the applicant failed to provide the documentation necessary to validate his contention. ~~As~~ stated in the ERAB's decision memorandum, dated 27 May 97, "The safety schedules ~~are~~ not official documents to confirm the absence of the rater. Copies of completed travel vouchers or other official documents from the Financial Services Office (FSO) are required to confirm the periods of absence. Further, only periods of absence in excess of 30 consecutive days are deducted ~~from~~ the period of supervision." The letter ~~from~~ the applicant's rater does not substantiate his claim concerning the TDY issue. He merely states, "There were approximately 55 days, according to his (the applicant's) calculations, during the period of evaluation he and I were physically in the office together." Apparently, the rater did not recalculate the days of supervision, nor was he personally willing to provide copies of travel vouchers to the applicant in order to corroborate his contention the number of days supervision was wrong. The applicant further asserts he was also TDY during the reporting period. Had the applicant been assigned elsewhere for a sufficient time period, a Letter of Evaluation would have been Written to evaluate the applicant's performance, and then maintained in a suspense file in the unit Commander's Support Staff (CSS) office for his rater's review and use in creating the EPR. We, therefore, conclude the applicant failed to provide sufficient evidence to convince us the number of days supervision was erroneous.

g. The applicant contends his rater did not obtain input from others before finalizing his EPR that closed out in May 94. While Air Force policy does charge a rater to get meaningful information ~~from~~ the ratee and as many sources as possible, it is his ultimate responsibility to determine which accomplishments are included on the EPR and whether or not it is necessary for him to gather additional information ~~from~~ other sources in order to render an accurate assessment of the individual. The rater obviously considered he had sufficient knowledge of the applicant's performance and rendered a valid assessment of his performance. The fact the rater was unwilling to provide additional documentation regarding the contested EPR speaks volumes. He obviously, with a clear conscience, rendered a report he considered to be accurate. The applicant fails to realize or understand that, by virtue of human nature, an individual's self-assessment of performance is often somewhat "glorified" compared to an

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evaluator's perspective because it is based on perceptions of self. His report is not inaccurate or unfair simply because he believes it is.

h. The applicant asserts the indorser from the contested report did not have first-hand knowledge of his duty performance and was, therefore, unable to render a proper evaluation of his duty performance. The Air Force charges evaluators with rendering fair and accurate EPRs and ensuring the comments support the ratings. The short length of time he was in the role before the close-out date is not an issue; Air Force policy allows evaluators other than the rater to be assigned at any point. Subsequent evaluators are not required to have "first-hand knowledge" of the ratee—if they feel their knowledge is insufficient, they may obtain information from other reliable sources.

i. The applicant alleges he was not rendered an initial performance feedback. AFI 36-2403, paragraph 2.8, states the ratee should "notify the rater and, if necessary, the rater's rater when a required or requested feedback session does not take place." The applicant does not state whether he requested a feedback session from his rater, nor does he state he notified the rater or the rater's rater when the required feedback session did not take place. Regardless, AFI 36-2403, paragraph 2-10, states, "A rater's failure to conduct a required or requested feedback session does not by itself invalidate an EPR."

j. The applicant contends the contested EPR is inconsistent with previous performance. It is not feasible to compare one report covering a certain period of time with another report covering a different period of time. This does not allow for changes in the ratee's performance and does not follow the intent of the governing regulation, AFR 39-62. The OPR was designed to provide a rating for a specific period of time based on the performance noted during that period, not based on previous performance. We must conclude the contested report had its desired effect on the individual, as his duty performance for the subsequent reporting period improved.

k. In conclusion, a review of the documents provided does not reveal a violation of regulatory provisions or indicate an injustice has occurred. It appears this appeal is simply an effort to remove an "undesirable" report. We understand the applicant's desire to have the EPR removed because of the promotion advantage. However, we strongly recommend applicant's request be denied.

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


JOYCE E. HOGG
JOYCE E. HO

Chief, BCMR and SSB Section
Dir of Personnel Program Mgt

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