



CUI//SP-MIL/SP-PRVCY

**UNITED STATES AIR FORCE
BOARD FOR CORRECTION OF MILITARY RECORDS**

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-00576

Work-Product

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

Her referral enlisted performance report (EPR) for the reporting period ending 31 Mar 19 be removed from her records.

APPLICANT'S CONTENTIONS

She received a letter of reprimand (LOR) and referral EPR for quality assurance (QA) failures. However, the QA failure was unjust due to her medical profile and duty restrictions. On 3 Jan 19, she was issued a medical profile with duty restrictions to refrain from fuel smells and hazardous materials and that she be assigned administrative duties. The profile was endorsed by her squadron commander (SQ/CC) on 15 Jan 19 and included an expiration date of 8 Feb 19. However, she was never reassigned to administrative duties and remained in the aerospace ground equipment (AGE) consolidated tool kit (CTK) section. The CTK is where most of the hazardous materials are stored and the starting point for hazardous waste collection and disposal.

Subsequently, she was issued a referral EPR for failure to maintain CTK program standards. In Mar 20, she learned she could appeal the EPR through the evaluation report appeals board (ERAB). However, her request was denied. She resubmitted with additional information but her ERAB request was again denied in Sep 22. She also appealed to the Equal Opportunity (EO) office, the wing inspector general (WG/IG) and her congressman but was told her complaint was not in their purview. In Dec 22, she learned she could appeal to the AFBCMR.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a senior airman (E-4) in the Air Force.

On 11 Oct 18, the applicant received a letter of counseling (LOC) for a QA failure on the precision measurement equipment laboratory (PMEL) program for having multiple items overdue on their calibration. In her response dated 11 Oct 18, she stated she always checked her work and this was her first QA fail. She had been dealing with other stressors that led up to the oversight. She filed a harassment complaint involving three people in her shop on 11 Sep 18. The only thing that came of her complaint was that the entire shop received mandatory briefings on EO and sexual assault prevention and response (SAPR).

The applicant received a letter of reprimand (LOR) on 7 Nov 18 for her third QA inspection failure. She understood the QA fail was her fault. On 5 Nov 18, she came to work and found a broken hammer on her desk, the etching had not been removed by the person who broke it. She also stated

**AFBCMR Docket Number BC-2023-00576
CUI//SP-MIL/SP-PRVCY**

Controlled by: SAF/MRB
CUI Categories: SP-MIL/SP-PRVCY
Limited Dissemination Control: N/A
POC: SAF.MRBC.Workflow@us.af.mil

CUI//SP-MIL/SP-PRVCY

she had been having issues with her supervisor and another airman in the shop who were making rude statements about her over messages.

The applicant provides AF Form 469, *Duty Limiting Condition Report*, dated 10 Dec 18, placing her on mobility restrictions for a temporary medical condition.

She provides a medical note dated 21 Dec 18, which reflects her medical provider asked she refrain from fuel smells and hazardous material as the smells were making her headaches worse.

The applicant provides AF Form 469 dated 3 Jan 19, which shows she was placed on duty and mobility restrictions through 8 Feb 19. She was to refrain from fuel smells and hazardous materials and perform only administrative duties.

On 13 Feb 19, the applicant received an LOR. It stated that an investigation disclosed she failed a QA inspection on her spare tools program, a part of the CTK program. The applicant was trained on the process of accepting and replacing broken tools, yet she failed to execute the training. In a response to the LOR dated 13 Feb 19, she stated certain hazardous smells started to make her headaches worse. She has a few medical issues that were ongoing for the past couple months. On 2 Dec 18, she had a concussion and was out sick most of the week and was having bad headaches. She was put on a profile on 10 Dec 18 to refrain from hazardous materials and informed her leadership. Regardless of her profile, she was required to refuel units and check oil on equipment and was still required to work around hazardous materials. She apologized for failing to update the inventory on three different occasions.

The applicant received a referral EPR for the reporting period ending 31 Mar 19. The EPR states she failed to maintain CTK program standards, received four QA failures and an LOR.

Per the Case Management System (CMS), the applicant filed two requests to the ERAB (#13882262 and #14448695) for removal of the referral EPR. The applicant's requests were returned without action due to insufficient evidence. On 27 Sep 22, the CMS cases were closed. Her commander's comments recommending approval show he reviewed her IG complaint and found the referral EPR and LOR were unjust based on the documented medical restrictions. Instead of assigning her to different duties per her AF Form 469, she was assigned to work in the support section where hazardous materials are stored and dispensed. Since QA failures had not been used as the basis for a referral EPR, he believed she was unfairly targeted.

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

AIR FORCE EVALUATION

AFPC/DP3SP recommends denial, although the applicant provided new evidence her medical profile was violated and may have led to multiple QA failures. Both of the applicant's ERAB requests were returned without action due to insufficient evidence and not presented to the ERAB. The applicant's AFBCMR application includes new evidence not previously presented in her appeal and should be presented to the ERAB prior to petitioning the AFBCMR.

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 12 Jun 23 for comment (Exhibit D). In her response dated 6 Jul 23, she states the advisory recommendation and reasoning are

unclear. She assumes they believe her profile is new information. The advisory states both her CMS cases were returned without action. However, the first case was returned without action and the system would not allow her to respond. She was advised she had to start a new case. The case was then denied and it specifically states the ERAB denied because they did not believe she had enough evidence. The IG statement and profile were in the attachment. The profile was also referenced in both cases. She went through proper channels and her cases were not thoroughly considered by the ERAB before she applied to the AFBCMR.

The applicant's complete response, with attachments, is at Exhibit E.

FINDINGS AND CONCLUSION

1. The application was timely filed.
2. The applicant did not exhaust all available non-judicial relief before applying to the Board.
3. The applicant's failure to exhaust all available remedies renders any potential action by the Board premature. In particular, the applicant has not provided evidence her case was considered by the ERAB, which would be able to review the case fully and, if warranted, provide relief. While the applicant did file two ERAB applications, as pointed out by AFPC/DP3SP, the applicant's appeals were returned without action and the evidence provided in the AFBCMR application was not considered by the ERAB. Should the ERAB deny the applicant's request, the applicant may request the Board reconsider her request. Therefore, the Board recommends against correcting the applicant's record at this time.
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 other avenues of administrative relief remain available, and the Board will reconsider the application only upon receipt of documentary evidence that such relief has been exhausted.

CERTIFICATION

The following quorum of the Board, as defined in Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2023-00576 in Executive Session on 17 Aug 23:

<i>Work-Product</i>	Panel Chair
<i>Work-Product</i>	Panel Member
<i>Work-Product</i>	Panel Member

All members voted against correcting the record.

- Exhibit A: Application, DD Form 149, w/atchs, dated 14 Feb 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory opinion, AFPC/DP3SP, dated 12 Jun 23.
- Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 12 Jun 23.
- Exhibit E: Applicant's Response, w/atchs, dated 6 Jul 23.

CUI//SP-MIL/SP-PRVCY

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

8/28/2023

Work-Product

Board Operations Manager, AFBCMR

Work-Product

AFBCMR Docket Number BC-2023-00576
CUI//SP-MIL/SP-PRVCY