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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

Work-Product

DOCKET NUMBER: BC-2024-04267

COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

1. His Letter of Admonishment (LOA), issued 2 Dec 18, be removed and expunged from all Department of the Air Force records systems, to include his Master Personnel Records Group (MPerRGp) and Officer Selection Record (OSR).
2. Removal of the Commander Directed Investigation (CDI) finding attributed to him.

APPLICANT'S CONTENTIONS

As a result of new information, on 13 Nov 24, the [REDACTED] Air National Guard Assistant Adjutant General-Air ([REDACTED] ANG/ATAG-Air) rescinded the LOA. When he was issued the LOA in Dec 18, he was given no specific information to rebut, making it impossible to respond to the conclusion reached by the investigating officer (IO) and was simply told by the imposing authority to accept the finding, and to action settlement terms.

Late in 2023, during his promotion confirmation process, he was provided an unredacted copy of the ROI which revealed that the IO did not use firsthand testimony and falsely concluded that he actioned a demotion and denied a staff sergeant (E-5) retraining. This was the basis for concluding he created a hostile work environment. Further, the IO admits using circumstantial evidence to develop this conclusion. The imposing authority, [REDACTED] ANG/ATAG-Air, eventually reviewed his response and in pen and ink lined out the reference in the LOA that he had failed to properly follow Air Force retraining requirements. The LOA, which lacks specific allegations, was not rescinded by the issuing authority because the settlement had already been agreed to before he was offered the opportunity to respond and it was used both as leverage, and according to the issuing authority, "to close out the CDI."

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an Air National Guard colonel (O-6).

On 3 Jun 18, according to CDI ROI, dated 13 Jul 18, provided by applicant, the [REDACTED] Assistant Adjutant General-Air ([REDACTED] AAG-Air), BG J, appointed an IO to conduct an investigation into all aspects of the facts and circumstances surrounding a complaint of unlawful discrimination within the Operations Group. The CDI was conducted from 6 Jun 18 – 14 Jun 18.

On 13 Jul 18, the CDI ROI provided the following:

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Limited Dissemination Control: N/A

POC: SAF.MRBC.Workflow@us.afmil

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Allegation 1. <applicant> discriminated against <redacted> on the basis of sex (female) and reprisal and created a hostile work environment from 1 Jan 18 to Mar 18 due to results of a climate survey and because she filed an EO complaint. Finding: Substantiated In Part.

On 2 Dec 18, according to the LOA, the applicant was admonished by the [REDACTED]/AAG-Air as a result of the CDI which revealed that between 1 Dec 17 and 30 Apr 18: he created a hostile work environment by taking certain personnel actions against a member of his command that were so severe and pervasive as to alter the terms and conditions of the member's employment; and that such actions were done in retaliation to an Equal Opportunity Complaint filed against him. On that same date, the applicant acknowledged receipt and that he had 45 duty days in which to provide a response.

On 15 Jan 19, according to *Response to Letter of Admonishment*, provided by applicant, the applicant provided a detailed response to the LOA, highlighting his specific concerns with the IO's conclusion.

On 3 Feb 19, according to the LOA, the [REDACTED]/AAG-Air informed the applicant, after consideration of all matters, of the decision to maintain the LOA in the applicant's Personnel Information File (PIF).

On 13 Nov 24, according to memorandum for record, *Adverse Action Recission - <applicant>*, provided by applicant, the [REDACTED] AG/ATAG-Air codified his intent to rescind the LOA, given by his predecessor, and remove it from any and all systems of records, locally or enterprise wide, which maintain or track adverse actions pursuant to investigations.

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

APPLICABLE AUTHORITY/GUIDANCE

Department of the Air Force Instruction (DAFI) 36-2907, *Adverse Administrative Actions*, 14 Oct 22, (Incorporating Change 1, 8 Oct 24, Certified Current 8 Oct 24), paragraph 2.3. *Letters of Admonishment*. An admonishment is more severe than a Letter of Counseling/Record of Individual Counseling. Members of (i.e. non-commanders in) the administrative and operational chain of command use it to document an infraction serious enough to warrant the Letter of Admonishment. It could be used to document a first offense, or it could be used to address behaviors not corrected through counselings. Do not use it when a reprimand is more appropriate. Members of (i.e. non-commanders in) the administrative or operational chain of command may recommend the commander establish or file the action in an UIF. For officer personnel, if the Letter of Admonishment is not filed in the UIF, it must be filed in the individual's Personnel Information File.

2.4.6. Rescinding RIC, LOC, LOA, or LOR documents contained in a PIF or a UIF. Subject to the criteria in **paragraph 2.4.6.1** and limitations in **paragraph 2.4.6.2** and **paragraph 2.4.6.3**, the individuals listed in **paragraph 2.1** and **paragraph 4.4.1** through **paragraph 4.4.6** of this instruction, if equal to or senior in grade to the initial imposing authority, may rescind RICs, LOCs, LOAs or LORs upon those individuals own initiative or upon a request from the member if the member is within their command.

2.4.6.1. These individuals may rescind RICs, LOCs, LOAs, or LORs only in the following circumstances:

2.4.6.1.1. In the rare situation in which new evidence shows, by a preponderance of the evidence, that the member did not commit the act underlying the original administrative action;

2.4.6.1.2. If the issuing authority issued the administrative action in a way that violated the member's due process rights; or 2.4.6.1.3. If the appropriate authority determines more or less severe action is warranted.

2.4.6.2. RICs, LOCs, LOAs, or LORs contained in UIFs. 2.4.6.2.2. Only the AFBCMR may rescind LOAs and LORs contained in the officer's UIF.

2.4.6.3. RICs, LOCs, LOAs, or LORs contained in PIFs. 2.4.6.3.2. Only the AFBCMR may rescind LOAs and LORs contained in the officer's PIF.

2.4.6.3.3. Rescinding a RIC, LOC, LOA, or LOR removes the rescinded action from the UIF or PIF. However, it does not automatically remove it from historical documents or actions collaterally impacted by the rescinded document, such as a referral Officer or Enlisted Performance Report or promotion withhold. Airmen and Guardians seeking relief from the collateral consequences of a later-rescinded administrative action must apply to the appropriate forum, to include, for example, the AFBCMR.

2.4.6.4. RICs, LOCs, LOAs, or LORs no longer contained in a PIF or UIF. Records contained in other Department of the Air Force records systems, not a unit PIF or UIF (e.g., MPerRGp, OSR, SOUIF), may not be rescinded by a commander or civilian director. Members, who believe they have suffered an error or injustice, may apply to the AFBCMR to have their records of RICs, LOCs, LOAs, or LORs removed from other Department of the Air Force records systems.

AIR FORCE EVALUATION

██████████ ANG, recommends granting the request. Based on the documentation provided by the applicant and analysis of the facts, there is evidence of an error or injustice which came to light with a recent release of an unredacted copy of the 2018 ROI, along with subsequent new evidence. In Dec 18, the then ██████████/ATAG-Air issued the applicant an LOA, which included a heavily redacted ROI as part of the evidence as well as the applicant being ordered to action a settlement of companion claim, made by the same complainant, against the State. However, within the past year, the applicant received an unredacted copy of the ROI, which revealed crucial testimony being omitted at the time as well as new evidence coming to light that would have impacted the original ROI conclusions. Based on these new revelations the current ██████████ NG/ATAG-Air sought to correct the previous injustice by rescinding the LOA in Nov 24, pursuant to DAFI 36-2907, *Adverse Administrative Actions*, due to an absence of due process at the time, the exclusion of crucial statements in the ROI, and new evidence uncovered in 2024 by the ██████████ ANG.

Per DAFI 36-2907, paragraph 2.4.6., adverse action may be rescinded by the successive appropriate authority when there is either: 1) new evidence, 2) a due process violation, or 3) a finding that less severe action is warranted. All three appear to exist in this case, so the successive appropriate authority rescinded the LOA. Therefore, the Board should correct the record regarding the rescinded LOA by removing it from all systems or records as well as purging the flawed ROI findings.

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 1 Apr 25 for comment (Exhibit D), and the applicant replied on that same date. In this response the applicant stated he had nothing further to add but requested his case be expedited.

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. While the Board notes the rationale and recommendation of both the [REDACTED]NG/ATAG-Air and the 1 [REDACTED]/SJA to grant the petition, the Board finds a preponderance of the evidence does not substantiate the applicant's contentions. While the Board recognizes the support from his current chain of command who recommend removing the LOA, and while commendable, the Board determines the evidence provided by the applicant is insufficient to support his claim that the underlying actions that led to the LOA did not take place. Further, the Board does not find his situation unique and recognizes the authority of the issuing commander to correct behavior. As such, in accordance with AFI 36-2907, when officers are issued an LOA, it requires mandatory filing in a PIF and therefore does not need to be referred to the officer for a response. Thus, the Board unanimously agreed both the CDI and LOA are legally sufficient, the action well within the commander's authority, and as the evidence presented does not demonstrate an error or injustice, they should remain part of his record. Therefore, the Board recommends against correcting the applicant's record.

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 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-2024-04267 in Executive Session on 7 Aug 25:

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 16 Dec 24.

Exhibit B: Documentary evidence, including relevant excerpts from official records.

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- Exhibit C: Advisory opinion, [REDACTED]/SJA, dated 27 Mar 25.
- Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 1 Apr 25.
- Exhibit E: Applicant’s response, dated 1 Apr 25.

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.

9/1/2025

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Board Operations Manager, AFBCMR
Signed by: USAF