

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: BC-2012-01296
COUNSEL: NONE
HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

His records meet a Special Selection Board (SSB) to reconsider him for promotion by the CY11B Colonel (Col) Central Selection Board in accordance with (IAW) AFI 36-2501, *Officer Promotions and Selective Continuation*.

APPLICANT CONTENDS THAT:

1. The CY11B Col CSB failed to promote officers with the "Joint Specialty" at a rate "not less than the rate for officers of the same armed force in the same grade and competitive category who are serving on, or have served on, the headquarters staff of their armed force," as required by the Department of Defense (DoD) Reorganization Act of 1986 (Public Law 99-433, para 662.a.2).
2. He is (and was at the time of the board), a fully-qualified Joint Specialty Officer (JSO). He qualified under each of the three categories of Joint officers laid-out in Public Law 99-433.
3. The selection rate for JSOs was only 50.97 percent as opposed to the headquarters Air Force (HAF) promotion rate of 62.75 percent. If the Air Force was to meet the required promotion rate for JSOs, IAW Public Law 99-433, para 662.a.2, an additional 19 JSOs would need to be promoted from the CY11B Col CSB.

In support of his request, the applicant provides copies of the CY11B Col promotion statistics, extract from Public Law 99-433, paragraph 662, and a Single Unit Retrieval Format (SURF).

The applicant's complete submission, with attachments, is at Exhibit A.

STATEMENT OF FACTS:

The applicant is currently serving on active duty in the grade of lieutenant colonel.

The instructions provided to promotion board members state that law and DoD policy require that the qualifications of officers assigned to joint duty be such that:

(1) Officers who are serving on, or have served on, the Joint Staff are expected, as a group, to be promoted at a rate not less than the rate for Line of the Air Force (LAF) officers in the same grade who are serving on, or have served on, the service HAF staff;

(2) Officers who are serving in, or have served in, joint duty assignments, are expected, as a group, to be promoted at a rate not less than LAF average rate for the same grade;

(3) Officers who hold the grade of major or above who have been designated as a JQO are expected, as a group, to be promoted at a rate not less than the LAF average rate for the same grade; and

(4) Officers who are serving on, or have served within, the Office of the Secretary of Defense (SECDEF) are expected, as a group, to be promoted at a rate not less than the rate for LAF officers in the same grade who are serving on, or have served on, the service headquarters staff.

AIR FORCE EVALUATION:

AFPC/DPAPPO recommends the applicant's request be forwarded to DPSOO for potential non-select counseling. According to the DoD Instruction (DODI) 1300.9, enclosure 10, section E10.1.3, effective 14 Oct 08, "officers in the grade of major or above who have been designated as a Joint Qualified Officer (JQO) are expected as a group to be promoted to the next higher grade at a rate not less than the rate for officers of the same armed force in the same grade and competitive category." Using the applicant's statistics, the JQO promotion selection rate is 5.25 percent above board average (board average is 45.72 percent). Even if the Air Force had not met the promotion objectives, this in and of itself, is not a reason to grant a SSB.

The complete DPAPPO evaluation is at Exhibit B.

AFPC/DPSOO recommends denial. DPSOO states that since the JQO rate was above the LAF average, the applicant's request is without merit.

Both law and DoD policy require that the qualifications of the officers assigned are expected as a group, not required, to be promoted at a higher rate.

The complete DPSOO evaluation is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

By letter dated 30 Jul 12, the applicant states there are two critical areas in which the two advisory opinions did not properly evaluate his case.

First, both opinions authored by DPAPPO and DPSOO, cited DODI 1300.19 as justification for the low promotion rate of JQO on the CY11B Col CSB. However, the criteria which established promotion rates for JQOs was laid-out in Public Law 99-443. Public Law takes precedence over DoDIs.

Second, the point made by both offices is that the failure of the board to comply with legislative guidance is not grounds for an SSB is inaccurate. AFI 36-2501 establishes the SSB as the single source of recourse for officers when "the action of the board that considered the officer was contrary to law."

The applicant's complete submission, with attachment, is at Exhibit E.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
 2. The application was timely filed.
 3. Insufficient relevant evidence has been presented to demonstrate the existence of error or injustice. We took notice of the applicant's complete submission in judging the merits of the case to include his response to the Air Force evaluation. The applicant contends the OPRs did not properly evaluate his case; however, as pointed-out by AFPC/DPAPPO, the JQO promotion rate was 5.25 percent above board average. Therefore, we agree with the opinion and recommendation of AFPC/DPSOO and adopt its rationale as the basis for our conclusion that the applicant has failed to sustain he has been the victim of an error or injustice. In view of the above and in the absence of evidence to the contrary, we find no basis to recommend granting the relief sought in this application.
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THE BOARD DETERMINES THAT:

The applicant be notified that the evidence presented did not demonstrate the existence of material error or injustice; that the application was denied without a personal appearance; and that the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

The following members of the Board considered Docket Number BC-2012-01296 in Executive Session on 4 Oct 2012, under the provisions of AFI 36-2603:

Panel Chair
Member
Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 14 Mar 12, w/atchs.
- Exhibit B. Letter, AFPC/DPAPPO, dated 11 May 12, w/atch.
- Exhibit C. Letter, AFPC/DPSOO, dated 19 June 2012, w/atchs.
- Exhibit D. Letter, SAF/MRBR, dated 2 Jul 12.
- Exhibit E. Letter, Applicant, dated 30 Jul 12, w/atch.

Panel Chair