

**UNITED STATES AIR FORCE
BOARD FOR CORRECTION OF MILITARY RECORDS**

Work-Product

RECORD OF PROCEEDINGS**IN THE MATTER OF:****DOCKET NUMBER:** BC-2023-00611

Work-Product

COUNSEL: Work-Product**HEARING REQUESTED:** NO

Work-Product

APPLICANT'S REQUEST

She be considered for promotion by a special selection board (SSB) for the Calendar Year 2022 (CY22) Air Force Reserve Line and Nonline Lieutenant Colonel Promotion Selection Board (V0522A).

APPLICANT'S CONTENTIONS

In her 73-page submission, she contends she should receive an SSB as the laws and legal regulations that require promotions to be processed in a fair manner were not followed and promotion boards discriminate against Air Force Reserve members who had previously served in other military branches in violation of the Uniformed Services Employment and Reemployment Rights Act (USERRA). In addition, she make the following major contentions:

a. She was not provided a written notice by her Military Personnel Flight (MPF), as required by Air Force Instruction (AFI) 36-2504, *Officer Promotion, Continuation, and Selective Early Removal in the Reserve of the Air Force*, paragraph 1.4 even though the Air Reserve Personnel Center (ARPC) provided the MPF with a list of eligible officers that contained her name. This hindered her ability to prepare her records for promotion. While she did receive a copy of her Promotion Recommendation Form (PRF) it was not until after the board convened. Additionally, when she requested her Officer Selection Record (OSR), she was told that she would receive an OSR only if it contained discrepancies, then she was referred to her Personnel Records Display Application record instead of the actual OSR site.

b. Despite receiving a "Definitely Promote" promotion recommendation and her completion of the required Intermediate Development Education prior to the board convening, which had a 93 percent selection rate for in-the-promotion zone (IPZ) for traditional reservists, she was a non-select. This can be attributed to a form of discrimination against Air Force Reserve members who previously served in other military branches, in violation of the USERRA, as her Air Force record was missing her previous Army duty history; Air Medal; Meritorious Service Medal; and [State] Medal of Valor. Additionally, Air Force promotion boards do not know how to properly read/understand Army Officer Evaluation Reports.

c. Finally, the promotion board failed to apply the "Whole Person Concept," as outlined in the Secretary of the Air Force Memorandum of Instruction (MOI), as her strong record shows she has met every factor; job performance, professional qualities, leadership, breathe and depth of experience, job responsibility, advanced academic and developmental education, and specific achievements.

The applicant's complete submission is at Exhibit A.

Controlled by: SAF/MRB
CUI Categories: SP-MIL/SP-PRVCY
Limited Dissemination Control: N/A
POC: SAF.MRBC.Workflow@us.af.mil

STATEMENT OF FACTS

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

On 2 Feb 09, according to Permanent Order **Work-Product** dated 22 Feb 09, the applicant was awarded the Air Medal.

On 9 Apr 10, according to NGB Form 22, *Departments of the Army and the Air Force, National Guard Bureau, Report of Separation and Record of Service*, she resigned from the Army National Guard in the rank of captain (O-3). Item 15, *Decorations, Medals, Badges, Commendations, Citations, and Campaign Ribbons Awarded*, reflects the Air Medal and several other decorations awarded during her service in the Army National Guard.

On 5 Oct 11, according to Reserve Order **Work-Product** dated 13 Oct 11, the applicant was appointed as a Reserve of the Air Force in the rank of captain.

On 18 Jan 22, ARPC/PB released *ARPCM 22-04, CY22 Air Force Reserve Line and Nonline Lieutenant Colonel Promotion Selection Boards Convening Notice*, which stated the CY22 Air Force Reserve Line and Nonline Lieutenant Colonel Promotion Selection Boards are scheduled to convene at the Headquarters, Air Reserve Personnel Center on 6 Jun 22. It contained the following information/instructions:

a. Paragraph 9, *Officer Preselection Brief (OPB)*, OPBs will be available for officers meeting the board on or about Day -148. HQ ARPC/PBO will keep MPFs informed via the AFPROMS [Air Force Promotions System] Today's News when OPBs are generated. Once generated, OPBs remain in the report queue for 14 calendar days. After that, MPFs must individually request candidate OPBs in AFPROMS. Upon receipt and accountability, forward the OPBs to eligible officers along with the Officer Information Sheet provided in attachment 3, and the Instruction Sheet for Reviewing the OPB in attachment 4. Changes effecting information to OPBs should be made as soon as possible by contacting your MPF.

b. Paragraph 14, *Officer Selection Record Review*, Officers must review their records in the Personnel Records Display Application to ensure all promotion documents are accounted for.

On 23 Jan 22, according to ARPCM 22-04, Attachment 1, *Milestones and Notable Dates*, was the MPF's suspense date to disperse OPBs with attachments 3, 4, and 5 to officers meeting the board.

In Apr 22, according to the Military Personnel Database System, the applicant completed Intermediate Developmental Education – Air Command and Staff College Non-residence program.

On 20 Apr 22, according to AF Form 709, *Promotion Recommendation*, provided by the applicant, Item IX, *Overall Recommendation*, reflects “Definitely Promote.”

On 6 Jun 22, according to ARPCM 22-04 dated 18 Jan 22, the V0522A promotion selection Board convened.

On 22 Jun 22, according to Special Order **Work-Product** dated 22 Jun 22, the applicant was awarded the Meritorious Service Medal for the period of 29 Jun 16 to 31 Aug 21, with a Given Under my Hand date of 22 Jun 22.

On 7 Feb 23, according to a Total Force Service Center discussion thread, the Superintendent, Officer Promotions, informed the applicant her Army evaluations, and decorations met the Board.

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

APPLICABLE AUTHORITY/GUIDANCE

Department of Defense Instruction (DoDI) 1348.33, *DoD Military Decorations and Awards Program*, dated 21 Dec 16 (Change 5, dated 9 Apr 19), Section 11: *U.S. Non-Military Decorations and Service Awards*, paragraph d. *State Decorations and Awards*. Service members on Federal active duty status may not wear decorations or service medals issued by any of the fifty States or any other territorial, local, or municipal government or entity within the United States.

Department of the Air Force Instruction (DAFI) 36-2903, *Dress and Personal Appearance of United States Air Force and United States Space Force Personnel*, 7 Feb 20 (incorporating Change 4, dated 12 Apr 22, Certified Current 12 Apr 22), Chapter 10, *Awards and Decorations*, paragraph 10.3. Non-Air Force Service Awards. Air National Guard members wear state decorations when serving in state status, but not while on federal active duty.

DAFI 36-2501, *Officer Promotions and Selective Continuation*, paragraph 1.1. The Secretary of the Air Force administers the promotion program through the Chief of Staff, USAF, and the Deputy Chief of Staff for Personnel; issues written instructions to selection boards; establishes competitive categories, promotion zones, eligibility and selection criteria, promotion opportunity and selection rates; appoints and convenes selection boards under 10 U.S.C. §§ 611, *Convening of Selection Boards* and 628, *Special Selection Boards*. The Secretary of the Air Force appoints qualified personnel (Board President, Board Members, Recorders, and Administrative Staff) who can perform their duties without prejudice or partiality and will not appoint individual board members for the purpose of affecting the selection of any individual by the board.

Paragraph 1.7. *Eligible Officers*. Eligible officers are responsible for determining eligibility for consideration by various promotion zone considerations – below-the-promotion zone (BPZ), IPZ, and above-the-promotion zone (APZ). In addition, they are responsible for ensuring the accuracy of their military personnel data system data and OSR, prior to board convening date. As a minimum, the officer must review the Officer Preselection Briefs (OPB) for accuracy of personnel data and correct any discrepancies prior to the board. They receive promotion recommendation from the senior rater approximately 30 days prior to the board, review PRF and OPRs for accuracy and discuss any concerns with rating officials, and point out any omissions of facts (e.g. significant achievements, wrong duty title and/or duty description). Officers consider submitting a letter to the board, if applicable, and should report any errors to the MPF Career Enhancement Element or other OPR listed on the OPB instruction sheet.

Paragraph 2.1, *Program Objectives*. A promotion is not a reward for past service; it is an advancement to a higher grade based on past performance and future potential. The fundamental purpose of the officer promotion program is to select officers through a fair and competitive selection process that advances the best qualified officers to positions of increased responsibility and authority and provides the necessary career incentive to attract and maintain a quality officer force. Officers of the desired quality and quantity are promoted through a fair and equitable competitive selection system that advances those individuals considered by boards to be best qualified.

Chapter 6, *Special Selection Board*. SSBs are convened to consider officers who were improperly considered, or not considered, by one or more promotion boards. The Air Force Board for Correction of Military Records or a federal court can direct an officer for consideration by an SSB. SSB consideration is based on legal, administrative, and material errors. An SSB will not be considered 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

ARPC/DP (Selection Board Secretariat) recommends denying the application as all legal requirements were met. The ARPC Selection Board Secretariat published and posted, in accordance with 10 U.S.C. § 14105, *Notice of convening of promotion board*, and AFI 36-2504, *Officer Promotion, Continuation, and Selective Early Removal in the Reserve of the Air Force*, ARPCM 22-04, *CY22 ARC Line and Nonline Lieutenant Colonel Promotion Selection Boards Convening Notice* on the myPers website in Jan 22 under the Air Reserve, Officer, Promotion Tab and on the ARPC/PBO Restricted SharePoint Site for MPF personnel to access. Therefore, notification stating that the convening notice was published and posted was sent through various reserve channels and in accordance with AFI-36-2504, section 1.3.1.1, which states active duty, reserve, guard and civilian personnel can access myPers and view promotion ARPCMs at any time.

Title 10, U.S.C. § 14105, paragraph (a), *Required Notice*, subparagraph (2) states, issue a general written notice to the armed force concerned regarding the convening of the board. Additionally, AFI 36-2504, Chapter 1, *Responsibilities for the Selection Program*, section 1.3.1.1. states that HQ ARPC, as directed by the Secretary of the Air Force, announces by letter, approximately five months before a selection board convenes, the eligibility criteria, the board convening date, and for promotion boards the name and date of rank of the most senior and the most junior officers in the promotion zone as of the date of the letter. HQ ARPC, Selection Board Secretariat provides the letter to Directorate of Personnel, Office of Air Force Reserve, Air National Guard Readiness Center, Major commands, Field operating agencies, Direct reporting units, Military Personnel Flights, and Joint/Unified Commands (J-1).

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 10 May 23, for comment (Exhibit D), but has received no response.

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 applicant states she should be afforded an SSB because her MPF did not provide written notice of the promotion Board in violation of AFI 36-2504. However, the ARPC Selection Board Secretariat published and posted ARPCM 22-04 in accordance with 10 U.S.C. § 14105 and AFI 36-2504 and Air Force Reserve members had access to those notices in myPers. Therefore, the Board determined the ARPC Selection Board Secretariat met all legal requirements, in accordance with governing laws and regulations, when they published and posted ARPCM 22-04.

CUI//SP-MIL/SP-PRVCY

Accordingly, the Board concurs with the rationale and recommendation of ARPC/DP and finds a preponderance of the evidence does not substantiate the applicant's contentions. In addition, according to DAFI 36-2501, eligible officers are responsible for determining eligibility for consideration by various promotion zone considerations - BPZ, IPZ, APZ. In addition, they are responsible for ensuring the accuracy of their military personnel data system data and OSR, prior to the board convening date. As a minimum, the officer must review the OPB for accuracy of personnel data and correct any discrepancies prior to the board.

The applicant also states despite receiving a "Definitely Promote" recommendation and completion of the required Intermediate Development Education prior to the board convening, she was not promoted because promotion boards discriminate against Air Force Reserve members who previously served in other military service branches. In addition, she contends Air Force promotion Boards do not know how to properly read or understand Army Office Evaluation Reports. However, she has provided insufficient evidence to show this to be the case. As noted in DAFI 36-2501, the Secretary of the Air Force administers the promotion program and appoints qualified promotion board staff who can perform their duties without prejudice or partiality. Furthermore, promotion board members are made up of senior level officers who are experienced in reviewing records from all military services and have the competency to correlate her responsibilities as an Army officer to that of an Air Force officer.

The applicant also contends the promotion board failed to apply the whole person concept as outlined in the Secretary of the Air Force MOI because despite her strong record she was not promoted. However, although the applicant may believe her record qualifies her for promotion to the next higher grade, she has not provided evidence she was the best fully qualified officer in her competitive category as determined by the promotion board. In addition, the applicant believes her record did not include information pertaining to her service in the Army, nor was the board aware she was awarded the Air Medal, Meritorious Service Medal, or [State] Medal of Valor. However, the Board disagrees with this contention. According to the Total Force Service Center discussion thread dated 7 Feb 23, the Superintendent, Officer Promotions informed the applicant all of her Army evaluations and decorations met the promotion board. As such, the applicant's Army evaluations, which contain her duty history and her performance in those duties, were in fact included for the promotion board's review.

Notwithstanding, as noted above, according to DoDI 1348.33 and DAFI 36-2903, the [State] Medal of Valor is a state award and is not a federally recognized decoration that would be eligible for consideration by a promotion board. Similarly, her Meritorious Service Medal with a Given Under My Hand date of 22 Jun 22, was not considered by the V0522A promotion board because it was dated after the 6 Jun 22 promotion board convene date. The applicant has not provided evidence of an error or injustice that caused the delay in the processing of her Meritorious Service Medal or support from the approval authority that the Given Under My Hand date is incorrect. Therefore, in view of the forgoing, the Board recommends against correcting the applicant's records.

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 DAFI 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2023-00611 in Executive Session on 20 Jul 23:

<i>Work-Product</i>	Panel Chair
<i>Work-Product</i>	Panel Member
<i>Work-Product</i>	Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 26 Jan 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, ARPC/PB, dated 7 Apr 23.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 10 May 23.

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.

8/28/2023

X

Work-Product

Board Operations Manager, AFBCMR

Signed by: *Work-Product*