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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-02767

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COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

The removal from Developmental Education (DE) for Cause Memorandum dated 27 Jun 23 be removed from his officer selection record (OSR) and be replaced with a permanent deferral.

APPLICANT'S CONTENTIONS

AFPC/DP3DW routed his request for the removal from DE memorandum from his records; however, AF/A1 denied the request based on additional information provided by the initiating rater and the Developmental Team (DT) Chair for his Air Force Specialty (AFS). He does not know what additional information was provided by his former senior rater and the DT Chair.

He was denied due process. The removal from DE was not routed to him for input and he was only allowed to respond to the relief of command. He was not issued a referral officer performance brief (OPB) for the period and the commander directed investigation (CDI) closure letter indicated the findings as "Unsubstantiated."

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a currently serving Air Force major (O-4).

SAF/IGQ provides a CDI Report of Investigation (ROI). A CDI was conducted from 30 May 23 to 21 Jun 23 and the investigating officer (IO) investigated the following allegations:

Allegation 1: The applicant did, between on or about 1 Oct 22 and on or about 19 May 23 have an unprofessional relationship with master sergeant (E-7) [redacted] in violation of DAFI 36-2909, *Air Force Professional Relationships and Conduct*. **(UNSUBSTANTIATED)**.

Allegation 2: The applicant did, between on or about 1 Oct 22 and on or about 19 May 23 fail in his duty of loyalty to the chain of command when he made derogatory, disparaging and ridiculing statements regarding senior officers on the wing staff, in violation of AFI 1-1, *Air Force Standards*, **(UNSUBSTANTIATED)**.

On 27 Jun 23, AF/A1 approved the applicant's wing commander's (WG/CC) request the applicant be removed from DE designation for cause. The memorandum states a copy of the letter would be filed in the applicant's OSR and in accordance with DAFI 36-2670, *Total Force Development*, the applicant would no longer be eligible for future in-residence DE. The applicant's automated

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records management system (ARMS) record does not include any acknowledgement or response by the applicant.

On 2 Aug 23, the WG/CC notified the applicant of the disposition of the CDI allegations of an unprofessional relationship and violations of the chain of command. The allegations were determined to be unsubstantiated. The findings of the IO were determined legally sufficient, and the WG/CC approved the findings as the appointing authority. The matter was closed. The applicant was also advised he could petition the AFBCMR for correction of any adverse personnel actions associated with the case.

On 22 Aug 23, the applicant's WG/CC notified the applicant of his relief from command for cause in accordance with DAFI 51-509, *Appointment to and Assumption of Command*, and DAFI 36-2907, *Adverse Administrative Actions*. The decision to relieve him of command was due to a loss of faith and confidence in the applicant's ability to lead, due to multiple factors, including allegations of misconduct concerning an unprofessional relationship and undermining the chain of command. The applicant was informed the relief of command memorandum would be filed in his OSR. In a response dated 25 Aug 23, the applicant stated at no point had his commander expressed he had lost faith or confidence in him as a leader until the notification of allegations made against him. The CDI allegations were the reason for removal for cause and on 2 Aug 23, the allegations were unsubstantiated. The allegation of an unprofessional relationship was thoroughly investigated and ultimately found to be unsubstantiated. He has and will continue to deny any unprofessional conduct or favoritism. Additionally, at no point did he undermine the chain of command. This allegation was also unsubstantiated. The allegations were made by a bad actor lacking credibility who weaponized Air Force processes against him. At the time of his removal, he was already scheduled for a permanent change of station (PCS) assignment and was slated to attend DE in residence. He has suffered for the unsubstantiated allegations. The relief of command memorandum is filed in the applicant's ARMS/OSR.

On 23 Feb 24, AF/A1 denied the applicant's request for deletion of the removal for cause memorandum from DE. The reason for the denial was additional information provided by the initiating senior rater and the DT Chair, which compelled AF/A1 to disapprove the request.

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

APPLICABLE AUTHORITY/GUIDANCE

DAFI 36-2907, *Adverse Administrative Actions*, dated 14 Oct 22, paragraph 1.2.1.8, Developmental Education Removal (for cause). The subject officer will be provided a copy of the memorandum for record (MFR) and will be afforded an opportunity to submit written comments in response to the filing of the Developmental Education Removal (for cause) in the OSR. This is a response to the OSR filing and not the adverse action issued to the officer. The MFR and the officer's comments (if any) will be sent to SAF/IGQ, in accordance with AFI 90-301, Tables 4.4, 7.1, and 8.2, and to the member's MPF, CSS, or equivalent personnel support function for inclusion in the Master Personnel Record Group (MPerRGp) and OSR.

Per 10 U.S.C. § 615(a)(3), DoDI 1320.14, *DoD Commissioned Officer Promotion Program Procedures*, Department of the Air Force Policy Memorandum (DAFPM) 2021-36-03, *Adverse Information for Total Force Officer Selection Boards*, dated 14 Jan 21. DAFI 36-2907, *Adverse Administrative Actions* and DAFI 36-2501, *Officer Promotions and Selective Continuation*, paragraph A14.2.1. All adverse information an officer receives will be filed in the OSR and be considered by promotion selection, special selection, and selective continuation boards to the grade of O-4 and above (to include processes for O-3 promotions that have "extraordinary adverse

information”). 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 adverse, the information must be derogatory, unfavorable or of a nature that reflects unacceptable conduct, integrity, or judgment on the part of the individual. Adverse information includes but is not limited to any substantiated finding or conclusion from an investigation or inquiry, regardless of whether command action was taken, court-martial findings of guilt, nonjudicial punishment (NJP) pursuant to Article 15, LOR, letter of admonishment, relief of command for cause, removal from developmental education for cause, and letter of counseling. All adverse information as defined will be permanently placed in the record. Except for set aside of a court-martial or NJP action, removal of adverse information from the records may only be directed by an AFBCMR recommendation.

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 finds a preponderance of the evidence substantiates the applicant’s contentions to warrant relief. The removal for cause from DE memorandum dated 27 Jun 23 in the applicant’s ARMS/OSR does not include any notification or response from the applicant. It appears the applicant was not notified of the intent to remove him from DE for cause as required by DAFI 36-2907. In view of the unsubstantiated CDI allegations and the absence of the required notification for removal from DE for cause, the Board recommends the memorandum, Removal for Cause from DE Designation, dated 27 Jun 23 be removed and replaced with a permanent deferral from DE due to no fault of the applicant. Therefore, the Board recommends correcting the applicant’s records as indicated below.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show the Removal for Cause from DE Designation Memorandum dated 27 Jun 23 be removed from his records and be replaced with a permanent deferral due to no fault for removal from DE.

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-2023-02767 in Executive Session on 11 Jun 24:

- 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 28 Feb 24.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: SAF/IG CDI ROI (WITHDRAWN).

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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.

7/26/2024

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Board Operations Manager, AFBCMR

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