



CUI//SP-MIL/SP-PRVCY

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

RECORD OF PROCEEDINGS

IN THE MATTER OF:

Work-Product

DOCKET NUMBER: BC-2023-02157

COUNSEL: *Work-Product*

HEARING REQUESTED: YES

APPLICANT'S REQUEST

Her Letter of Counseling (LOC), dated 4 Jan 23, be rescinded and expunged from her official military records to include her Officer Selection Record (OSR) and her Master Personnel Records Group (MPerRGp).

APPLICANT'S CONTENTIONS

Her squadron commander, who administered the LOC, tried to rescind the LOC but was told the applicant would have to apply to the BCMR in order to get it removed from her official records.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an Air Force major (O-4).

On 4 Jan 23, the applicant received a LOC from her squadron commander (SQ/CC) as the result of investigation which disclosed the following:

a. On or around Sep 22, she failed to establish and maintain a healthy command climate by allowing her husband to direct her subordinates in the workplace and stating that her husband "is an extension of you."

b. Failed to cultivate a culture of compliance and accountability while promoting unit mission and pride by stating "if this person was my kid, I would smack them," or words to that effect when addressing a lack of discipline in the flight.

On 11 Jan 23, the applicant acknowledged that she had received a copy of the LOC and she submitted a written response to her SQ/CC on 17 Jan 23.

On 18 Jan 23, the SQ/CC decided to uphold the LOC and as required by DAFI 36-2907, place it in the applicant's OSR and MPerRGp.

On 14 Jun 23, according to the memorandum from her SQ/CC, dated 14 Jun 23, provided by the applicant, the SQ/CC requested the BCMR remove the applicant's LOC, dated 4 Jan 23 from her OSR, stating <applicant> "has learned from her mistakes and has demonstrated leadership qualities and characteristics that are expected of a field grade officer."

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

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

APPLICABLE AUTHORITY/GUIDANCE

Department of the Air Force Instruction (DAFI) 36-2907, *Adverse Administrative Actions*, 14 Oct 22:

1.2. Adverse Information for Total Force Officer Selection Boards Overview. All adverse information an officer receives will be filed in the OSR and will be considered by promotion selection, special selection, federal recognition (ANG specific), and selective continuation boards to the grade of O-4 and above (to include processes for O-3 promotions that have “extraordinary adverse information” per Department of Defense Instruction (DoDI) 1320.14, *DoD Commissioned Officer Promotion Program Procedures*). Adverse information is any substantiated finding or conclusion from an officially documented investigation or inquiry or any other credible information of an adverse nature. To be credible, the information must be resolved and supported by a preponderance of the evidence. To be adverse, the information must be derogatory, unfavorable, or of a nature that reflects clearly unacceptable conduct, integrity, or judgment on the part of the individual. Adverse information includes, but is not limited to: LOC related to a substantiated finding or conclusion from an officially documented investigation or inquiry.

1.2.2. LOCs unrelated to a substantiated finding or conclusion from an officially documented investigation or inquiry will not be considered adverse information. **(T-0)** This preserves commanders’ ability to administratively document and rehabilitate minor instances of substandard behavior or misconduct without making it a part of the permanent record (also referred to as “standalone” LOCs).

1.2.3. All adverse information as defined by this instruction will be permanently placed in the MPerRGp. **(T-0)** Except for the set aside of a court-martial or nonjudicial punishment, removal of adverse information from the MPerRGp may only be directed pursuant to an Air Force Board for Correction of Military Records (AFBCMR) recommendation.

2.4.6.2.2. For officers, the member’s current wing/delta commander, or individuals listed in **paragraph 2.1** and **paragraph 4.4.1** through **paragraph 4.4.6** in the current chain of command and equal or senior in grade to the initial imposing authority, may only rescind RICs and standalone LOCs (**see paragraph 1.2.2**) contained in the officer’s UIF.

3.4.3. Wing commanders, delta commanders, or issuing authorities can no longer direct removal of derogatory data from the OSR as previously permissible in this instruction and DAFI 36-2608. **(T-0)**

AIR FORCE EVALUATION

AFPC/DPMSSP, recommends granting the request. The applicant’s commander issued a LOC, in accordance with DAFI 36-2907, based on the preponderance of the evidence. Furthermore, in accordance with the National Defense Authorization Act, Title 10 USC Section 615(a)(3), the Letter of Counseling meets the requirements of adverse information. However, the commander that issued the LOC has provided a memorandum recommending that the LOC be removed on account that she learned from her mistake and has demonstrated the qualities of a leader and characteristic traits that is expected of a field grade officer. While there is no evidence of an error or injustice, based upon the squadron commander’s recommendation to remove the LOC, DPMSSP recommends that the Board grant the applicant’s request.

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 9 Aug 23 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 the victim of an error or injustice. The Board concurs with the rationale and recommendation of AFPC/DPMSSM and finds a preponderance of the evidence substantiates the applicant’s contentions. The Board determines the commander acted well within their authority and there was no evidence of an error in the issuance of the LOC. However, the Board notes that the commander that issued the LOC submitted a memorandum on the applicant’s behalf and supports the removal of the LOC as the commander believes the applicant has learned from her mistake and has demonstrated the qualities expected of a field grade officer. In this regard, the Board finds that the primary purpose of the LOC is to correct behavior, and it appears that the applicant has since taken the actions necessary to comply with the standards expected of an Air Force officer. Given the non-egregious nature of the LOC, the commander’s recommendation to remove and the fact that other than the LOC, the applicant has an otherwise stellar record, the Board finds the evidence sufficient to warrant relief. Therefore, the Board recommends correcting the applicant’s records as indicated below.

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 pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show the Letter of Counseling, dated 4 Jan 23, be declared void and removed from her records, to include her Officer Selection Record (OSR) and her Master Personnel Records Group (MPerRGp).

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-2023-02157 in Executive Session on 12 Sep 23:

- Work-Product** Panel Chair
- Work-Product** Panel Member
- Work-Product** Panel Member

All members voted to correct the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 26 Jun 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory opinion, AFPC/DPMSSP, dated 3 Aug 23.
- Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 9 Aug 23.

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.

X  7/9/2024
Work-Product

Board Operations Manager, AFBCMR

Signed by:  *Work-Product*