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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-04270

Work-Product

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

1. His removal from developmental education (DE) for cause dated 17 Apr 23 be removed from his records.
2. His select status for senior developmental education (SDE) be restored or he be considered for in-residence SDE.

APPLICANT'S CONTENTIONS

Per 10 U.S.C. § 615(a)(3), DoDI 1320.14, *DoD Commissioned Officer Promotion Program Procedures*, DAFI 36-2907, *Adverse Administrative Actions* and DAFI 36-2501, *Officer Promotions and Selective Continuation*, information pertaining to the removal from DE for cause must be filed in an officer's record. DAFI 36-2686, *Officer Development*, states officers will have an opportunity to submit written comments in response to the removal from DE letter before it is filed in the officer selection record (OSR). He was never provided the opportunity to submit matters and was denied due process. DAFI 36-2686 further states at a minimum the removal of an officer from DE designation for cause should include documented evidence of decreased level of performance. There is no such evidence in his OSR. His Single Unit Retrievable Format (SURF) also contains no assignment availability code indicating he is no longer eligible for SDE in-residence. He is eligible for promotion board consideration in Mar 25.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a currently serving Regular Air Force lieutenant colonel (O-5).

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Controlled by: SAF/MRB

Attorney-Client

Limited Dissemination Control: N/A

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SAF/IG provides the Commander Directed Report of Investigation (ROI) Concerning Dereliction of Duty and Misuse of Government Resources dated 7 Feb 23. The following two allegations were substantiated:

Allegation 1: The applicant, who knew or should have known of his duties, at or near Yokota AB, between 11 May 22 and 12 Oct 22, was derelict in the performance of those duties in that he negligently failed to comply with the Joint Travel Regulation (JTR) and the Defense Travel System (DTS), as it was his duty to do by directing nonofficial dependent travel to Japan using DTS generated orders. **(SUBSTANTIATED)**.

Allegation 2: Members of the squadron did, at or near Yokota AB between 11 May 22 and 12 Oct 22, misuse government resources for private gain by allowing dependent members to utilize government vehicles and contingency dormitories for nonofficial purposes, in violation of 5 CFR 2635.704 and Section 2-301(b) of the Joint Ethics Regulation. **(SUBSTANTIATED)**.

On 20 Feb 23, the applicant's commander relieved the applicant from command for cause due to a loss of confidence. The applicant was informed the relief of command letter would be filed in his OSR in accordance with DAFI 51-509, *Appointment to and Assumption of Command* and DAFI 36-2907. The applicant acknowledged the notification of relief of command. According to the applicant's Automated Records Management System Records (ARMS), the relief from command letter was placed in his records on 15 Jan 25.

In a memorandum dated 17 Apr 23, the AF/A1 informed the applicant's wing commander (WG/CC), his request that the applicant be removed from DE designation for cause was approved. It stated a copy of the removal 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. On 7 Jun 23, the removal from DE memorandum was placed in his ARMS records.

On 21 Apr 23, the applicant received a letter of reprimand (LOR). The LOR states an investigation disclosed that during his squadron's deployment to Yokota AB, he directed the use of official resources to enable leisure travel under the Status of Forces Agreement (SOFA). The manipulation of the DTS was not supported by USFJ/JA and it violated DTS and the JTR. The applicant had ample notice of legal and ethical concerns and chose to proceed anyway. The disparity in travel opportunities between the applicant's squadron's dependents and others was the latest in a long trend of allowing relationships to deteriorate, leading to multiple complaints. The applicant earned a reputation for being difficult to work with and berated others for which he was repeatedly counseled. The applicant acknowledged the LOR on 21 Apr 23 and through counsel submitted statements in his behalf. According to the applicant's ARMS record, the LOR was placed in his records on 3 Jun 25.

The applicant received a referral officer performance brief (OPB) for the reporting period 4 Jun 22 through 31 May 23. It stated the applicant did not meet all command climate requirements, was relieved of command for cause, received a LOR for misuse of funds and appearance of reprisal. The applicant's rater retired before documenting the required OPB and the operations

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group deputy commander was appointed as the replacement rater. On 23 Feb 24, the applicant provided a rebuttal response. The higher level reviewer considered the applicant's response and upheld the referral OPB.

On 8 Feb 24 and 8 Mar 24, the Board considered and denied the applicant's request his 20 Feb 23 relief of command for cause be changed to without cause, his LOR dated 21 Apr 23 be removed from his records, he be awarded a permanent change of station (PCS) decoration and he be reconsidered for assignment to SDE at the National Institute of Defense Studies, Tokyo, Japan. The applicant contended he was the victim of reprisal in violation of DoDD 7050.06, *Military Whistleblower Protection*, and 10 U.S.C. § 1034. The Board conducted an independent review of the evidence and the CDI dated 7 Feb 23 and found no evidence the applicant was the victim of reprisal in violation of 10 U.S.C. § 1034. Based on the evidence, it appeared the investigating officer conducted a thorough investigation leading to the substantiation of the two allegations. In view of the totality of the evidence, the Board found the actions of his commanders were supported by the evidence and were within their authority and discretion. The Board also noted under the presumption of regularity, military administrators, to include commanders, are presumed to act lawfully and in good faith and are entitled to substantial deference in the governance of its affairs. In this respect, while it is clear the applicant disagreed with his commanders decisions, the Board did not find his disagreements persuasive. The Board also did not know why the applicant's relief of command letter and LOR were not in his records as required per 10 U.S.C. § 615(a)(3), DoDI 1320.14, DAFI 36-2907 and DAFI 36-2501; however, the removal from SDE for cause is also required to be filed in the applicant's records.

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

APPLICABLE AUTHORITY/GUIDANCE

DAFI 36-2686, *Officer, Development*, dated 9 Feb 24, paragraph 9.4., Removal for Cause. It is the commander's and senior rater's responsibility to monitor the performance and standards of DE selects and alternates. When the performance, conduct or character of any select or alternate becomes questionable, the senior rater, management level or developmental team shall submit a request to AFPC to remove the officer from DE designation. At a minimum, the package should include documented evidence of a decreased level of performance. AFPC will staff to AF/A1. If approved by the AF/A1 that officer will be permanently removed from the nomination list. Removal will result in the permanent loss of any status as well as eligibility to compete for in-resident school. Paragraph 9.4.2, AFPC will also produce a letter which will be filed in a member's OSR, which will be considered an adverse action and removed from the OSR after 10 years. The officer will have an opportunity to submit written comments in response to a removal for cause letter before it is filed in the OSR.

DAFI 36-2670, *Total Force Development*, dated 29 Sep 20, paragraph 3.3.4.6, When an officer fails to meet performance standards, the senior rater, management level, or development team will submit a request to AFPC to remove the officer from the select list or the DE designation list.

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AFPC will staff the request for approval by AF/A1. This request should include, at a minimum, documented evidence of decreased level of performance. Per the applicant's Removal for Cause from DE memorandum dated 17 Apr 23, the removal was in accordance with DAFI 36-2670.

Per 10 U.S.C. § 615(a)(3), DoDI 1320.14, *DoD Commissioned Officer Promotion Program Procedures*, DAFI 36-2907, *Adverse Administrative Actions* and DAFI 36-2501, *Officer Promotions and Selective Continuation*, 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, 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/DPMLWE recommends denial. The ROI shows the allegations against him were substantiated. They will need proof he was not guilty of the allegations to make the requested corrections.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board staff sent a copy of the advisory opinion to the applicant on 26 Jun 25 for comment (Exhibit D), and the applicant replied on 3 Jul 25. In his response, the applicant contends he was improperly removed from DE and due process was violated. He was not provided an opportunity to provide a written response as required by DAFI 36-2686. Therefore, the removal from DE was not conducted in accordance with regulations. Further, his SURF does not contain any codes reflecting he was no longer eligible for DE in-residence.

Whether there is any substantiation of allegations is irrelevant to determining SDE status. His previous command never requested written statements from him as required. The decision to remove an officer from SDE has nothing to do with the substantiation of any allegations. Because the AFPC advisory references information which was not a part of the DE designation removal, the reference to any substantiated case is irrelevant. If his WG/CC wished to remove him from

SDE, he should have sent a request to AFPC for removal by the AF/A1, which at a minimum must include documented decreased performance. His WG/CC did not do this.

There is no proof in his records indicating his former commander's intention to remove him from SDE or any select status. The required package of demonstrated lower performance was not uploaded into his records because it does not exist. He was given no notification of the decision to remove him from SDE selection. The notification memorandum simply materialized into his records in May 23 and he was not given an opportunity to provide a written response. The DE removal for cause should be removed from his records and his SDE select status should be restored. He provides a timeline of regulations violated by his previous chain of command.

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 recommendation of AFPC/DPMLWE and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant contends he was not afforded an opportunity to submit written matters in response to his removal from DE in accordance DAFI 36-2686 and was denied due process. However, the Board disagrees. The applicant's removal from DE on 17 Apr 23 was in accordance with DAFI 36-2670, rather than DAFI 36-2686, which was effective on 9 Feb 24, after the applicant's removal from DE. The applicant also contends the DE removal was not based on any documented decreased level of performance; however, the substantiated allegations in the CDI ROI dated 7 Feb 23, his LOR dated 21 Apr 23, referral OPB for the period ending 31 May 23 and the relief of command dated 20 Feb 23 documented his decreased performance and dereliction of duties by violating the JTR and DTS. As noted by his responses to the LOR, referral OPB and relief of command, the Board finds the applicant was properly made aware of the reasons for the adverse actions, to include the reason for the removal from DE. The Board finds no evidence his removal from DE was contrary to AFI 36-2670 or that he was denied any due process. The Board also notes the adverse actions, to include the removal from DE, are required to be filed in his records as required by 10 U.S.C. § 615, DoDI 1320.14, DAFI 36-2907 and DAFI 36-2501. 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

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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-2024-04270 in Executive Session on 4 Sep 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 17 Dec 24.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPMLWE, dated 23 Jun 25.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 26 Jun 25.
- Exhibit E: Applicant's Response, w/atchs, dated 3 Jul 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.

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Board Operations Manager, AFBCMR
Signed by: USAF

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