



UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2022-01345

Work-Product

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

1. He receive a special board (SB) for promotion consideration to colonel (O-6).
2. His promotion to colonel (O-6) be reinstated with an effective date of 1 Oct 21.
3. He receive all back pay and allowances associated with his corrected grade and DOR if promoted.

APPLICANT'S CONTENTIONS

In Oct 19, the applicant was promoted to colonel in the Air Force Reserve and delayed his promotion for one year. On 15 Jul 20, he accepted an active duty statutory tour in the Air National Guard and began inquiring about his promotion. On 20 Oct 20, the applicant received a response from 1st Air Force (1 AF)/A1 and NGB/HR confirming his promotion to colonel was still active. On 13 May 21, after 1 AF/A1 requested documentation pertaining to the delayed promotion, the applicant was advised that his promotion was still active and he would be promoted once he occupied a vacant colonel position. On 20 Sep 21, ARPC notified the applicant that the promotion delay will expire on 1 Oct 21 and he will be promoted. However, he received contradictory information from 1 AF/A1 who informed him that he would be required to meet an additional board. On 12 Nov 21, the applicant notified 1 AF/A1 and AF/JA that the promotion to colonel was updated in the Military Personnel Data System (MilPDS) and reflected on his Leave and Earning Statement (LES). 1 AF/A1 notified the applicant that the update was in error and NGB/HR would remedy the issue. Within one and a half weeks, the rank on the applicant's personnel and military pay records were returned to reflect lieutenant colonel. Furthermore, the Department Finance Accounting Service (DFAS) notified the applicant of a debt to repay the month he was paid as a colonel. The applicant believed he was promoted to colonel because the promotion delay expired, and he was required to find a colonel position. He was never informed that he would lose the promotion when he accepted the position with 1 AF. The error is preventing the applicant from significant career opportunities due to his current rank and time in grade.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an Air Force Reserve lieutenant colonel (O-5).

On 1 Oct 19, according to [Work-Product], the applicant was promoted to colonel with a date of rank and effective date of 1 Oct 19.

On 15 Jul 20, according to [Work-Product] dated 13 Jul 20, the applicant transferred to the ANG on an extended active duty statutory tour under 10 USC 12301 (d) & 12310 that expires on 14 Jul 23.

On 20 Oct 22, according to the Military Personnel Data System (MilPDS), the applicant is assigned to position number [Work-Product] with an authorized grade of lieutenant colonel (O-5).

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

APPLICABLE AUTHORITY/GUIDANCE

ANGI 36-2504, *Federal Recognition of Promotion in the Air National Guard (ANG) and as a Reserve of the Air Force Below the Grade of General Officer.*

2.6. Voluntary Delay of Promotion. Due to circumstances beyond an officer's control, the officer may be unable to accept a promotion IAW AFI 36-2504, Chapter 8. An officer may apply for a voluntary delay of promotion in one-year increments for a total of three years from the officer's original DOR. Each one year delay requires separate action and approval. A. An officer must apply for the voluntary delay of promotion before a delay may be approved. The application must be approved through the appropriate channels before the Date of Rank. The officer must complete an AF IMT 3988, *Application for Voluntary Delay, Acceptance, or Declination of Promotion*, and submit to unit commander. The unit commander will forward the form through command channels to the State Adjutant General for approval. SAF delegates the authority to CNGB, who, in turn, delegates it to the Adjutant Generals (TAGs). State headquarters must forward the approved application to ANG/DP for update of the MILPDS. ANG/DP will send a copy of the promotion delay request and approval to HQ ARPC/DPJ.

2.7. Involuntary Promotion Delay.

2.7.1. An involuntary promotion delay will be processed IAW AFI 36-2504 if an officer is selected for mandatory promotion and assigned as a full-time military duty officer employed against a Unit Manpower Document, Part A (UMD-A) position that does not support the higher grade. In these cases, the commander must submit an AF IMT 3988 through the servicing MPF and TAG to ANG/DP.

2.7.2. Promotion of an officer on the RASL, serving on active duty, to a grade with strength limitations set by Title 10 USC, Section 10211 and 12310, can be delayed to ensure compliance with those strength limitations. The delay expires when the strength-in-grade limitations no longer apply. If an authorized controlled grade commensurate with the higher graded position is not available for immediate promotion of a full-time military duty officer or statutory tour officer, the officer must complete an AF IMT 3988. The AF IMT 3988 will be processed through the servicing MPF and state HQ to ANG/DP. The DOR is delayed until the officer obtains a controlled grade or the officer completes the tour.

2.7.4. Date of rank for individuals involuntarily delayed under these circumstances will be the date

the officer would have originally been promoted, however, the effective date of promotion for pay will be the date of Federal recognition or date controlled grade is received, whichever is latest.

3.3. Eligibility Requirements (for Position Vacancy):

3.3.3. Nominees eligible for Federal recognition of a position vacancy promotion must be the only officer assigned to position in a higher grade.

3.5. Position Vacancy Promotion to Colonel:

3.5.1. Individuals eligible for the position vacancy board must be found qualified by a Federal Recognition Examination Board.

3.5.3. Individuals recommended for promotion to colonel must meet the ANG Colonel Federal Recognition Review Board.

AFI 36-2504, Officer Promotion, Continuation and Selective Early Removal in the Reserve of the Air Force.

6.6. Promotion Procedures for USAFR AGRs

6.7.1. For USAFR Colonel selects only while mobilized under Title 10 USC 12302:

6.7.1.1. Officers may elect to voluntarily delay their promotions IAW Title 10 USC 14312 and Chapter 8 of this AFI. They may elect to pin on their promotions on promotion effective date with or without having a higher graded reserve billet. If the Colonel select does not have a higher graded reserve billet, the member may continue to look for a higher graded billet for up to 6 months after promotion effective date or 45 days after the member is demobilized whichever is later.

Note that AGR colonel selects may be involuntarily delayed in pin on due to strength limitations of the AGR force imposed by law. Paragraph 8.7. of this AFI applies to mobilized AGRs as well.

8.7. Delay for Limitations in Officer Strength In Grade (AGR).

8.7. Delay for Limitations in Officer Strength In Grade (AGR). Promotion of an officer on the RASL, serving on active duty, to a grade with strength limitations set by Title 10 U.S.C., Section 10211 and 12310, can be delayed to ensure compliance with those strength limitations. The delay expires when the strength-in-grade limitations no longer apply. The grade of the position determines whether a selected officer can accept the promotion at DOR. If the grade of the position does not support the higher grade, the DOR is delayed until the officer obtains a position to support the higher grade, or the officer completes the tour. If the officer wants to decline the promotion, the commander submits the original AF Form 3988 to HQ ARPC/DPJ (for inclusion in the Master Personnel Record) through HQ USAF/REPS and HQ AFRC/DP.

8.7.1. When the promotion becomes effective, the DOR and position on the RASL of these officers remains the same, as if there had not been a delay.

8.7.2. An officer with a delayed promotion under this paragraph may request release from active duty. If granted, when the promotion becomes effective, the DOR and position on the RASL of these officers remains same, as if there had not been a delay.

ANGI 36-6, *The Air National Guard Statutory Tour Program Policies and Procedures*.

Overview: Air National Guard personnel may volunteer to serve on active duty under the National Guard Bureau, Title 10, United States Code, Section 12301(d), Armed Forces Statutory Tour of Duty Program (Statutory Tour Program). While on active duty they serve as members of the Air National Guard of the United States (ANGUS) in a Reserve of the Air Force status.

Section C—Promotions

3. Promotions. Individuals recommended for promotion while participating in the Statutory Tour Program must meet all mandatory criteria IAW ANGI 36-2502, Promotion of Airmen, or ANGI 36-2504, Federal Recognition of Promotion in the Air National Guard of the United States and as a Reserve of the Air Force below the Grade of General Officer.

AIR FORCE EVALUATION

NGB/AIPO recommends denying the application. There is no evidence of an error or injustice because the applicant does not meet the eligibility requirements outlined in ANGI 36-2504. On 15 Jul 20 the applicant transferred from the Air Force Reserve to the ANG. On or about 10 Nov 21, NGB/HR notified NGB/AIPO that the applicant's records reflected that he was a colonel (O-6) in the MilPDS; however, the promotion consummation had not been initiated. On 15 Nov 21, NGB/AIPO corrected the erroneous promotion back to lieutenant colonel (O-5) because the applicant did not meet the eligibility requirements. The applicant did not meet a state colonel (O-6) promotion board nor the Colonel Federal Recognition Review board to be eligible to pin on colonel (O-6) in the ANG. Furthermore, the applicant was not assigned to a colonel (O-6) position on the Unit Manning Document at the time of the erroneous promotion, nor is he presently assigned to a colonel (O-6) position as outlined in ANGI 36-2504.

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 12 Sep 22 for comment (Exhibit D), and the applicant replied on 26 Sep 22. In his response, the applicant contended the delay for his promotion was in accordance with ANGI36-2504, paragraph 2.7, *Voluntary Delay of Promotion*, and he was promoted to colonel (O-6) on 1 Oct 21 when the delay expired. The applicant submitted email traffic with an ANG state representative who confirmed that his promotion to colonel (O-6) in the Air Force Reserve is recognized by the Air National Guard. Furthermore, the applicant references an NGB/AIPO MFR that transferred him to a colonel (O-6) position on 11 Oct 22, and is requesting to be promoted.

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 NGB/A1PO and finds a preponderance of the evidence does not substantiate the applicant's contentions. The board found the applicant volunteered to transfer from the AFR to a lieutenant colonel (O-5) position in the ANG. Furthermore, the board found the applicant was notified by NGB/A1 that his promotion to colonel (O-6) would not transfer to ANG because there was an additional board for the colonel (O-6) rank that did not exist in the AFR. 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 Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2022-01345 in Executive Session on 8 Nov 22:

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 13 May 22.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, NGB/A1PO, w/atchs, dated 26 Jul 22.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 12 Sep 22.
- Exhibit E: Applicant's Response, w/atchs, dated 26 Sep 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.

Work-Product