

IN THE CASE OF: [REDACTED]

BOARD DATE: 9 September 2024

DOCKET NUMBER: AR20230007863

APPLICANT REQUESTS: Date of Rank (DOR) adjustment for the rank of Chief Warrant Officer Five (CW5) in the Army National Guard.

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

- DD Form 149 (Application for Correction of Military Record)
- Title 10, United States Code (USC) 14308 (Promotions: How Made)
- Promotion Packet Summary
- National Guard Bureau (NGB) Form 23A (Army National Guard (ARNG) Current Annual Statement), 11 March 2023

FACTS:

1. The applicant states in pertinent part that her DOR to CW5 needs to be adjusted to account for the mishandling of her promotion packet after it was submitted to the NGB. She contests that her packet was submitted for review on 29 September 2022 and took approximately 255 days to be processed (12 May 2023). She notes that per the NGB Federal Recognition guidance of 26 January 2023, an amendment that affects a service members pay must be directed by the Army Board for Correction of Military Records.

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

a. On 19 August 2003, the applicant was appointed as a reserve Warrant Officer within the Aviation Corps as a UH-60 pilot and subsequently ordered to active duty.

b. On 14 July 2005, the U.S. Army Human Resources Command (AHRC) issued Orders Number 195-064 announcing the applicant's promotion to the rank of chief warrant officer two (CW2), effective on with a DOR of 19 August 2005.

c. On 21 April 2010, AHRC issued Orders Number 111-069 announcing the applicant's promotion to the rank of chief warrant officer three (CW3), effective on with a DOR of 1 May 2010.

d. On 24 May 2013, the applicant was honorably discharged from active-duty and subsequently transferred into [REDACTED] Army National Guard (ARNG).

e. On 5 November 2014, the NGB issued Special Orders Number 324 AR announcing Federal Recognition (FEDREC) of the applicant's initial appointment in the [REDACTED] ARNG, effective 25 May 2013.

f. On 29 November 2016, the [REDACTED] ARNG issued Orders Number 334-540 announcing the applicant's promotion by the State to the rank of chief warrant officer four (CW4), effective on with a DOR of 21 November 2016.

g. On 13 June 2017, the NGB issued Special Orders Number 116 announcing FEDREC of the applicant's promotion to the rank of CW4, effective on with a DOR of 31 May 2017.

h. On 24 May 2023, the NGB issued Special Orders Number 193 AR announcing FEDREC of the applicant's promotion to the rank of CW5, effective on with a DOR of 12 May 2023.

i. On 25 May 2023, the [REDACTED] ARNG issued Orders Number 4861893 announcing the applicant's promotion by the State to the rank of CW5 with a DOR of 12 May 2023.

3. The applicant provides the following a:

a. Title 10, USC, section 14308 (Promotions: How Made) reflective of guidance pertaining to military promotions. Paragraph F (Effective Date of Promotion after Federal Recognition) provides that the effective date of a promotion of a Reserve commissioned officer of the Army or the Air Force who is extended FEDREC in the next higher grade in the ARNG under section 307 or 310 of Title 32 shall be the date on which such FEDREC in that grade is so extended. It further provides that if there is a delay in extending FEDREC in the next higher grade in the ARNG to a Reserve commissioned officer of the Army that exceeds 100 days from the date the NGB deems such officers application for FEDREC to be completely submitted by the State and ready for review at the NGB, and the delay was not attributable to the action or inaction of such officer the effective date of the promotion concerned may be adjusted to a date determined by the Secretary concerned but not earlier than the effective date of the State promotion; and the date the NGB deems such officer's application for FEDREC to be completely submitted by the State and ready for review at the NGB and the date on which the applicant occupies the position in the next higher grade.

b. Promotion Packet Summary reflective of the processing timeline of the applicant's CW5 FEDREC packet. The applicant's packet was initially entered on

9 June 2022 with the FEDREC order being published on 24 May 2023.

c. NGB Form 23A dated 11 March 2023, reflective of the applicant's qualifying service performed between 11 March 2003 – 11 March 2023.

4. On 15 April 2024, the NGB, Chief, Special Actions Branch provided an advisory opinion recommending approval of the applicant's request noting that her promotion was delayed due to processing issues. The [REDACTED] ARNG G-1 provides that Unit Vacancy Promotions should be accepted and routed to the Director of Military Personnel Management (DMPM) within 45 days upon receipt from the State. The applicant's promotion packet was received by the NGB on 9 June 2022 and sent to DMPM on 3 February 2023 which took nearly eight-months. Her packet was erroneously forwarded to the Human Resources Officer Policy section which caused the significant delay. It took 253 days for her packet to be received and sent to DMPM, which far exceeded the 45-day recommended timeline. After further review of the applicant's documents provided and discussions with the [REDACTED] ARNG and ARNG Federal Recognition Team, it is the conclusion of this office, that the applicant's promotion delay was due to process delay. This office recommends her DOR be adjusted to 12 March 2022. The [REDACTED] ARNG recommends a DOR adjustment to 28 October 2022 which would exclude the 208 days of excessive processing time at the NGB due to no fault of the applicant.

5. On 18 April 2024, the applicant was provided with a copy of the advisory opinion and afforded 15 days to provide comments.

6. On 2 May 2024, the applicant responded to the advisory opinion inquiring about the recommended DOR adjustment. The applicant questioned the calculations utilized referencing the 45-day (12 March 2022) timeline vice 141-days (28 October 2022) of processing time. The applicant further notes the discrepancy of the recommended DOR (28 March 2022) by the NGB, and the conflicting adjusted DOR of 28 October 2022 referenced in paragraph 5 of the advisory opinion made by the [REDACTED] ARNG. The applicant seeks clarification assuming that this discrepancy was a typographical error.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The evidence shows the applicant was extended Federal recognition for promotion to CW5 with an effective date and date of rank as 12 May 2023. However, the NGB found evidence that the applicant's promotion was delayed. The [REDACTED] ARNG G-1 provides that Unit Vacancy Promotions should be accepted and routed to the Director of Military Personnel Management (DMPM) within 45 days upon receipt from the State. According

to the NGB, the applicant's promotion packet was received by the NGB on 9 June 2022 and sent to DMPM on 3 February 2023 which took nearly 8 months. Her packet was erroneously forwarded to the wrong section which caused the significant delay. It took too many months for her packet to be received and sent to DMPM, which far exceeded the recommended timeline. The Board found clear evidence that this delay was not attributable to the action or inaction of the applicant and therefore, an injustice occurred. The Board agreed with the NGB advisory official to adjust the applicant's date of rank and effective date of promotion to 12 March 2022.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by amending Special Orders Number 193 AR issued by the NGB on 24 May 2023 to show the applicant's promotion to the rank/grade of CW5, with a date of rank and effective date as 12 March 2022.

9/9/2024

X [REDACTED]

CHAIRPERSON
[REDACTED]

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. National Guard Regulation 600-101 (Warrant Officers Federal Recognition and Related Personnel Actions) provides policies and procedures for Army National Guard (ARNG) Warrant Officer personnel management. Paragraph 7-3 (Promotion as a Reserve Warrant Officer of the Army) provides that a Warrant Officer who is promoted by the State and extended Federal Recognition in the higher grade will be concurrently promoted to the higher grade in the Reserve of the Army with assignment to the Army National Guard of the United States (ARNGUS).
2. Title 10 USC, section 14308 (Promotions: how made), (f) (Effective Date of Promotion After Federal Recognition), (1) The effective date of a promotion of a Reserve commissioned officer of the Army or the Air Force who is extended FEDREC in the next higher grade in the ARNG or the Air National Guard shall be the date on which such FEDREC in that grade is so extended. (2) If there is a delay in extending FEDREC in the next higher grade in the ARNG or the Air National Guard to a Reserve commissioned officer of the Army or the Air Force that exceeds 100-days from the date the NGB deems such officer's application for FEDREC to be completely submitted by the State and ready for review at the NGB, and the delay was not attributable to the action or inaction of such officer; in the event of State promotion with an effective date before 1 January 2024, the effective date of the promotion concerned may be adjusted to a date determined by the Secretary concerned, but not earlier than the effective date of the State promotion.
3. Department of Defense Instruction 1310.01 (Rank and Seniority of Commissioned Officers) states the Secretary of the Military Department concerned may adjust the DOR of an officer, except a general or flag officer, appointed to a higher grade under Title 10, USC, sections 624(a) or 14308(a) if the appointment of that officer to the higher grade is delayed by unusual circumstances. The Secretary of the Military Department concerned must determine that the unusual circumstance caused an unintended delay in processing or approval of the selection board report or promotion list in order for an officer's DOR to be adjusted.

//NOTHING FOLLOWS//