

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-02846

XXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

Twelve and a half (12.5) days of leave be restored to her current leave balance.

APPLICANT'S CONTENTIONS

On 9 August 2022, she submitted an inquiry to the Work-Pr... Comptroller Flight asking if she could lose 12.5 days of leave not taken as she planned on using the leave in 2023 after using her maternity leave. She was advised that she would not lose the leave until October 2023. She later was advised by her first sergeant and chief that this information was incorrect; therefore, she submitted a request for Special Leave Accrual (SLA). In September 2022, she was advised to appeal to the Air Force Board for Correction of Military Records (AFBCMR) due to the lost leave. This correction should be made to reinstate 12.5 days of leave earned because she received wrong information when she had time to take the leave.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a currently serving Air National Guard captain (O-3).

For more information, see the excerpt of the applicant's record at Exhibit B and the advisory at Exhibit C.

APPLICABLE AUTHORITY

Title 10, United States Code, Section 701: *Entitlement and accumulation*; Title 10, U.S.C, § 1552: *Correction of military records: claims incident thereto*; AFI 36-3003, *Military Leave Program*; AFI 36-2603, *Air Force Board for Correction of Military Records*; Total Force Military Leave Program Personnel Services Delivery Guide.

Special Leave Accrual (SLA) allows members in qualifying duties to accumulate leave in excess of 60 days. Furthermore, it should be a result of the member's inability to take leave or to reduce their leave balance to 60 days before the end of the fiscal year while being assigned to said activities. SLA shall not be used as a means to authorize the accumulation of leave in excess of 60 days that is a result of members' failure to properly manage their leave balance.

Members are ineligible for SLA when the following precludes using leave: Normal PCS moves and TDYs; Base closures; Hospitalizations, aeromedical evacuations, quarters, and convalescent leaves; Details and special working groups; Training exercises, attending schools or courses, and research requirements; Pending separations and retirements; Workload after return from deployment and members did not take leave before 1 Oct; Post-Deployment Recovery Time; Post deployment/mobilization respite absence.

Members not eligible for SLA can request recovery of days lost by submitting a DD Form 149, *Application for Correction of Military Records*. Requests for recovery of lost leave must include the following:

(1) Memorandum endorsed by the unit commander denying leave due to military necessity or when in the best interests of the Air Force. This memorandum must provide full justification, including documentation showing how the Airmen managed their leave during the year, to clearly establish an error or injustice by the Air Force that caused the Airman's lost leave.

(2) Recommendation from the appropriate approval authority (O-6 equivalent). The wing commander or wing vice commander has the final authority and may be delegated no lower than the first O-6 in chain of command.

AIR FORCE EVALUATION

NGB/A1PS recommends denying the application. The applicant provided a memo dated 1 September 2022 requesting restoration with the subject line of "Fiscal Year (FY) 2023 Special Leave Accrual (SLA) Request." The applicant first believed the 12.5 days of annual leave would fall under the COVID SLA and planned the year assuming this leave would be protected. With further inquiry to her comptroller on 31 August 2022, the applicant learned this information was a misunderstanding and the leave was not considered SLA and would indeed be lost if not taken before 1 October 2022. The applicant acknowledged and was made aware by the Finance office that the leave must be taken by 31 September 2022 or lose it; however, decided not to take it based on inconveniencing the squadron.

The Department of the Air Force published guidance dated 21 July 2021, on Special Leave Accrual (SLA) and was quoted in the applicant's justification for reinstating leave. The applicant's confusion about the policy does not justify the reinstatement nor meet the criteria of COVID SLA according to the leave balance the applicant started on 1 October 2021.

A DJMS report dated 12 January 2023, from the NCOIC of Financial Services at the xxx shows the applicant's leave balance beginning on 1 October 2021 to be 47.5 days. This does not meet the criteria of the DAF quoted: "Effective 1 October 2020 through 30 September 2021, and pursuant to 10 U.S.C. § 701(f)(1)(A) and (B)(ii), members of the Air Force and Space Force performing active service (as that term is defined in 10 U.S.C. § 701(a)) during the effective period, are authorized to accumulate annual leave in excess of 60 days (not to exceed 120 days) as shown on the end of month September 2021 Leave and Earnings Statement (LES).

Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice. The applicant did not have a beginning SLA leave balance on 1 October 2021 to meet the criteria of COVID SLA accrual at the end of the fiscal year 31 September 2022 and should have used the 12.5 days as instructed by her Comptroller. The applicant was also given 30 days to process the SLA request with her commander but did not finish the process also creating the issue of losing the 12.5 days.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 18 January 2023 for comment (Exhibit D), but has received no response.

FINDINGS AND CONCLUSION

1. The application was timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is not the victim of an error or injustice. The Board concurs with the rationale and recommendation of NGB/A1PS and finds a preponderance of the evidence does not substantiate the applicant's contentions. Therefore, the Board recommends against correcting the applicant's records.
4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

RECOMMENDATION

The Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

CERTIFICATION

The following quorum of the Board, as defined in Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2022-02846 in Executive Session on 16 February 2023:

Mr., Panel Chair
Ms., Panel Member
Ms., Panel Member

All members voted against correcting the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 31 October 2022.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, NGB/A1PS, w/atchs, dated 12 January 2022.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 18 January 2023.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by AFI 36-2603, paragraph 4.11.9.

X

Board Operations Manager, AFBCMR