



State of Wyoming Military Department

Office of the Adjutant General

5410 Bishop Boulevard
Cheyenne, Wyoming 82009-3320

NGWY-TAG

28 August 2019

MEMORANDUM FOR: Ms. Jennifer B. Rigg, Psychological Health Program Specialist,
153d Airlift Wing, 217 Dell Range Blvd, Cheyenne, WY 82009

SUBJECT: Official Letter of Reprimand

1. I deem it necessary to take formal disciplinary action by officially reprimanding you in accordance with 5 CFR Part 752 and in accordance with our agency's table of offenses and disciplinary procedures, NGB Technician Personnel Regulation (TPR) 752, Appendix D Table D-1 Penalty Guide, Item 6a, False Statements.

2. This letter of reprimand is warranted because of the false statements you made to your supervision on 5 Feb 2019 regarding our actions during the weekend of 27-29 January 2019. I have reviewed the proposed adverse action from Col Justin Walrath, dated 4 June 2019, your reply to the proposed adverse action, and all documents associated with the command directed investigation. I have chosen to reprimand you based on the following:


a. You stated to Col Justin Walrath and Col David Herder that you contacted SSgt Schluter to discuss his personal situation. However, the evidence found in the command directed investigation (CDI) indicates that you reached out to him in order to discuss your personal situation that was occurring on the weekend of 25-27 January.

b. Additionally, the investigation found that you made a false statement regarding whether or not you contacted other members from the 153d Airlift Wing during the weekend of 25-27 January. After stating that you contacted SSgt Schluter to discuss his personal issues, you were asked by Col Walrath if you contacted anyone else from the Wing. You responded that you did not contact anyone else from the Wing, however, testimony later provided by witnesses and yourself in the CDI indicates that you also contacted Ms. Jamie Warfield and MSgt John Rode during a time of personal distress and at times while you were apparently intoxicated. Further the CDI found that when you returned to work you had contact with several others about your California trip you also failed to mention to Col Walrath.


c. As the 153d Airlift Wing Director of Psychological Health, you are in a position of trust within the organization and expected to display the utmost integrity. You are not only trusted with the mental health and well-being of Airmen, but you are also a trusted advisor to leadership. Lying to your


supervision impedes confidence and trust in your abilities to serve in this critical role.

3. This letter of reprimand constitutes the first written offense for you not following standards. Offenses of this type may result in further disciplinary or adverse action. This letter of reprimand will remain in your personnel folder for three years, ending 28 August 2022. The HRO point of contact for procedural assistance is Mrs. Carly Allen, 772-5909.
4. This letter of reprimand is not grievable as it is being issued by The Adjutant General as a lesser offense to an adverse action (TPR 752, Chapter 3, Paragraph 3-1). Additionally, this is not appealable as a letter of reprimand is not an adverse action.
5. If you require any psychological assistance, you are encouraged to contact Chaplain Christopher Lehman at 970-481-8272. Should personal problems be a factor, the Employee Assistance Program (EAP) is available to you for appropriate consultation or referral. If you desire assistance with any problem you may be having, you should contact the EAP Coordinator, MSG Charles Olivas at 307-772-5245.


GREGORY C. PORTER
Major General, WY NG
The Adjutant General

I, Jenny Rigg, have received this letter of reprimand this 20 day of Aug ²⁰¹⁹. My Signing below is not agreement with the content, only acknowledgement that I have received a copy of this letter.


Ms. Jennifer Rigg


Witness



State of Wyoming Military Department

Office of the Adjutant General

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NGWY-TAG

28 August 2019

MEMORANDUM FOR: Ms. Jennifer B. Rigg

SUBJECT: Original Decision Letter of Proposed Adverse Action

1. On 4 June 2019, Colonel Justin Walrath, proposed that you be removed from your employment as the Psychological Health Program Specialist, GS-11, Wyoming Air National Guard Base, Cheyenne, WY, for the offense of False Statements, Item 6a, Appendix D, TPR 752.
2. In accordance with National Guard Bureau Technician Personnel Regulation 752 and 5 CFR Part 752, I am the deciding official for this adverse action. As deciding official, I am required to issue an original decision on the Proposed Adverse Action. Your Reply Rights were an attachment to the proposed adverse action; this form stated that your written and/or oral replies to the proposed adverse action must be received by me (the deciding official) not later than 3 July 2019. You requested an extension on 3 July 2019 and the request was granted, extending the reply period to 4 August 2019. On 2 August 2019, I received your reply by e-mail from your attorney.
3. I conducted a thorough review of the documentation to include your technician personnel record, past disciplinary actions, the proposed adverse action from Col Justin Walrath on 4 June 2019 and supporting documentation, and your reply from 2 August 2019.
4. Here are my findings:
 - a. To the charge of False Statements (Item 6a, Appendix D, TPR 752), I concur with the findings of the Command Directed Investigation (CDI), which was completed on 25 April 2019. I find this claim to be substantiated.
 - b. In your 2 August 2019 reply, you stated that you contacted SSgt Schluter over the weekend of 27-29 January 2019 to discuss his personal situation. However, SSgt Schuler stated in his CDI report statement that he was, "surprised she (Ms. Rigg) called me that day, but I guess she trusted me." To the claim that you lied about whether or not you contacted other members of the 153d Airlift Wing over the weekend of 25-27 January, you stated that you contacted MSgt Rhode in order to get in touch with Capt Warfield for assistance in her role as the Sexual Assault Response Coordinator. After

reviewing MSgt Rhode's statement in the CDI and the text messages provided between the two of you, there is no indication that you contacted MSgt Rhode in order to get in contact with Capt Warfield. The text messages provided in the CDI between you and Capt Warfield appear to be between two personal friends without any mention of reporting an assault or Capt Warfield's official capacity as the SARC. You also made the claim that Capt Warfield omitted more than 50 messages from your conversations, however, these messages were never provided.

5. In response to your claim that you were denied union representation:

a. Per the Association of Civilian Technicians – Cowboy Chapter Certificate of Representation, issued on December 30, 1996 by the Federal Labor Relations Authority, you are not eligible for bargaining unit membership as you are a professional employee. This certificate states that all professional employees are excluded from the bargaining unit. Therefore, you were not entitled to union representation.

6. In response to your claim that TPR 752 is not applicable to you as a Title 5 employee:

a. The requirements of TPR 752 directly align with the requirements set in 5 CFR Part 752, which is applicable to all Title 5 federal employees. Because our agency followed the guidance set in TPR 752 in handling this proposed adverse action, our agency is fully in compliance with 5 CFR Part 752.

7. Your reply included concerns of reprisal for whistleblowing as well as concerns with the intake and handling of your sexual assault report. Though I believe these are unrelated to the charge of false statements, I take these claims seriously and will ensure these concerns are investigated and addressed appropriately.

8. I considered the Douglas Factors in analyzing the charges and your reply before coming to my decision. Below is a summary of my Douglas Factor considerations :

a. I find the nature and seriousness of the offenses to be a mitigating factor. Although lying goes against the Air Force's first core value of integrity, the consequences of the lie you told were relatively low. Your actions warrant discipline, however, they do not warrant an adverse action such as removal.

b. I find your job level and type of employment to be an aggravating factor. Although you are not a supervisor, you are in a special position of trust in our organization. You are not only trusted with the well-being of Airmen, but you also make critical recommendations to the senior leadership of our organization. Per your position description you are to, "Actively support the commander's leadership team in addressing the psychological health of their installation" and "Provide consultation to the commanders and operational leadership to promote well-being, improve resilience, and increase personal

and unit combat readiness.” Additionally, you are to possess the “ability to establish and maintain effective working relationships with installation leadership.” Lying to your supervision impedes trust and confidence in your ability to serve in a critical role.

c. I find your past disciplinary record to be a mitigating factor as you have no history of past disciplinary issues.

d. I find your past work record to be a mitigating factor. You have been with the agency since August of 2018 and with the federal government since April of 2015. Your last three performance ratings of record were “Fully Successful.”

e. I find the effect of the behavior on your ability to perform your job and the effect on the supervisor’s confidence in you to be an aggravating factor. Your actions have seriously degraded your chain of command’s confidence in your ability to perform in a role of trust.

f. I considered the consistency of the penalty with other employees’ penalties for similar offenses to be a mitigating factor. Within the last five years, past offenses of “False Statements” resulted in the issuance of an LOR for the first offense.

g. I find the consistency with the agency’s Table of Penalties as contained in TPR 752 to be a mitigating factor because there is an option available of a lesser offense than removal. The table of penalties recommends LOR to removal for the first offense of false statements.

h. I find the notoriety of the offense or its impact on the agency’s reputation to be an aggravating factor because your actions have lessened the trust in your abilities to provide service within the agency to include potential clients and the members of leadership you advise.

i. I find the clarity of notice to you of unacceptable conduct to be an aggravating factor. Based on the American Counseling Association Code of Ethics, “Counselors aspire to open, honest, and accurate communication in dealing with the public and other professionals.” In addition, “Professional counselors behave in an ethical and legal manner. They are aware that client welfare and trust in the profession depend on a high level of professional conduct.” Based on this Code of Conduct and your employment at the GS-11 level, you should be well aware that lying to your supervisors is unacceptable.

j. I find your potential for rehabilitation to be a neutral factor. Although you have no past disciplinary record, you have not shown any remorse or taken personal responsibility for your actions.

k. I find mitigating circumstances to be a neutral factor. Personal problems were present during the time of your misconduct, which carries a heavy weight in my consideration of this proposed action. However, I did not see any indication of unusual job stress or provocation. I also considered that you did not bring this misconduct to management’s attention and you were not


apologetic for your actions.

I. I considered the adequacy of alternative sanctions to deter misconduct and I find this to be a mitigating factor. I believe a lesser sanction will deter future misconduct and that your actions warrant disciplinary action, however, they do not warrant removal from your position.

9. After giving full and impartial consideration to the circumstances surrounding this proposed action, the evidence supporting the proposed action, your reply, and the factors above, I have decided to reduce this penalty to a Letter of Reprimand.

10. You will not have the right to appeal the letter of reprimand as it is not an adverse action. In addition, your letter of reprimand will not be subject to agency grievance procedures as it is being issued by The Adjutant General as a reduction of a penalty imposed in an adverse action in accordance with TPR 752, Chapter 3, paragraph 3-3.

11. For any procedural questions, please contact Mrs. Carly Allen at 307-772-5909.



GREGORY C. PORTER
Major General, WY NG
The Adjutant General

Jenny B. King 8/28/19