

RECORD OF PROCEEDINGS

IN THE MATTER OF:

XXXX

DOCKET NUMBER: BC-2022-01765

COUNSEL: X

HEARING REQUESTED: YES

APPLICANT'S REQUEST

He be considered for promotion by a special selection board (SSB) for the CY21B (P0521B) and CY22B (P0522B) Lieutenant Colonel Promotion Board in the Line of the Air Force Information Warfare (LAF-I) competitive category.

APPLICANT'S CONTENTIONS

Due to his assigned Air Force Specialty Code (AFSC): 13S, Space Operations, his records did not meet either of the Air Force's P0521B or P0522B Lieutenant Colonel promotion boards and they did not meet any Space Force Lieutenant Colonel promotion boards.

Although he was initially identified as eligible, and his senior rater signed the AF Form 709, *Promotion Recommendation Form* (PRF), for the P0521B board, no one in his organization was aware that his 13S AFSC, would no longer be eligible to meet Air Force promotion boards. In July 2021, when he realized his record did not meet the P0521B board, he pushed to obtain the 14N AFSC and he contacted the Air Force Personnel Center, Officer Promotions office who informed him that his case would warrant a SSB for both the P0521B and P0522B boards and recommended he submit a request for a SSB in the Line of the Air Force – Information Warfare (LAF-I) category

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an Air Force major (O-4).

On 1 Apr 04, according to AF Form 475, *Education /Training Report* signed 15 Apr 04, upon completion of the Officer Space Prerequisite Training (OSPT) and 4 SOPS Milstar Satellite Mission Control Subsystems (SMCS) IQT, he was awarded the AFSC 13S1A.

On 7 Oct 19, according to Secretary of the Air Force Memorandum, *Regular Air Force (REGAF) Officer Competitive Categories for the Active Duty List (ADL)*, REGAF ADL competitive categories to the grades of major (O-4) through colonel (O-6): Space Operations ((LAF-S); Assigned Core Air Force Specialties: 13A-Astronaut; 13S – Space Operations.

On 30 Sep 20, according to AF Form 2096, *Classification/On-The-Job Training Action*, dated 23 Oct 20, he was assigned the DAFSC 16G, Air Force Operations Staff Officer.

On 8 Oct 20, the *Personnel Services Delivery Memorandum* (PSDM) 20-89, announced that the CY21B Lieutenant Colonel Line of the Air Force Air Operations and Special Warfare (LAF-A), Line of the Air Force Nuclear and Missile Operations (LAF-N), Line of the Air Force Space Operations (LAF-S), Line of the Air Force Information Warfare (LAF-I), Line of the Air Force

Combat Support (LAF-C), Line of the Air Force Force Modernization (LAF-F), and Nurse Corps (NC) (P0521B) Central Selection Boards (CSBs) – Tentatively Convenes on 8 Mar 21.

On 8 Jan 21, a corrected PSDM 20-89 was released and announced within the *Summary of Changes* “The CY21B Lt Col Line of the Air Force Space Operations (LAF-S) will no longer convene on 8 Mar 21 and has been removed.”

Effective 29 Mar 22, according to AF Form 2096, dated 2 Jun 22, he was awarded the AFSC 14N1 and his Primary AFSC changed from 16G4 to 14N1. According to RAWS pull, dated 9 Jan 23, his CAFSC reflects 14N.

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

APPLICABLE AUTHORITY/GUIDANCE

Air Force Instruction (AFI) 36-2101, *Classifying Military Personnel (Officer and Enlisted)*, 25 Jun 13 (Chg 1, 18 Nov 13):

2.8.1. The officer Core ID is initially based on the AFSC into which the member is classified at the time of accession into EAD, approved retraining or approved for Competitive Category Transfer in accordance with (IAW) AFI 36-2106, *Competitive Category Transfers*.

2.8.2. The Core ID for all line officers will be first three digits of the AFSC an officer was originally accessed into EAD, retrained, or approved for a category transfer.

2.8.3. Once a Core ID is established, it cannot be changed unless the officer formally applies and is approved to retrain, is designated for involuntary cross flow (IAW AFI 36-2626) or is approved to transfer to another competitive category IAW AFI 36-2106. The assignment team accepting the retrainee or Competitive Category Transfer Airman is responsible for updating the new Core ID.

Secretary of the Air Force Memorandum, *Regular Air Force (REGAF) Officer Competitive Categories for the Active Duty List (ADL)*, dated 7 Oct 19. Purpose. To establish the promotion competitive categories for Regular Air Force officers on the Active Duty List under reference (a, b and c). The provisions in this directive are effective for Regular Air Force promotion boards convening on or after 1 March 2020. Definition. A competitive category is a separate promotion category established by my authority pursuant to reference (a, b and c) for specific groups of officers whose specialized education, training, or experience, and often relatively narrow career field utilization, make separate career management desirable. An officer's Core AFSC upon the board accounting date determines the competitive category they compete within for promotion.

Department of the Air Force Instruction (DAFI) 36-2501, *Officer Promotions and Selective Continuation*, Chapter 6, *Special Selection Boards (SSB)*, paragraph 6.3, *Conditions That May Warrant an SSB*: 6.3.1, Grant SSBs for promotion to the grade of captain through colonel based on: Legal, Administrative, and Material Errors. Acting on behalf of the SECAF, HQ AFPC/DPPP and HQ AFPC/DPPPO can direct an SSB for an officer if it is determined: The action of the board that considered the officer was contrary to law or involved material error of fact or material administrative error, or; The board did not consider material information that should have been available in compliance with pertinent Air Force directives and policies.; An eligible officer did not meet a board or met the board in an incorrect promotion zone or competitive category.

6.3.2. Pursuant to Formal Appeal. The AFBCMR can grant SSBs when they determine an officer's nonselection for promotion resulted because of an error or injustice in the officer's record.

6.3.3. Exercising Reasonable Diligence. Do not have an SSB if, by exercising reasonable diligence, the officer should have discovered the error or omission and could have taken corrective action before the originally scheduled board convened.

AIR FORCE EVALUATION

AFPC/DP2SP recommends denying the applicant's request for an SSB. Developmental categories, also known as competitive categories, are based upon the eligible officer's Core AFSC (CAFSC). The Personnel Services Delivery Memorandum (PDSM 20-89, dated 8 Oct, contained eligibility requirements for the P0521B Lieutenant Colonel Central Selection Boards (CSBs). The eligibility criteria included the "Day-150" guidance, "Eligible officers will meet the central selection board in the developmental category that they are assigned as of (Day-150) 9 Oct 20". The applicant's senior rater submitted a Promotion Recommendation Form (PRF), signed 19 Jan 21, which listed his DAFSC: 16G, however, his records reflect that on 9 Oct 20 (Day-150), the applicant's CAFSC:13S, making his developmental category as Line of the Air Force Space Operations (LAF-S).

On 8 Jan 21 a corrected version was published and within the *Summary of Changes* states "The CY21B Lt Col Line of the Air Force Space Operations (LAF-S) will no longer convene on 8 Mar 21 and has been removed." Therefore, the applicant was ineligible for promotion consideration as the P0521B CSB did not consider the developmental category of LAF-S.

On 8 Mar 21, the Secretary of the Air Force (SecAF) convened the CY 21 P0521B Lieutenant Colonel promotion boards for the following Line of the Air Force-Cross Functional Operation (LAF-X) competitive categories: Air Operations and Special Warfare (LAF-A); Combat Support (LAF-C); Force Modernization (LAF-F); Information Warfare (LAF-I); Nuclear and Missile Operations (LAF-N); and Cross Functional Operations (LAF-X).

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinions to the applicant on 12 Jan 23 for comment (Exhibit D), but has received no response.

ADDITIONAL AIR FORCE EVALUATION

DPS3P recommends denying the applicant' request for an SSB. On 8 Jan 21, while pending transfer to the United States Space Force, the applicant was notified of the cancellation of the inaugural Space Force promotion board scheduled for Oct 21 and of the cancellation of the Air Force LAF-S board scheduled for Mar 21 and he was asked to consider transferring to the Space Force as soon as possible.

The P0521B Central Selection Board did not consider the developmental category of Line of the Air Force – Space Operations, therefore the member was ineligible for promotion consideration. He still held a CAFSC of 13S as of Day-150, 1 Oct 21, for the subsequent P0522B promotion board, and therefore was ineligible. On 14 Jun 22, he was awarded the CAFSC of 14N.

Title 10 U.S. Code § 621 stipulates "Under regulations prescribed by the 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 whose specialized education, training, or experiences, and often relatively narrow utilization, make separate career management desirable.” Secretary of the Air Force Memorandum, *Regular Air Force (RegAF) Officer Competitive Categories for the Active Duty List (ADL)*, dated 7 Oct 2019 clarifies, “An officer’s Core AFSC upon the board accounting date determines the competitive category they compete within for promotion.” Department of the Air Force Instruction (DAFI) 36-2406, *Officer and Enlisted Evaluations Systems, Terms*, defines the board accounting date (also known as PRF accounting date) as “For officers in grades lieutenant colonel and below, it is approximately 150 calendar days prior to the Central Selection Board convening date.”

Finally, in accordance with AFI 36-2501, paragraph 6.3, Conditions That May Warrant an SSB, he has not provided any evidence of any Legal, Administrative, or Material Errors associated with his record.

The complete advisory opinion is at Exhibit E

APPLICANT’S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinions to the applicant on 2 Mar 23 for comment (Exhibit F), and the applicant replied on 24 Mar 23. In his response, the applicant contended the Air Force failed to comply with Title 10 USC § 621, Title 10 USC§ 14301, and DoDI 1320.1. With the establishment of Space Force, and the decision by the Air Force approximately two months prior to the P0521B Board *not* <emphasis added> to consider 13S officers, the Air Force failed to designate a “competitive category” for those officers who had not or ultimately would not transfer to Space Force.

He offers additional evidence to support his argument that he did not have reasonable access to receive notice of the promotion board. The “150-day” guidance was published on 8 Oct 20 and amended on 2 Jan 21 and notification was attempted on 8 Jan 21. However, neither he nor his Senior Service Advisor (SSA) received notification at that time due his current assignment not having access to NIPRNET and having to rely on J1 for any official Air Force correspondence. This single point of failure resulted in him not becoming aware of the competitive category issue until Jun 21. Further, in accordance with Department of Defense Directive S-3305.17, 14 Jan 16, the DoD components were required to present relevant classified information regarding duties, performance and potential to promotion boards. As such, this policy has not been effectuated and therefore, IAW AFI 36-2501 paragraph 6.3, constitute administrative and material errors which would then warrant an SSB.

His request for relief is in accordance with US Code and could positively affect a small but real population of officers in the same situation by providing an opportunity for eligible officers to compete. Further, as SSB promotion statistics do not affect the congressional allocations to promotions for Service consideration, should the BCMR grant relief there would be *absolutely no* <emphasis added> negative effect on other promotions or to the service as a whole. As such, he respectfully requests he be granted an SSB as it is his utmost desire to continue serving and this is his last opportunity to compete for promotion with his peers.

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 both AFPC/DP2SP and AFPC/DP3SP and finds a preponderance of the evidence does not substantiate the applicant's contentions. The Board determines that the applicant received timely notification of the cancellation of the inaugural Space Force promotion board scheduled for Oct 21 and of the cancellation of the Air Force LAF-S board scheduled for Mar 21 and, further, he was informed to consider transferring to the Space Force as soon as possible. However, the applicant did not transfer to Space Force, but instead remained in the Air Force where on or about 29 Mar 22 he was awarded the 14N Core AFSC. Thus, the Board finds that there is no evidence of any Legal, Administrative, or Material Errors associated with his record that would warrant Special Selection Board consideration. 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-2022-01765 in Executive Session on 22 Mar 23 and 5 Apr 23.

, Panel Chair
, Panel Member
, Panel Member

All members voted against correcting the record. The panel considered the following:

Exhibit A: Application, DD Form 149, w/atchs, dated 22 Jun 22.
Exhibit B: Documentary evidence, including relevant excerpts from official records.
Exhibit C: Advisory Opinion, AFPC/DP2SP, dated 11 Jan 23.
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 12 Jan 23.
Exhibit E: Additional Advisory Opinion, AFPC/DP3SP, dated 2 Mar 23
Exhibit F: Notification of Advisory, SAF/MRBC to Applicant, dated 2 Mar 23.
Exhibit G: Applicant Response to Advisory Opinions, 24 Mar 23.

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.

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