

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-00061
COUNSEL: NONE
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

1. Her AF Form 910, *Enlisted Performance Report (EPR) (AB thru TSgt)*, rendered for the period 2 Jun 09 thru 1 Jun 10 be declared void and removed from her records.
 2. Her Fitness Assessment (FA) dated 29 Dec 10 be removed from the Air Force Fitness Management System (AFFMS).
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APPLICANT CONTENDS THAT:

1. AFI 36-2406, *Officer and Enlisted Evaluation Systems* states a promotion recommendation must be valid and realistic. Her promotion recommendations are not valid and realistic due to her ineligibility in accordance with AFIs 41-210, *Tricare Operations and Patient Administration Function* and AFI 36-3212, *Physical Evaluation for Retention, Retirement, and Separation*.
2. During the rating period, she was assigned an Assignment Availability Code 37, which denotes, "medical defect/condition requires Medical Evaluation Board (MEB) or Physical Evaluation Board (PEB) processing" with a 4T profile, which requires written disposition of a MEB prior to removal of the code for temporary duty (TDY) or permanent change of station (PCS).
3. AFI 36-2905, *Fitness Program* states "if an airman becomes injured or ill during the FA and is unable to complete all required components, he/she will have the option of being evaluated at the Medical Treatment Facility (MTF) but his/her test will still count unless rendered invalid by the unit commander. She notified the fitness assessment cell (FAC) staff that she was ill; was informed to call the MTF and her assessment scorecard was annotated "going to clinic." She was given an appointment and seen within 24 hours. She was diagnosed with bronchitis and was given medication for her abdominal pain as a result of scaring from her hysterectomy in Sep 10.
4. In addition, AFI 36-2905, states "if the medical evaluation validates the illness/injury, the unit commander may invalidate the test results; the airman will then be required to retest within five duty days or when capable based on the recommendations of the medical provider, medical liaison officer

(MLO) and the exercise physiologist (EP)." She requested her unit commander invalidate the test results and she be given the opportunity to retest within five duty days; however, her request was denied because her *Duty Limiting Condition* form and quarters recommendation were dated the day after her FA. The AFI does not mandate the evaluation at the MTF must be the same day as the FA.

In support of her requests, the applicant provides copies of her AF Form 910; AF Form 469, *Duty Limiting Condition Report*; DD Form 2870, *Authorization for Disclosure of Medical or Dental Information*; Standard Forms (SF) 600, *Chronological Record of Medical Care*; AF Form 422, *Notification of Air Force Member's Qualification Status*, MEB final disposition and other documentation associated with her request.

The applicant's complete submission, with attachments, is at Exhibit A.

STATEMENT OF FACTS:

The applicant is currently serving on active duty in the grade of SSgt.

On 13 Mar 12, AFPC/DPSIM requested the applicant provide additional supporting documentation to substantiate her claim. Specifically, copies of an AF Form 469 and AF Form 422, documenting her limitations and exemptions. In response to DPSIM's request, the applicant responded via letter, dated 10 Apr 12 stating a new AF Form 469 was generated upon receipt of the decision to return her to duty and a subsequent 422 was approved in Mar 2011

On 18 Apr 12, AFPC/DPSIM again requested the applicant provide additional documentation to substantiate her claim. Specifically, a signed AF Form 108, *Physical Fitness Education and Intervention Processing* indicating her injury hindered her from achieving a passing FA during Dec 10. The applicant failed to provide the requested documentation.

The applicant did file an appeal through the Evaluation Report Appeals Board (ERAB) under the provisions of AFI 36-2401, *Correcting Officer and Enlisted Evaluation Reports*; however, the ERAB was not convinced the report was unjust or inaccurate and denied the applicant's request for relief.

The remaining relevant facts pertaining to this application are contained in the letters prepared by the appropriate offices of the Air Force, which are attached at Exhibit C.

AIR FORCE EVALUATION:

AFPC/DPSID recommends denial of the applicant's request to void the contested report. AFI 36-2401 clearly states that an applicant may not make statements that cannot be supported with evidence. Unsubstantiated conjecture about the motives of the evaluators or how or why the report turned out as it did, do not contribute to the case. The applicant has not provided factual, specific and substantiated information that is from credible officials based on firsthand observation or knowledge. Moreover, attachment 1, paragraph A1.3 states the most effective evidence consists of statements from the evaluators who signed the report or from other individuals in the rating chain when the report was signed. However, statements from the evaluators during the contested period are conspicuously absent. Without the benefit of these statements, they can only conclude the EPR was accurate as written when it became 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 also for clarification/explanation. The applicant has failed to provide any information/support from the rating chain of record on the contested EPR. In the absence of information/support from evaluators, official substantiation of error or injustice from the Inspector General or Military Equal Opportunity and Treatment is appropriate, but not provided in this case. The subject report was accomplished in direct accordance with applicable regulations and guidance.

An evaluation report is considered to represent the rating chain's best judgment at the time it is rendered. Once a report is accepted for file, only strong evidence to the contrary warrants correction or removal from an individual's record. The applicant has not substantiated that the contested report was not rendered in good faith by all evaluators based on knowledge available at the time.

The complete DPSID evaluation is at Exhibit C.

AFPC/DPSIM recommends denial of the applicant's request to have her FA dated 29 Dec 10, deleted from AFFMS. DPSIM states the applicant failed to provide the requested documentation, specifically, the AF Form 108 indicating her injury prevented her from achieving a passing score.

The complete DPSIM evaluation is at Exhibit D.

AFPC/DPSOE defers to the recommendation of DPSID. DPSOE states DPSID reviewed the case and determined the contested report is valid as written.

The complete DPSOE evaluation is at Exhibit E.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Copies of the Air Force evaluations were forwarded to the applicant on 22 Aug 12 for review and comment within 30 days (Exhibit F). 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 law or regulations.
 2. The application was timely filed.
 3. Insufficient relevant evidence has been presented to demonstrate the existence of error or injustice. We took careful notice of the applicant's complete submission, in judging the merits of the case. However, we agree with the opinions and recommendations of the Air Force offices of primary responsibility and adopt their rationale as the basis for our conclusion the applicant has not been the victim of an error or injustice. Therefore, in the absence of persuasive evidence to the contrary, we find no basis to recommend granting the relief sought in this application.
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THE BOARD DETERMINES THAT:

The applicant be notified that the evidence presented did not demonstrate the existence of 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 AFBCMR Docket Number BC-2012-00061 in Executive Session on 5 Nov 12, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

The following documentary evidence pertaining to AFBCMR Docket Number BC-2012-00061 was considered:

- Exhibit A. DD Forms 149, dated 19 Dec 11, w/atchs.
- Exhibit B. Letter, AFPC/DPISM, 13 Mar 12
- Exhibit C. Letter, AFPC/DPSID, dated 27 Feb 12.
- Exhibit D. Letter, AFPC/DPSIM, dated 20 Jun 12.
- Exhibit E. Letter, AFPC/DPSOE, dated 13 Jul 12.
- Exhibit F. Letter, SAF/MRBC, dated 22 Aug 12.

Panel Chair