

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

JUN 30 1998

IN THE MATTER OF:

DOCKET NUMBER: 97-03602

COUNSEL: NONE

HEARING DESIRED: YES

APPLICANT REQUESTS THAT:

The Enlisted Performance Report (EPR) rendered for the period 28 Nov 89 through 17 Sep 90 be declared void and removed from his records.

APPLICANT CONTENDS THAT:

The contested report was written by the wrong rater/supervisor; the indorser was not in his chain of command and should not have signed the report; and the duty performance that was stated in the report was also incorrect and not accomplished by him.

In support of the appeal, applicant submits a personal statement and statements from the rater and indorser. The rater states he was not the applicant's supervisor and never had been. He also states he had insufficient knowledge to render an accurate evaluation of the applicant's performance and was told to write the report because it was late. The indorser states that the information contained in the contested report is inaccurate and does not reflect the duty performance of the applicant during that time frame.

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 technical sergeant.

The applicant submitted three similar requests under AFI 36-2401, Correcting Officer and Enlisted Evaluation Reports, which were denied by the Evaluation Report Appeal Board (ERAB).

APR/EPR profile since 1989 reflects the following:

<u>PERIOD ENDING</u>	<u>EVALUATION OF POTENTIAL</u>
28 Nov 89	9
*17 Sep 90	4 (New System)
17 Sep 91	4
23 Aug 92	5
31 Jul 93	5
29 Apr 94	5
3 Apr 95	5
3 Apr 96	5
5 Oct 96	5
5 Oct 97	5

* Contested report.

AIR FORCE EVALUATION:

The Chief, BCMR and SSB Section, AFPC/DPPPAB, reviewed this application and states that in reference to the rater now claiming he was not the applicant's supervisor and never had been, and also that he had insufficient knowledge to render an accurate evaluation of the applicant's performance, they note, the report was signed by the rater on the closeout date, and there is no mention the dates in Sections V or VI of the report are erroneous. They state that it is apparent the report was not late. They point out, EPRs receive exhaustive reviews prior to the becoming a matter of record. In reference to the applicant asserting the indorser from the contested report did not have first-hand knowledge of his duty performance and was not in his rating chain. They state, 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. They state, although the applicant provided a statement from the indorser from the contested report, it does not substantiate the applicant's contention he should not have been the indorser. Rather, the indorser claims the information on the report did not accurately reflect the applicant's duty performance during the reporting period in question. They state that it is not uncommon for an evaluator's assessment of an individual to mellow over time or for them to soften their position on an issue because memories fade as time passes. They, therefore, are not convinced the indorser who signed the report was not in the applicant's rating chain, or he had insufficient knowledge to render a fair and accurate appraisal of the applicant, especially considering the review levels an EPR must go through before it becomes a matter of record. In this case, the applicant did not provide any evidence from the applicant's former commander, or alleged

correct indorser from the contested report, to substantiate his contention the report was rendered by the wrong individuals.

They further state, it appears the contested report was accomplished in direct accordance with Air Force policy in effect at the time it was rendered. Furthermore, Air Force policy charges a rater to get meaningful information from the ratee and as many sources as possible. However, it is the rater's ultimate responsibility to determine which accomplishments are included on the EPR and whether or not it is necessary to gather additional information from other sources in order to render an accurate assessment of the individual. In that regard, they point out an evaluation report is not erroneous or unjust solely because it may have contributed to nonselection for promotion or because it may impact future promotion or career opportunities. They find no specific evidence that the contested report is flawed or unjust. His report is not inaccurate or unfair simply because he believes it is. It appears this appeal is simply an effort to remove an undesirable report. 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/DPPPAB, 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 95E7.

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

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Copies of the Air Force evaluations were forwarded to applicant on 27 Jan 98 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 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 probable error or injustice. After reviewing the supporting documentation submitted by the applicant, we believe the

contested report is not an accurate assessment of applicant's performance during the period in question. In this respect, we note the statement submitted from the rater, indicating that he was not the applicant's supervisor and never had been. He also stated that he had insufficient knowledge to render an accurate evaluation of the applicant's performance and was told to write the report because it was late. Furthermore, the statement submitted from the indorser stated that the information contained in the contested report is inaccurate and does not reflect the duty performance of the applicant. In view of the foregoing, and in an effort to offset any possibility of an injustice, we believe the contested EPR should be declared void and removed from his records. In addition, we recommend he be provided supplemental promotion consideration for all appropriate cycles beginning with cycle 95E7.

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 28 November 1989 through 17 September 1990, be declared void and removed from his records.

It is further recommended that applicant be provided supplemental consideration for promotion to the grade of master sergeant for all appropriate cycles beginning with cycle 95E7.

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 14 May 1998, under the provisions of AFI 36-2603:

Ms. Charlene M. Bradley, Panel Chair
Mr. Terry A. Yonkers, Member
Dr. Gerald B. Kauvar, 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 25 Nov 97.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFPC/DPPAB, dated 13 Jan 98.
- Exhibit D. Letter, AFPC/DPPAB, dated 12 Dec 97.
- Exhibit E. Letter, AFBCMR, dated 27 Jan 98.


CHARLES M. B.
RADLEY
Panel Chair



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

JUN 30 1996

Office of the Assistant Secretary

AFBCMR 97-03602

MEMORANDUM FOR THE CHIEF OF STAFF

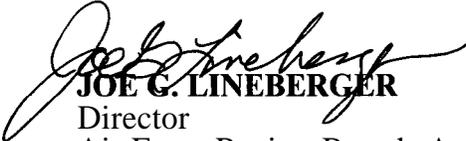
Having received and considered the recommendation of the Air Force Board for Correction of Military Records and under the authority of Section 1552, Title 10, United States Code (70A Stat 116), it is directed that:

The pertinent military records of the Department of the Air Force relating to ~~_____~~ be corrected to show that the Enlisted Performance Report, AF Form 910, rendered for the period 28 November 1989 through 17 September 1990, be, and hereby is, declared void and removed from his records.

It is further directed that applicant be provided supplemental consideration for promotion to the grade of master sergeant for all appropriate cycles beginning with cycle 95E7.

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