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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-03390

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COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

1. His Letter of Reprimand (LOR) dated 26 Oct 21 be downgraded to a Record of Individual Counseling (RIC).
2. His Unfavorable Information File (UIF) be removed. **(The applicant no longer has a UIF).**
3. His referral Officer Performance Report (OPR) for the reporting period 20 Mar 21 to 22 Nov 21 be removed from his records.
4. The LOR and referral OPR be removed from his Officer Selection Record (OSR).

APPLICANT'S CONTENTIONS

The LOR should be downgraded to an RIC in accordance with Department of the Air Force Instruction (DAFI) 36-2907, *Adverse Administrative Actions*, which states disciplinary actions should be progressive. The LOR represents a misuse of DAFI 36-2907. As noted in the rebuttals to his LOR and referral OPR, he self-corrected his mistake before any discussion with his group leadership. He was in compliance three months before the LOR was given since he recognized his mistake. At no point was there any progressive discipline to provide him with an opportunity to make the necessary change.

He was shocked and embarrassed in receiving an LOR. He experienced disbelief and disappointment in his treatment by his leadership after he self-corrected. Ultimately, he used the experience to be a better officer and chaplain.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 26 Oct 21, the applicant received an LOR. The LOR states that upon his arrival at the base on 7 May 21 and until 29 Jul 21 he failed to follow a direct order. He violated the Secretary of Defense (SECDEF) order requiring all individuals on military installations to wear a mask. He further violated the Deputy SECDEF's direction that removed the mask requirement for fully vaccinated personnel but directed those who were not fully vaccinated to continue to follow the Department of Defense (DoD) mask mandate. The applicant failed to wear a mask for the duration of the aforementioned time period while remaining unvaccinated.

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In a response to the LOR dated 29 Oct 21, the applicant apologized for disobeying the order regarding face coverings and apologized for not meeting his commander's intent or expectations. He requested forgiveness for his disobedience and for putting his teammates and others at risk. He requested the LOR be reduced to a Letter of Counseling (LOC) and he believed he could do better in the future if given the chance.

On 3 Nov 21, the applicant's commander reviewed the applicant's response and sustained the LOR. The LOR was placed in a UIF. The disposition date for the UIF has expired and the military personnel data system (MilPDS) reflects the applicant no longer has a UIF.

The applicant received a referral OPR for the reporting period of 20 Mar 21 to 22 Nov 21. The OPR states the applicant received an LOR and was removed from the group chaplain position for failure to obey the SECDEF's face mask mandate.

The applicant provides his response to the referral OPR dated 13 Jan 22. He made a mistake. At any point, if his chain of command would have asked if he was vaccinated he would have been truthful and would have complied immediately in wearing a mask. The opportunity to be told he was wrong and process through any levels of disciplinary action never happened. It was not his intent to openly defy or disregard the SECDEF's directive. The statement he was maskless for over two months was also inaccurate. He self-corrected and started wearing a mask before the end of July and was in compliance with the directive ever since. He is also vaccinated as required by DoD. His record before the incident was spotless and he has received zero paperwork. He requested to be allowed the chance to serve in the next higher grade.

The applicant was promoted to the grade of O-4 with date of rank (DOR) and effective date of promotion of 1 Nov 23.

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

APPLICABLE AUTHORITY/GUIDANCE

On 4 Feb 21, the SECDEF issued an order requiring all service members and civilians on United States military installations, whether indoors or outdoors, to wear a mask to try to limit the spread of COVID-19, with limited exceptions. The only exceptions were when an individual was in their own home, alone in an office with floor to ceiling walls and a closed door, when eating and drinking, when a mask must be lowered for identification, or when needed to reasonably accommodate an individual with a disability. Case by case exceptions were possible and the authority to grant exceptions was delegated to officers in the grade of brigadier general (O-7) or senior executive service official. If there were no officials in these grades available, a colonel (O-6) installation commander could also grant an exception.

On 14 May 21, the Deputy SECDEF removed the mask mandate for DoD personnel who were fully vaccinated and two weeks out from their final dose of COVID-19. Individuals who were not fully vaccinated should continue to follow applicable DoD mask guidance, including continuing to wear masks indoors.

The Fiscal Year 2023 National Defense Authorization Act (FY23 NDAA) required the SECDEF to rescind the mandate that members of the Armed Forces be vaccinated against COVID-19. Accordingly, the SECDEF issued the memorandum, Rescission of the 24 Aug 21 and 30 Nov 21

Coronavirus Disease 2019 Vaccination Requirements for Members of the Armed Forces, dated 10 Jan 23.

DAFI 36-2406, *Officer and Enlisted Evaluation Systems*, paragraph 1.11.5.2.3. The ratee will provide rebuttal comments to the referral reviewer within three duty days. Paragraph 1.11.5.2.3.2. Must limit comments, including attachments, to a total of 10 single sided pages or five double sided pages. All pertinent attachments become part of the evaluation filed in the personnel record.

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 judgement 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.

AIR FORCE EVALUATION

AFPC/DPMSSM (Records and Sustainment Programs) recommends denial for removal of the LOR and UIF. The commander administered the LOR in accordance with DAFI 36-2907. All adverse information defined in DAFI 36-2907 is required to be permanently placed in the Master Personnel Records Group (MPeRGp). Except for the set aside of a court-martial or nonjudicial punishment, removal of adverse information from the MPeRGp may only be directed pursuant to an AFBCMR recommendation. The applicant's adverse action, along with the applicant's response to the LOR has been filed accordingly.

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 23 Nov 24 for comment (Exhibit D), and the applicant replied on 3 Jan 25. The applicant contended he addressed in his response to the referral OPR his mistake of misunderstanding the applicability of the memorandum for record (MFR) he received from the base while assigned as a tenant. He never intended to violate those orders. Instead, he was trying to care for the airmen. Once he understood his error, he self-corrected and followed every guidance and order as he has throughout his career.

The injustice of receiving an LOR months after self-correcting shows a lack of fairness. Especially considering that not once had his leadership asked him about it until well after he self-corrected

his mistake. There was never any verbal counseling and he was never allowed to explain his actions to his leadership.

The applicant's complete response is at Exhibit E.

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 recommendations of AFPC/DPMSSM and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant contends the LOR and referral OPR were issued unjustly as he self-corrected and adhered to the SECDEF's mask mandate upon recognizing his mistake. He further contends he was not provided any counseling or guidance regarding his mistake prior to the issuance of the adverse actions and his LOR should be downgraded to a RIC. However, the Board finds the applicant has not sustained his burden of proof the LOR and referral OPR were issued contrary to Air Force regulations or his commanders abused their authority or discretion in issuing the LOR and referral OPR. The Board finds the applicant's LOR and referral OPR are required to be filed in his records per 10 U.S.C. § 615(a)(3), DoDI 1320.14, DAFPM 2021-36-03 and DAFI 36-2907. The applicant also requests removal of his UIF; however, the applicant no longer has a UIF. 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 DAFI 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2024-03390 in Executive Session on 30 May 25:

Work-Product, Panel Chair
 Work-Product, Panel Member
 Work-Product, Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 23 Sep 24.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory opinion, AFPC/DPMSSM, dated 12 Nov 24.
- Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 23 Nov 24.
- Exhibit E: Applicant's Response, w/atchs, dated 3 Jan 25.

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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.

6/10/2025

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Board Operations Manager, AFBCMR
Signed by: USAF

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