
STATEMENT OF FACTS:

The applicant is currently serving in the Regular Air Force in the grade of O-4, Major.

AIR FORCE EVALUATION:

HQ AFPC/DPSIM recommends denial. DPSIM states at the time of the applicant's fitness assessments the governing Air Force instruction was AFI 10-248 not AFI 36-2905. AFI 36-2905 became effective on 1 July 2010 and does not apply to any fitness assessments prior to that date.

The complete AFPC/DPSIM evaluation is at Exhibit B.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

In his response dated 11 July 2012, the applicant states that on 4 November 2004, AFI 10-248 dated 1 January 2004, makes clear "the annual fitness assessment provides commanders with a tool to assist in the determination of overall fitness of their military personnel." Paragraph 3.4., under "Scheduling" states frequency of fitness testing should be based on previous fitness score unless earlier assessment is necessary to accommodate the AEF rotation and maximize time available for intervention/fitness improvement. Paragraph 3.4.1 states the scheduling frequency for an excellent/good test score is within 12 months. The applicant indicates he was not scheduled for an AEF rotation so an earlier test was not necessary and scheduling should have been within 12 months since his previous test score was in the good category.

The applicant provides an expanded statement of the events of his 1 November 2004 and 6 December 2004 practice assessments and his multiple attempts to have the scores removed from AFFMS. He further states he has five scores entered into AFFMS from 16 January 2004 through 21 January 2005 for his "annual" fitness assessment which is contrary to AFI 10-248.

The applicant's complete response, with attachment, is at Exhibit D.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.

2. The application was not timely filed; however, it is in the interest of justice to excuse the failure to timely file.

3. Sufficient relevant evidence has been presented to demonstrate the existence of error or injustice. After a thorough review of the evidence of record and the applicant's submission we believe relief is warranted. The Board notes the comments of the Air Force office of primary responsibility, indicating the applicant has failed to sustain his burden of proof to substantiate his claim. However, we believe he has raised sufficient doubt regarding the contested practice fitness assessments. In this respect, we note that guidance regarding the scheduling frequency of the fitness assessments is not clearly outlined in AFI 10-248 dated 1 January 2004, which has been superseded by AFI 36-2905, 1 July 2010, whose current guidance on practice tests does not apply to the applicant's case, as stated by the Air Force office of primary responsibility. Therefore, in view of the above and noting the applicant's history of otherwise acceptable fitness levels, we recommend his records be corrected as indicated below.

THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected that the Fitness Assessments dated 1 November 2004 and 6 December 2004 be removed from the Air Force Fitness Management System.

The following members of the Board considered this application in Executive Session on 10 January, 2013, under the provisions of AFI 36-2603:

, Panel Chair
, Member
, Member

The following documentary evidence was considered in AFBCMR
Docket Number BC-2012-01920:

- Exhibit A. DD Form 149, dtd 28 March 2012, w/atch.
- Exhibit B. Letter, AFPC/DPSIM, dated 31 May 2012, w/atch.
- Exhibit C. Letter, SAF/MRBR, dated 18 June 2012.
- Exhibit D. Letter, Applicant, dated 11 July 2012, w/atch.

Panel Chair