

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 February 2024

DOCKET NUMBER: AR20230005152

APPLICANT REQUESTS: change of the effective date of promotion to first lieutenant (1LT)/O-2 to reflect 22 February 2022 rather than 3 August 2022.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Memorandum – Subject: Promotion to an Earlier Date Request, 14 April 2023
- Special Orders Number 96, 9 April 2021
- Email communication
- Special Orders Number 13 AR, 10 January 2023
- Memorandum – Subject: Promotion as a Reserve Commissioned Officer of the Army, 10 January 2023
- Orders Number 3978575, 6 February 2023

FACTS:

1. The applicant states in pertinent part, he was promoted to 1LT effective the day he graduated the Basic Officer Leader Course (BOLC) (3 August 2022). He contests that he was previously eligible for promotion on 22 February 2022. However, there were circumstances that precluded him from becoming educational qualified at an earlier date. He notes that prior to applying for BOLC, he needed to obtain an interim top secret (sensitive compartmented) clearance. This action took some time and after obtaining his clearance, there was a backlog of people attempting to attend BOLC due to the COVID 19 restrictions. He applied for the January 2022 course but was not selected. He then applied for and obtained a seat in the April 2022 course for which he later graduated from.

2. A review of the applicant's available service records reflects the following:

a. On 22 August 2020, the applicant was appointed a Reserve commission at the rank/grade of second lieutenant (2LT)/O-1.

b. On 9 April 2021, the National Guard Bureau (NGB) issued Special Orders Number 96 announcing Federal Recognition (FEDREC) of the applicant's initial

appointment within the TX Army National Guard (TXARNG) at the rank/grade of 2LT/O-1, effective on with a Date of Rank of (DOR) 22 August 2020.

c. On 2 August 2022, the applicant completed the Military Intelligence BOLC.

d. On 10 January 2023, the NGB issued Special Orders Number 13 AR announcing FEDREC of the applicant's promotion to the rank/grade of 1LT, effective on with a DOR of 3 August 2022.

3. The applicant provides the following a:

a. Email communication reflective of communication related to the applicant's submitted requests to attend the MI BOLC in both January and April 2022.

b. Memorandum – Subject: Promotion as a Reserve Commissioned Officer of the Army, 10 January 2023, reflective of the applicant's promotion to 1LT with a DOR of 3 August 2022.

c. Orders Number 3978575 dated 6 February 2023, reflective of the applicant's promotion by the TXARNG, effective 3 August 2022.

4. On 25 September 2023, the NGB, Chief, Special Actions Branch, provided an advisory opinion recommending disapproval of the applicant's request noting that while it is true that the applicant did not attend BOLC at the 18-month period, there is no evidence of injustice to justify a change to his DOR. The applicant was eligible for promotion to 1LT on 3 February 2022. National Guard Regulation (NGR) 600-100 (Commissioned Officers Federal Recognition and Related Personnel Actions) provides that BOLC is a requirement, and as long as the applicant did not go beyond the maximum time in grade, there is no requirement for an automatic promotion. The applicant could not attend BOLC on time partly because of his clearance and partly because of the backlog of officers created from COVID-19. However, he was still promoted within 24 months of commissioning and did not exceed the timeframe set forth in the governing regulation.

5. On 28 September 2023, the applicant was provided with a copy of the advisory opinion and afforded 14 days to provide comments. As of 17 January 2024, the applicant has not responded.

BOARD DISCUSSION:

The Board carefully considered the applicant's request, supporting documents, evidence in the records, the applicant's statement, and the NGB advisory opinion, which recommended disapproval of the applicant's request. The Board concurs with the advisory opinion and recommends denial of the applicant's request.

a. The applicant was eligible for promotion to 1LT on 3 February 2022 (18-month mark). BOLC is a requirement for promotion to 1LT and did not attend BOLC at/by the 18-month period.

b. As long as the applicant did not go beyond the maximum time in grade, there is no requirement for an automatic promotion. The applicant was still promoted within 24 months of commissioning and did not exceed the timeframe set forth in the governing regulation.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
█	█	█	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

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I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. NGR 600-100 (Commissioned Officers Federal Recognition and Related Personnel Actions) provides policies and procedures governing the appointment, assignment, temporary Federal Recognition, Federal Recognition, reassignment, transfers between States, branch transfers, area of concentration etc. of commissioned officers in the ARNG.

a. Paragraph 8-3 (Promotion as a Reserve Commissioned Officer of the Army) provided that the DOR is the date the Officer actually or constructively was appointed or promoted to a specific grade. For a 1LT, the DOR and effective date are established based on eligibility dates in paragraph 8-9.

b. Paragraph 8-9 (Promotion to 1LT) provides that the State must consider all 2LTs for promotion and complete an NGB Form 78 (Recommendation for Promotion to 1LT) at 18 months, regardless of if the 2LT is qualified and recommended for promotion. If the officer is found not qualified for promotion at 18 months' Time in Grade (TIG), they may be discharged. The Adjutant General (TAG) may retain 2LTs who have been found not qualified for promotion for 6 months. 2LTs found not qualified at 24 months TIG will be separated unless previously approved for retention by the TAG.

c. Paragraph 8-10 (Military Education Requirements for Promotion) provides that to be promoted to 1LT, officers must be graduates of the BOLC. Military education waivers are only authorized for majors (MAJ) and lieutenant colonels (LTC).

d. Paragraph 8-16 (Federal Recognition for promotion after Department of the Army Mandatory Board Selection) provides that an ARNG commissioned officer selected for promotion as a Reserve commissioned officer may be extended Federal Recognition in the higher grade provided, they meet the promotion eligibility criteria as outlined in this chapter.

2. Army Regulation 15-185 (ABCMR) paragraph 2-9 states the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

//NOTHING FOLLOWS//