

## COMMAND

### Air National Guard (ANG) Career Progression Initiatives

This responds to your request for our review and comment on two proposed ANG initiatives. The first would authorize assignment of non-rated officers as vice commanders of ANG flying wings. The second would authorize rated members to continue operational flying duty while assigned as support group commanders within ANG wings.

There is no legal prohibition against assignment of non-rated officers as vice commanders of flying wings. Although AFI 51-604, *Appointment to and Assumption of Command*, para 5 generally restricts command of flying organizations to “line of the Air Force crewmembers occupying active flying positions,” that restriction does not apply to vice commanders. As indicated in para 6.1 of the same instruction, vice commanders, while acting as such, are staff officers and exercise no command authority.

Although not legally precluded, the assignment of non-rated officers as vice commanders does pose a potential practical problem that should be carefully considered before such a practice is routinely adopted. Within the Air Force, vice commanders are typically expected to be able to assume or be appointed to command in the absence of the assigned commander. If the vice commander of a flying wing is not also a qualified rated officer, he or she would not be able to take command of that organization. In raising this issue, we recognize that an exception to the rated officer command requirement applies to organizations with multiple missions (*e.g.*, air base wings or groups) if the commander of the subordinate flying organization (*e.g.*, base operations squadron) is delegated responsibility for the flying portion of the mission. (AFI 51-604, para 5.3.1) However, that exception does not apply to flying wings. Appointment of someone other than the vice commander to command the flying wing in the commander’s absence is likely to detract from the perceived authority of the vice commander when the commander returns. Additionally, the individual selected to command would have to be equal to or senior in grade to the vice commander. Depending on the grade of other rated officers in the wing, that requirement may be difficult to meet.

The proposal to authorize rated members to continue operational flying duty while assigned as support group commanders appears to conflict with existing regulatory and statutory guidance. Under the proposal, support group commander positions would be designated as Rated Position Indicator (RPI) code 6. That coding would require that they continue operational flying duty, which in-turn would allow them to accrue additional Operational Flying Duty Accumulator (OFDA) credits, thereby prolonging their entitlement to Aviation Career Incentive Pay (ACIP).

Per AFI 11-401, *Aviation Management*, Table 2.1, Aircrew Position Indicator (API), API code 6 is reserved for staff or supervisory positions at wing level and below “that have responsibilities and duties that require the incumbents to actively fly or perform OFDA-creditable ground based radar duties.” That restriction is reinforced by para 2.4, which provides: “Operational flying duty is flying duty performed under competent orders while serving in assignments in which flying skills are maintained in the performance of assigned duties.” Similarly, para 2.7 states that

“public law and DoD directives restrict active rated flying to officers in positions that require maintaining flying skills.” Given the normal duties and responsibilities of a support group commander, it would be difficult to justify an Air Force determination that such positions, contrary to past practice, now require the incumbents to maintain flying skills.

As indicated by the above quote from para 2.7, the restrictions on operational flying duty expressed in AFI 11-401 have a statutory basis. The Aviation Career Improvement Act of 1989 (ACIA), codified as 37 U.S.C., Section 301a, *Incentive Pay, Aviation Career*, imposes utilization standards, commonly referred to as “gates” for rated officers. Rated officers are required to be assigned to operational flying duties for specific amounts of time in order to maintain their entitlement to ACIP. (See also AFI 36-2110, *Assignments*, para 2.9, Utilization Standards and Assignment of Rated Officers) Accordingly, any attempt to broaden application of operational flying duty requirements beyond that currently contemplated by AFI 11-401 would in our opinion have to be preceded by a change to the underlying statute.

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This opinion supersedes and rescinds OpJAGAF 2000/2, 4 January 2000.