

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 January 2024

DOCKET NUMBER: AR20230005272

APPLICANT REQUESTS:

- correction of her date of rank (DOR) for captain (CPT)/O-3 in the Army National Guard
- correction of Time in Grade (TIG)

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

- DD Form 149 (Application for Correction of Military Record)
- Army Organizational Server (AOS) screenshot
- National Guard Bureau (NGB) Form 62E (Application for Federal Recognition as an Army National Guard (ARNG) Officer or Warrant Officer and Appointment as a Reserve Commissioned Officer or Warrant Officer of the Army in the ARNG of the U.S.), 9 May 2014
- DA Form 5074-1-R (Record of Entry Grade Credit (Health Services Officers)), 14 August 2014
- Special Orders Number 95, 12 May 2015
- Special Orders Number 176, 28 August 2017
- Officer Record Brief
- Personnel Qualification Record – Officers/Warrant Officers, 11 October 2016

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.

2. The applicant states in pertinent part that her DOR was erroneously based on her date of appointment (19 June 2014), rather than 19 December 2010. She contests that her Unit Vacancy Promotion (UVP) was submitted at 2 years TIG rather than when she was assigned to a CPT/O-3 position. Further, she was not considered by a Department of the Army (DA) promotion board upon reaching 6 years TIG. Instead, she was considered by a UVP board in 2016.

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

a. On 19 June 2014, the applicant was appointed a Reserve commission at the rank/grade of first lieutenant (1LT)/O-2 to serve within the Medical Specialist Corps as a Physician Assistant (65D).

b. On 14 August 2014, a DA Form 5074-1-R was constructed awarding 5 years of entry grade credit resulting in a 19 December 2010 DOR for 1LT.

c. On 12 May 2015, the NGB issued Special Orders Number 95 announcing Federal recognition of the applicant's initial appointment in the MDARNG as a 1LT, effective on 19 June 2014 with a DOR of 19 December 2010.

d. On 21 November 2015, the applicant completed the Army Medical Department (AMEDD) Basic Officer Leader Course.

e. On 28 August 2017, the NGB issued Special Orders Number 176 announcing Federal recognition of the applicant's promotion to the rank/grade of captain (CPT)/O-3, effective on with a DOR of 9 August 2017.

f. On 22 June 2019, the applicant completed the AMEDD Captains Career Course.

g. On 1 April 2020, the NGB issued Special Orders Number 95 AR announcing Federal recognition of the applicant's interstate transfer from MD to PA, effective 17 March 2020.

h. On 7 September 2023, the NGB issued Special Orders Number 297 AR announcing Federal recognition of the applicant's promotion to the rank/grade of major (MAJ)/O-4, effective on with a DOR of 5 July 2023.

4. The applicant provides the following a:

a. AOS screenshot reflective of the applicant being assigned to an O-3 position within the MDARNG since 9 September 2014. The applicant notes that she served in that same position until 16 March 2020. Based on her constructed DA Form 5074, her DOR for 1LT was 19 December 2010. In accordance with National Guard Regulation (NGR) 600-100 (Commissioned Officers Federal Recognition and Related Personnel Actions) requires that an officer must be actively serving for 1 year before being eligible for promotion. Therefore, based on her DOR and appointment date, she was eligible to be considered by a UVP board for promotion to CPT on 19 June 2015.

b. NGB Form 62E dated 9 May 2014, reflective of the applicant's submitted request to be Federally recognized as a 65D at the rank/grade of second lieutenant (2LT)/O-1.

c. Officer Record Brief reflective of the applicant's pertinent personnel information to include her DOR as a CPT (9 August 2017) and DOR to 1LT as 19 December 2010.

d. Personnel Qualification Record – Officers/Warrant Officers dated 11 October 2016, pertinent personnel information to include her DOR as a 1LT 19 December 2010 with an effective DOR of 19 June 2014.

5. On 1 December 2023, the NGB, Chief, Special Actions Branch, provided an advisory opinion recommending partial approval of the applicant's request.

a. The applicant requests that her DOR as a CPT be adjusted to a date reflective of her DOR (19 December 2010) on her DA Form 5074-1-R (Record of Award of Entry Grade Credit (Health Service Officer), which awarded her constructive credit based on her education and experience.

b. National Guard Regulation 600-100, (Commissioned Officers Federal Recognition and Related Personnel Actions), para 8-10, states the military education (MILED) requirement for promotion. The minimum MILED requirement for promotion to First Lieutenant (1LT) and Captain (CPT) is completion of Officer Basic Course (OBC). All AMEDD Officers (except for AOC 67J or MFA 70) will attend an appropriate AMEDD OBC within 24 months of appointment.

c. The applicant was appointed as a 1LT in the Army National on 19 June 2014, and received three years and six months of constructive credit for her educational experience and therefore was given a DOR of 19 December 2010. The applicant at the time did not complete OBC until 21 November 2015.

d. National Guard Regulation 600-100, para 8-15, defines the maximum time in grade (TIG) in a lower grade to be considered for promotion by a Department of the Army (DA) mandatory selection board. Promotion from 1LT to CPT requires an individual Soldier to have five years TIG.

e. After a collaborative review of the applicant's ABCMR claim with the Army National Guard Chief Surgeon General's Office Medical Department (NGB-CSG), and the Army National Guard Federal Recognition office, we recommend a partial approval of the Soldier request to have their DOR adjusted.

(1) The Soldier's claim that she was not submitted for UVP at two years TIG is correct, however she was not submitted for UVP because she had not yet completed OBC until 21 November 2015, and additionally had missed the cut off for the FY16 CPT AMEDD board per MILPER Message 16-017. The results of this board were released on 9 August 2017.

(2) The Federal Recognition section recommends that the Soldier's DOR of CPT be adjusted to 8 September 2016, when she was assigned to a CPT position, and this adjustment aligns the Soldier with the correct MAJ AMEDD board of FY23.

f. This opinion was coordinated with the assistance of The Army National Guard Federal Recognition Section and the Pennsylvania Army National Guard.

6. On or about 5 December 2023, the applicant was provided with a copy of the advisory opinion and afforded 15 days to provide comments.

7. On 6 December 2023, the applicant responded to the advisory opinion inquiring about her entitlement to backpay based upon the recommended DOR adjustment. She makes further inquiries about the promotion timeline from CPT to MAJ and subsequent eligibility for promotion consideration to lieutenant colonel during the FY28 promotion board.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was partially warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The evidence shows the applicant was appointed as a 1LT in the ARNG on 19 June 2014, and received 3 years and 6 months of constructive credit for her educational experience resulting in her being awarded a 19 December 2010 DOR. She did not complete the Officer Basic Course (OBC) until 21 November 2015. The Board reviewed and agreed with the NGB's advisory official's finding that the applicant's claim that she was not submitted for UVP at 2 years TIG is correct; however, she was not submitted for UVP because she had not yet completed OBC until 21 November 2015, and additionally she had missed the cut off for the FY16 CPT AMEDD board. The results of this board were released on 9 August 2017. In view this finding, the Board agreed that the applicant's DOR should be adjusted to reflect 8 September 2016, the date that she was assigned to the CPT/O-3 position. This adjustment will correctly align the applicant with the FY23 MAJ AMEDD board.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

: : : GRANT FULL RELIEF

█ █ █ GRANT PARTIAL RELIEF

: : : GRANT FORMAL HEARING

: : : DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army and Army National Guard records of the individual concerned be corrected by amending Special Orders Number 176, issued by the NGB on 28 August 2017 announcing Federal recognition of the applicant's promotion to captain (CPT)/O-3, effective on with a DOR of 8 September 2016.

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to any relief in excess of that described above.

█

█ █

█

█

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. Title 10, USC, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. National Guard Regulation 600-100, (Commissioned Officers Federal Recognition and Related Personnel Actions) prescribes policies and procedures governing the appointment, assignment, temporary Federal Recognition, Federal Recognition, reassignment, transfers between States, branch transfers, area of concentration designation, utilization, branch detail, and attachment of commissioned officers of the ARNG.

a. Paragraph 8-3 (Promotion as a Reserve Commissioned Officer of the Army) provides that the effective date determines the officer Federal pay and allowances in the next higher grade. The DOR is the date the officer actually or constructively was appointed or promoted to a specific grade. The DOR is used in calculating TIG toward promotion consideration in the next higher grade. Effective Date and DOR will be the Department of the Army Board approval if the officer was assigned to a position in the next higher grade.

b. Paragraph 8-10 (Military Education Requirements for Promotion) provides that all AMEDD officers (except for Area of Concentration 67J or MFA 70) will attend an appropriate AMEDD BOLC within 24 months of appointment. To be eligible for promotion to 1LT, Medical Service Officers must complete BOLC.

c. Paragraph 8-14 (Consideration for Promotion by a Mandatory Selection Board) provides that a commissioned officer will be considered for promotion by a DA mandatory selection board, in their competitive category as a Reserve commissioned officer of the Army, when the officer meets minimum TIMIG requirements prescribed for the zone of consideration. The maximum TIMIG requirement for promotion to CPT is 5 years.

//NOTHING FOLLOWS//