



Work-Product

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

### RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2024-00538

Work-Product

COUNSEL: Work-Product

HEARING REQUESTED: NO

### APPLICANT'S REQUEST

His date of rank (DOR) to the grade of Major (O-4) be corrected to reflect a date between 30 Sep 22 and 31 Aug 23.

### APPLICANT'S CONTENTIONS

Space Force (USSF) S1 Promotions Branch did not follow Department of Defense (DoD) or Department of the Air Force Instructions (DAFIs) when determining his DOR of 1 Dec 23. This incorrect DOR is now adversely affecting his year group alignments, impacting his eligibility to participate in future competitive assignments and promotion boards. He had already been selected for promotion by the Army (USAR) to the next higher grade, O-4, when he transferred to USSF. Per DoD and DAFI regulations, he should have been placed on the appropriate list to O-4 based on his DOR for captain (O-3). Based on his O-3 DOR, the appropriate USSF O-4 promotion list has an effective DOR range between 1 Sep 22 and 31 Aug 23. Furthermore, per DAFI 36-2501, *Officer Promotions and Selective Continuation*, Section 3.7.1, his DOR should be sequenced by seniority preference based on his DOR as an O-3. Additionally, per 10 U.S.C. 716(b), his earliest DOR for O-4 could have been 30 Sep 22.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is a Space Force O-4.

According to Department of the Army (DA) Order Number Work-Product dated 12 Apr 17, provided by the applicant, on 1 May 17, then a USAR first lieutenant, was promoted to the grade of O-3, with a DOR of 1 May 17.

On 29 Mar 22, according to DA memorandum, *Promotion Lists for the Fiscal Year 2022 (FY22) Active Component (AC), Major (MAJ), Operations (OPS), Operations Support (OS), Force Sustainment (FS), and Information Dominance (ID) Promotion Selection Boards (PSB)*, dated 29 Sep 22, provided by applicant, the FY22 AC, MAJ, OPS, OS, FS and ID PSB convened on 29 Mar 22 and recessed on 21 Apr 22.

On 23 Aug 22, according to the CY22 USAF and USSF Selection Board Schedule (Change 1, current as of 14 Feb 22), the USSF Major (FO422A) Board convened.

On 28 Sep 22, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant was honorably released from active duty (USAR).

**AFBCMR Docket Number BC-2024-00538**

Work-Product

Controlled by: SAF/MRB  
CUI Categories: Work-Product  
Limited Dissemination Control: N/A  
POC: [SAF.MRBC.Workflow@us.af.mil](mailto:SAF.MRBC.Workflow@us.af.mil)

On 29 Sep 22, according to DAF Special Order *Work-Product* dated 1 Jul 22, the applicant transferred from the USAR per Title 10 U.S.C. 716 to the USSF in the grade of captain (O-3) with a DOR of 1 May 17. The Transfer Effective date is 29 Sep 22. On that same date, according to *Addendum to AF Form 133, Oath of Office (Military Personnel)*, he was sworn into the USSF as a captain (O-3).

On 6 Oct 22, the *FY22, Major, Army Competitive Categories, Selection Board Results* were released and reflects he was selected for promotion with a sequence number of 0358.

On 30 Mar 23, according to the USSF printout provided by AFPC/DPPSP (USSF/S1P), *Already transferred to USSF*, the FY22 MAJ ACC (OS) selection list was confirmed by the Senate.

On 3 Apr 23, according to memorandum *Officer Grade/DOR Update Notice*, he was advised his projected grade to major was updated to reflect 1 Dec 23.

On 1 Dec 23, according to his Military Personnel Data System (MilPDS) record, dated 19 Nov 24, reflects he was promoted to the grade of Major with a DOR and Effective DOR of 1 Dec 23.

On 8 Dec 23, according to memorandum *IG Complaint Referral – FRNO#<redacted>*, he was informed the USSF promotion list is merit-based and not based on DORs. Additionally, as he was not eligible to meet the USSF CY21 board due to his existing Army status, he could not be grafted into the approved USSF CY21 promotion list. Since he met the CY22 Army promotion board and was assigned an approved increment number, he effectively met the equivalent board for the USSF CY22 cycle. Further, he was informed due to 10 USC §716, transferees may not take a Line Number ahead of a member already selected on the USSF CY22 board as a transferee “may not be assigned precedence,” and adding him to the already concluded CY22 promotion listing would provide him precedence vice members selected on the Army promotion list. His line number of 348 placed him for promotion on 1 Mar 24, but USSF appended him to the end USSF CY22 list, enabling him to be promoted on 1 Dec 23, three (3) months ahead of when he would have been promoted in the Army.

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

## **APPLICABLE AUTHORITY/GUIDANCE**

10 U.S. Code § 716 - Commissioned officers: transfers among the armed forces, the National Oceanic and Atmospheric Administration, and the Public Health Service.

(a) Notwithstanding any other provision of law, the President, within authorized strengths and with the consent of the officer involved, may transfer any commissioned officer of a uniformed service from his uniformed service to, and appoint him in, another uniformed service.

b. An officer transferred under this section may not be assigned precedence or relative rank higher than that which he held on the day before the transfer.

Under Secretary of Defense Memorandum for the Secretary of the Air Force, *Exception to Policy to Maintain Promotion Selection Status upon Transfer to the Space Force*, dated 22 Sep 22. “As requested by your staff, I have approved an exception to Department of Defense Instruction 1300.04, *Inter-Service and Inter-Component Transfers of Service Members*, paragraph 3.1 .b(3), to allow officers selected for promotion in the Army, Navy, Air Force, or Marine Corps during the period of 1 Oct 22 through 30 Sep 24, who transfer to the Space Force before the board that selected

them is approved to be placed on a Space Force promotion list. These officers shall not be promoted before the date they would have been promoted if they had remained in the Service from which they transferred.”

Department of Defense Instruction (DoDI) 1300.04, paragraph 3.1. Inter-Service Transfer. b. Appointments and Promotions. Original appointments and promotions will continue to be processed through the original appointment and promotion scroll processes. (3) If a commissioned officer who transfers between Military Services is on a promotion list to the next higher grade in accordance with Sections 624 or 1403 of Title 10, U.S.C., the Secretary of the Military Department concerned will integrate the officer into the promotion list of the gaining Military Service based on the officer’s date of rank in his or her current grade in the losing Military Service.

## AIR FORCE EVALUATION

AFPC/DPPSP and USSF/S1PP recommend denying the request. Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice. He is incorrectly applying Space Force eligibility criteria to an Army promotion board and approving this would promote him one and one-half (1 ½ ) years earlier than in the Army, violating the exception to policy for sister-service promotions. In addition, he was not a Guardian nor eligible for the Oct 21 [USSF] board, which promoted selects from Jul 22 to Feb 23.

The applicant was selected for promotion to major by an Army promotion board and transferred between military services [USAR to USSF] while on the Army promotion list. Officers cannot be promoted before the date they would have been in their original service. During the transfer, Space Force followed 10 USC § 716 and the Secretary of Defense Exception to Policy, dated 22 Sep 22, to maintain his promotion status. This exception to DoDI 1300.04, 3.1.(b) allows officer selected for promotion in another service to be placed on a Space Force Promotion List if they transfer before the [promotion] board’s approval. Space Force policy uses the losing service’s projected date of promotion (PDOP) or the last increment month of the equivalent USSF promotion list, whichever is sooner. This process set the applicant’s PDOP as 1 Dec 23.

The DAF uses “Date of Rank” for promotion eligibility, education, and leadership opportunities. Service members can only be promoted through one promotion process. The Army board met first on 29 Mar 22, followed by the Space Force board in Aug 22. An exception to policy allowed the applicant to be integrated on the Space Force promotion list, with an effective date of promotion to major of 1 Dec 23, which improved his DOR by four (4) months compared to his effective date of promotion to major of 1 Mar 24, had he stayed in the Army.

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 14 Nov 24 for comment (Exhibit D), and the applicant responded on 21 Nov 24 (Exhibit E). In his response, the applicant contends that the Exception to Policy is not applicable to his case, as it only applies to Officers “who transfer to the Space Force **before** the board that selected him is approved.” The board that selected him was approved by the Office of the Secretary of Defense on 26 Sep 22, he transferred to Space Force on 29 Sep 22, which is **after** the board that selected him was approved. Additionally, he provides a copy of Department of the Army memorandum, *Subject: Promotion Lists for the Fiscal Year 2022 (FY22) Active Component (AC) Major (MAJ), Operations (OPS), Operations Support (OS), Force Sustainment (FS), and Information Dominance (ID) Promotion Selection Boards (PSB)*, dated 29 Sep 22, which states: 2.a. The FY22 AC, MAJ, OPS, OS, FS, and ID PSB convened

on 29 Mar 22 and recessed on 21 Apr 22. The Office of the Secretary of Defense approved the board report on 26 Sep 22.

## 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 AFPC/DPPSP and USSF/S1PP and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant contends USSF failed to adhere to established Department of Defense (DoD) or Department of the Air Force (DAF) policy and as a result incorrectly determined his Date of Rank (DOR), but the Board disagrees. The applicant had been selected for promotion by the Army CY22 promotion board prior to his transfer to Space Force. During the transfer, the Board determines Space Force correctly followed 10 USC § 716 and the Secretary of Defense Exception to Policy memorandum, dated 22 Sep 22, guidance to both maintain his promotion status and be correctly integrated onto Space Force's CY22 promotion list with an effective date of rank of 1 Dec 23. Further, the Board finds the applicant's situation to be no different from similarly situated officers. Therefore, 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 Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2024-00538 in Executive Session on 10 Dec 24:

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 6 Feb 24.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPPSP and USSF/S1PP, w/atchs, dated 14 Nov 24.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 14 Nov 24.

*Work-Product*

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.

3/28/2025

X

*Work-Product*

*Work-Product*

Board Operations Manager, AFBCMR

Signed by:

*Work-Product*

**AFBCMR Docket Number BC-2024-00538**

*Work-Product*