

## RECORD OF PROCEEDINGS

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2022-00013

XXXXXXXXXXXXXXXXXX

**COUNSEL:** NONE

**HEARING REQUESTED:** YES

### APPLICANT'S REQUEST

He be considered for promotion to the rank of major (O-4) by a special selection board (SSB) for the CY21D Major Line of the Air Force (LAF) Central Selection Board (CSB).

### APPLICANT'S CONTENTIONS

Due to an AFPC error, he did not meet the major's board. AFI 36-2501, *Officer Promotions and Selective Continuation*, states an eligible officer who did not meet the board due to an incorrect promotion zone or competitive category should be granted a SSB and denial of requests for SSB may be appealed to the AFBCMR.

His commissioning year group is 2013 and the P0421D board included his year group. However, he was deemed ineligible since he declined transfer to the United States Space Force (USSF) on 31 May 20. On 16 Feb 21, he was selected for a remotely piloted aircraft (RPA) pilot slot and began undergraduate RPA training on 17 Jun 21. He was in a limbo status during the board convening date since he was still classified as a 13S, *Space and Missiles*, and not LAF. It was stated during the stand-up of the USSF that those who declined the USSF transfer would not have their careers damaged.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is an Air Force captain (O-3).

On 31 May 20, the applicant signed the Declination Memorandum for Transfer to USSF.

The applicant was reclassified as an RPA pilot and attended undergraduate RPA pilot training from 1 Feb 21 to 22 Oct 21.

On 20 Sep 21, the applicant in an email to AFPC stated he was eligible for the CY21 Major's LAF CSB and asked if he should write to the promotion board members to explain his cross training situation since his promotion recommendation form (PRF) and officer performance report (OPR) were space related.

In an email dated 2 Dec 21, AFPC stated due to the timing of his training he missed both the Air Force P0421D and the USSF Major Boards.

On 27 Dec 21, AFPC informed the applicant it was not a system error and he was not eligible for promotion on Day-150 (prior to board convening). However, since he had no control over the timing of his training and awarding of his RPA Air Force Specialty Code (AFSC), he was

advised he could appeal to the AFBCMR for a SSB. The cutoff date for promotion boards is Day-150, per the Secretary of the Air Force (SecAF) and an officer's core AFSC on Day-150 determines their development category. The applicant was still a 13S, which made him ineligible for the LAF board.

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

### **APPLICABLE AUTHORITY/GUIDANCE**

AFI 36-2501, *Officer Promotions and Selective Continuation*, paragraph 6.2.1. The AFBCMR or a federal court can direct an officer for consideration by SSB.

### **AIR FORCE EVALUATION**

AFPC/DP2SP recommends denial. The SecAF convened the CY21D Major promotion boards for the LAF Air Operations and Special Warfare, Nuclear and Missile Operations, Information Warfare, Combat Support and Force Modernization competitive categories on 30 Nov 21. Eligibility criteria, to include the Day-150 guidance, published in the Personnel Services Delivery Memorandum (PSDM 21-71) on 13 Jul 21 stated "Eligible officers will meet the CSB in the developmental category assigned as of Day-150 (3 Jul 21). The applicant's competitive category as of Day-150 was AFSC 13S, making his developmental category LAF-Space Operations. The P041D CSB did not consider this developmental category; therefore the applicant was ineligible for promotion consideration. The applicant has not provided any evidence (legal, administrative or material errors) associated with his record in accordance with AFI 36-2501, paragraph 6.3, *Conditions That May Warrant an SSB*.

Per 10 U.S.C. § 621, under regulations prescribed by the Secretary of Defense (SecDef), Service Secretaries shall establish competitive categories for promotion. Officers sharing a competitive category shall compete with each other for promotion opportunities. DODI 1320.14, *DOD Commissioned Officer Promotion Program*, further states, Service Secretaries shall establish competitive categories in order to better manage the career development and promotion of certain groups of officers. The SecAF Memorandum, Regular Air Force (REGAF) Officer Competitive Categories for the Active Duty List (ADL), dated 7 Oct 19, states an officer's core AFSC upon the board accounting date determines the competitive category they compete in for promotion. DAFI 36-2406, *Officer and Enlisted Evaluation Systems*, defines the board accounting date (also known as PRF accounting date) for officers in grades lieutenant colonel (O-5) and below, is approximately 150 days prior to the CSB convening date.

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 26 Jul 22 for comment (Exhibit D), and the applicant replied on 10 Aug 22. In his response, the applicant states the opinion from AFPC is factually correct; however, it does not account for why equal opportunity to promote was not given to 13S officers who chose to stay in the Air Force in another AFSC and decline transfer to the USSF. If he would have transferred to the USSF, he would have been eligible for the USSF P0421A Promotion Board and would have been promoted with his peers. However, choosing to remain in the Air Force and retrain has caused him to be ineligible for promotion, the administrative oversight has forced him to fall behind his peers. His sincere request is for equal opportunity to promote with his peers without discrimination.

He provides a letter of support from his wing commander (WG/CC) dated 9 Aug 22. His WG/CC states the applicant submitted an appeal to AFPC to correct the administrative error but was advised he would remain ineligible for promotion and would have to compete in 2022. This is unacceptable. It places the applicant at an undue disadvantage by placing him a year behind his peers, with immediate and long-term financial impacts. The burdens are not insignificant and are the result of an administrative blind-spot that was not accounted for during the splitting of the Air Force into two separate services. He assumes there are other 13S Air Force officers in the 2013 year group who are impacted and he requests the policy and administration oversight be rectified via a SSB.

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 the victim of an error or injustice. While the Board notes the recommendation of AFPC/DP2SP against correcting the record, the Board finds a preponderance of the evidence substantiates the applicant's contentions. In this respect, the Board notes it was due to no fault of the applicant he was not timely considered for promotion to the rank of major. Based on the evidence, it appears the applicant's timeline from his election to remain in the Air Force, vice transfer to the USSF, and his classification as an RPA pilot inadvertently excluded him from being considered for promotion. In this respect, the Board does not find it in the interest of justice to exclude him from timely promotion consideration afforded to his peers due to an administrative issue due to his AFSC. Therefore, the Board recommends correcting the applicant's records as indicated below.
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 pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show he be considered for promotion to the rank of major by a special selection board (SSB) for the Calendar Year 2021D (CY21D) Major Line of the Air Force (LAF) Air Operations and Special Warfare (LAF-A), Line of the Air Force Information Warfare (LAF-I), Line of the Air Force Combat Support (LAF-C) and Line of the Air Force - Force Modernization (LAF-F) (P0421D) Central Selection Board (CSB).

## **CERTIFICATION**

The following quorum of the Board, as defined in Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2022-00013 in Executive Session on 30 Aug 22:

, Chair, AFBCMR  
, Panel Member  
, Panel Member

All members voted to correct the record. The panel considered the following:

Exhibit A: Application, DD Form 149, w/atchs, dated 26 Dec 21.  
Exhibit B: Documentary evidence, including relevant excerpts from official records.  
Exhibit C: Advisory Opinion, AFPC/DP2SPP, dated 25 Jul 22.  
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 26 Jul 22.  
Exhibit E: Applicant's Response, w/atchs, dated 10 Aug 22.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by AFI 36-2603, paragraph 4.11.9.