

IN THE CASE OF: ██████████

BOARD DATE: 4 April 2024

DOCKET NUMBER: AR20230007902

APPLICANT REQUESTS: correction of his date of rank (DOR) for promotion to colonel (COL)/O-6 to reflect 5 October 2022 rather than 30 March 2023.

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 1059 (Service School Academic Evaluation Report)
- DA Form 5500 (Body Fat Content Worksheet (Male)), 15 April 2022
- Army Combat Fitness Test Scorecard, 24 May 2022
- Memorandum – Subject: Fiscal Year 2022 (FY22) Army National Guard (ARNG) Title 10 (T10) Active Guard/Reserve (AGR) Major (MAJ), Lieutenant Colonel {LTC} and Colonel (COL) Second Round Promotion Recommendation, 31 August 2022
- Memorandum – Subject: Promotion Recommendation, 31 August 2022
- Special Orders Number 126 AR, 31 March 2023

FACTS:

1. The applicant states the processing of his Federal Recognition (FEDREC) took approximately 7 months, significantly delaying his promotion to COL. He contests that the National Guard Promotion Improvement Act of 2022 provides that the announcement of FEDREC dates should align with the State orders. In his case, he was promoted by the State on 4 October 2022, however his FEDREC orders reflect an effective date of 30 March 2023. He adds that his previous promotion to LTC/O-5 took 296 days for FEDREC. These delays in promotion have now unfairly placed him behind his peer group. He further provides the following timeline: assignment to O-6 billet (1 September 2022), promotion packet submitted to the ██████ ARNG (6 September 2022), ██████ ARNG submitted packet for FEDREC (4 October 2022), packet submitted to Headquarters Department of the Army and placed in a scroll (December 2022), promotion approved by the Senate (30 March 2023).

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

a. After serving as an enlisted Soldier within the ■■■ ARNG, on 26 July 2003, the applicant was appointed a Reserve commission at the rank/grade of second lieutenant (2LT)/O-1 within the Military Police Corp.

b. On 21 August 2003, the National Guard Bureau (NGB) issued Special Orders Number 215 AR announcing FEDREC of the applicant's initial appointment in the RIARNG.

c. On 26 July 2005, the NGB issued Special Orders Number 217 AR announcing FEDREC of the applicant's promotion to the rank/grade of first lieutenant (1LT)/O-2, effective 26 July 2005.

d. On 23 January 2008, the NGB issued Special Orders Number 16 AR announcing FEDREC of the applicant's promotion to the rank/grade of captain (CPT)/O-3, effective 16 January 2008.

e. On 14 August 2012, the NGB issued Orders Number 227-28 ordering the applicant to active duty in an Active Guard/Reserve (AGR) status, effective 14 October 2012.

f. On 1 October 2012, the NGB issued Special Orders Number 349 AR announcing FEDREC of the applicant's promotion to the rank/grade of major (MAJ)/O-4, effective 26 September 2012.

g. On 2 June 2017, the State ■■■■■ issued Orders Number 153-148 announcing the applicant's promotion to the rank/grade of LTC/O-5, effective 23 May 2017.

h. On 2 May 2018, the NGB issued Special Orders Number 98 announcing FEDREC of the applicant's promotion to the rank/grade of LTC/O-5, effective 18 April 2018.

i. On 4 April 2023, the State ■■■■■ issued Orders Number 4396118 announcing the applicant's promotion to the rank/grade of COL/O-6, effective 30 March 2023.

j. On 31 March 2023, the NGB issued Special Orders Number 126 AR announcing FEDREC of the applicant's promotion to the rank/grade of COL/O-6, effective 30 March 2023.

3. The applicant provides:

a. DA Form 1059 dated 20 August 2015, reflective of the applicant's completion of the Command and General Staff Officer Course.

b. DA Form 1059 dated 28 February 2018, reflective of the applicant's completion of the Joint and Combined Warfighting School.

c. DA Form 5500 dated 15 April 2022, reflective of the applicant being deemed as in compliance with the Army's height/weight standards.

d. ACFT Scorecard dated 24 May 2022, reflective of the applicant's completion of the ACFT.

e. Memorandum – Subject: FY22 ARNG Title 10 (T10) AGR MAJ, LTC and COL Second Round Promotion Recommendation, dated 31 August 2022, reflective of the applicant being recommended for promotion to COL. Effective 31 August 2022, the [REDACTED] ARNG was permitted to examine the applicant for FEDREC in the higher grade.

f. Memorandum – Subject: Promotion Recommendation dated 31 August 2022, reflective of the NGB notifying the [REDACTED] ARNG that the applicant was recommended for promotion based on the Title 10 ARNG Promotion Recommendation Review.

4. On 1 February 2024, the Chief, Personnel Policy Division, NGB, provided an advisory opinion recommending disapproval of the applicant's request noting that while it is true that the applicant's promotion packet took more than 100 days to be processed, the delay was not due to an injustice that occurred at any one department. The applicant's promotion packet was received by the ARNG FEDREC Branch from the [REDACTED] ARNG on 5 October 2022. After being reviewed and assigned to a scroll, the promotion was forwarded to Directorate of Military Personnel Management (DMPM) on 22 December 2022. The promotion was approved by the Senate on 30 March 2023. From the receipt of the completed packet on 5 October 2022, 78 days elapsed until the packet was assigned to a scroll, which is under 100 days. Additionally, since the applicant's promotion was to the rank of COL, his promotion must be approved by the Senate, not the Secretary of Defense. From the day the packet was sent to the DMPM on 22 December 2022, it took 98 days until approval. There is no record of a significant delay over 100 days from when FEDREC considers the promotion packet completely submitted according to Personnel Policy Operational Memorandum (PPOM) 23-047.

5. On 5 February 2024, the applicant was provided with a copy of the advisory opinion and afforded 15 days to provide comments. The applicant has not responded.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is not warranted.
2. The Board concurred with the conclusion of the advisory official that the applicant's DOR for COL was not impacted by any excessive delays. Based on a preponderance of the evidence, the Board determined the applicant's DOR for COL is not in error or unjust.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	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.

8/18/2024

X

CHAIRPERSON

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.

REFERENCE:

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 a commissioned officer who has been promoted by the State and extended federal recognition in the higher grade will be concurrently promoted to the higher grade in the Reserves of the Army with assignment to the ARNG. 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.

1) The Grade entry date determines the officer federal pay and allowances in the next higher grade. The Grade entry date is determined when CNGB in conjunction with the SECDEF approval or the Senate confirmation date (COLs only). The Grade entry date is displayed as the "A" Date on the Promotion as a Reserve Commissioned officer of the Army Memorandum for Commissioned officers.

2) The DOR is the date the officer actually or constructively was appointed or promoted to a specific grade. The DOR is used in calculating time in grade toward promotion consideration in the next higher grade. It is the date used to determine the relative seniority for officers holding the same grade.

3) DA Select AGR Commissioned officers promoted upon DA Selection - the Grade entry date and DOR of an officer in a COL position who is promoted to the rank of COL is the date of Senate confirmation.

4) DA Select AGR Commissioned officers who are involuntarily delayed due to lack of controlled grade (10USC 14311). If a DA Select AGR Officer is involuntarily delayed and not assigned to the next higher-grade position, the DOR will be the date the officer is subsequently assigned to the position of higher grade or the Maximum Time in Grade, whichever is earlier. The Grade entry date will be the date the controlled grade authorization is available per ARNG-HRA. Backdated Grade entry dates due to AGR controlled grade limitations in previous fiscal years are not authorized.

b. 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 COL is 6-years.

//NOTHING FOLLOWS//