

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 December 2024

DOCKET NUMBER: AR20230010771

APPLICANT REQUESTS:

- in effect, correction of the Federal recognition date for his promotion to chief warrant officer four (CW4)/W-4 in [REDACTED] Army National Guard ([REDACTED] ARNG) from 14 October 2021 to 19 March 2019
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Applicant's Narrative with Timeline
- The Adjutant General (TAG), [REDACTED] ARNG Memorandum
- [REDACTED] ARNG Promotion Orders
- National Guard Bureau (NGB) Special Orders
- Two DA Forms 4856 (Developmental Counseling Form)
- Memorandum of Support

FACTS:

1. The applicant states on 19 December 2017, an [REDACTED] ARNG Officer Professional Leadership Board (OPLB) and resulting orders directed his transfer to the [REDACTED] ARNG Joint Forces Headquarters (JFHQ) to serve in a CW4 position as the Senior Property Accounting Officer. As outlined in [REDACTED] National Guard Regulation (NGR) 600-101 (Officer Professional Development and Career Management), an officer assigned to a position at the next higher grade is presumed to be fully qualified for promotion and, when the officer meets all promotion eligibility requirements, and as soon as practicable, his/her commander is supposed to make a recommendation for promotion.

a. Prior to this, on 19 March 2014, the [REDACTED] ARNG promoted him to CW3, and, by the time [REDACTED] ARNG placed him at the Senior Property Accounting position, he had already fulfilled his military education requirements; he even earned placement on the Commandant's List while at school. As a result, he should have been eligible to submit

a promotion packet to CW4 on 19 November 2018 (120 days prior to his 19 March 2019 CW4 time-in-grade (TIG) eligibility date).

(1) In August 2018, the new Command Warrant [REDACTED] offered to assist the applicant with his promotion packet; he wanted to "walk it through" as the first promotion packet submitted while in his new position as the Command Warrant [REDACTED]

(2) On 8 September 2018, the [REDACTED] ARNG conducted an OPLB. On 19 September 2019, the applicant's senior rater counseled him on the OPLB results and advised him he was to be moved from the Senior Property Accounting position to a Property Accounting Technician slot in a missile defense battalion at [REDACTED]. The senior rater stated that this was not a "punitive move"; however, this action effectively changed the applicant's eligibility for promotion to CW4 and stopped all promotion packet submissions.

(3) The applicant consulted his leadership in an effort to adjust the reassignment date, but no changes were ever made. The applicant ended up remaining at the missile defense battalion position until he retired in February 2022.

b. "In June of 2019, the regulations were changed and all Warrant Officers promoting from CW2 to CW3 and CW3 to CW4 had a new TIG requirement of only five (5) years, not the six (6) years, as had been the rule for those that were serving under their grade. Since I had met the requirement for TIG, my Battalion forwarded my promotion packet to the next higher echelon."

(1) "My packet was rerouted from the...Troop Command Brigade to the Aviation Battalion, and notes were affixed that my packet needed to go in front of an EPLB (Enlisted promotion board), which made no sense as I was a Warrant Officer. (The Troop Command would not consider my promotion packet without my most recent Officer Evaluation Report (OER))."

(2) "My raters in JFHQ had not made my OER a priority, and I visited the [REDACTED] ARNG TAG in September 2019 to get some traction on prioritizing my OER. My OER was finally accepted by HRC (U.S. Army Human Resources Command) in February of 2020. In the meantime, my first OER at [REDACTED] took 11 months to be accepted by HRC (November 2020)."

(3) "Combined with a Brigade Commander (Colonel (COL) [REDACTED] retired in August 2020) not wanting to process it, and the delayed OERs, my promotion packet would not be processed in a timely manner, above the Battalion level."

(4) "On 24 December 2020, my Battalion Commander, Lieutenant Colonel (LTC) [REDACTED] notified me that I could submit my promotion packet. He mentioned to me that

I was the hardest person in the Battalion to get an OER for. The Battalion submitted my promotion packet, but it was not accepted by NGB, and assigned (a) scroll number...until April of 2021."

(5) "In November 2021, I was finally notified that my promotion to CW4 was effective 14 October 2021. I had four and a half months TIG as a CW4 before retirement. The delay of promotion adversely affected my retirement, as I was in the 'High Three' retirement plan. On 20 September 2018, before I went to [REDACTED] the Senior Warrant said it would be easy to get an age waiver to extend past age 60 to increase my time in grade after promotion. Before his replacement, I asked him if he would support my waiver packet, but he withdrew his support for this option."

(6) "In December of 2021, I requested a correction of my date of rank from the [REDACTED] ARNG TAG and received a response, dated 22 February 2022, that they could not affect my DOR and recommended that I contact the ABCMR for action." The applicant asserts that "the change of eligibility for promotion, the delays for acceptance of my promotion packets, the move to [REDACTED] and the timing of the move, were not fair nor balanced," and for the foregoing reasons, he is asking the Board to amend his DOR.

2. In support of his application, the applicant provides a narrative, complete with timeline.

a. The narrative restates the sequence of events addressed above; he adds that, at the time he was supposed to move to [REDACTED] the [REDACTED] ARNG was scheduled to undergo two national inspections (Standardization Evaluation and Assistance Team (SEAT) and Command Logistics Review Team (CLRT)). The applicant sought to delay his move, citing these two inspections, but the [REDACTED] ARNG chose to transfer him anyway.

b. The applicant obtained legal counsel to "assist me in navigating the possibilities of this unjust move and the negative effects it would have on my family."

(1) "My wife was classified as an Exceptional Family Member Program (EFMP) and would be unable to Permanent Change of Station (PCS) to remote [REDACTED] with me. It would be an unaccompanied tour (geographic bachelor) for the last three years of my service as I approached my Mandatory Retirement Date (MRD). It was not the proper assignment for me, especially as I was just getting ready to transition out of the military, and [REDACTED] does not have any retirement services that I would need."

(2) The applicant's counsel contacted the [REDACTED] ARNG Inspector General but did not get satisfaction. Counsel then reached out to TAG, [REDACTED] ARNG, the office of the Governor [REDACTED], and the applicant's U.S. Senator, all with negative results. In their response to the applicant's inquiries, the [REDACTED] ARNG cast the applicant in an unfavorable

light and even tried to blame him for the [REDACTED] ARNG's failure to pass the SEAT after the applicant moved to [REDACTED].

c. The applicant additionally stated in June 2019, "I submitted a packet for promotion as I met all the requirements for promotion. The Brigade Commander at the next echelon kept moving the goal posts for my packet to be forwarded, from getting additional Officer Evaluations (where the raters slow walked the OERs for an additional two years), to threat(en)ing the Battalion Commander's career if he submitted my packet. He even told the Battalion Commander to watch out for me, because I could be an 'Active Shooter.' We had to wait for that Brigade Commander to retire before my packet could be actioned. He retired in August of 2020 and my packet was submitted to the scroll for promotion."

3. The applicant provides documents from his service record pertaining to his promotion to CW4; two DA Forms 4856, showing the applicant's counseling about the OPLB results, and the command's decision not to adjust the applicant's transfer date; and a letter of support from LTC [REDACTED] the applicant's former commander at the missile defense battalion.

a. LTC [REDACTED] affirmed he was the applicant's commander as of June 2019. Before arriving at the unit, the applicant was in a Warrant Officer Four Property Book Officer slot at Fort Richardson, [REDACTED] (ARNG JFHQ). "Two months prior to being eligible to submit his CW4 promotion packet, he was notified that he was being reassigned to [REDACTED]. He was sent to fill a WO2 Warrant Officer PBO position in (the) Missile Defense Battalion. This new assignment was effective 18 days before he would have been eligible for promotion to CW4."

b. "On 4 June 2019, the regulations changed to five years TIG for all CW3s promoting to CW4. In July 2019, [applicant's] packet was submitted for promotion to the...Troop Command. Tracking his packet through GEARS, we saw it get transferred to the...Aviation Battalion (not in the normal routing for our promotions) by the...Troop Command with notes attached that his record needed to go before an Enlisted Promotion Board for processing. My S-1 redirected the packet back to the...Troop Command for COL [REDACTED] (Troop Command Commander) review. When I inquired with LTC [REDACTED] (Troop Command XO) about the status of [applicant's] packet, he explained that [applicant] was a bad warrant officer, and that the packet was not being processed."

c. "When I got an opportunity to discuss [applicant's] packet with COL [REDACTED] he said that he needed to see [applicant's] Officer Efficiency Rating (OER) from his last assignment at Fort Richardson before he would action it. [Applicant's] previous raters (Major (MAJ) [REDACTED] and LTC [REDACTED]) took about a year getting [applicant's] OER accepted by HRC. [Applicant] had refused to sign the OER, and there was quite a

bit of trying to get him to sign/rewording the OER/refusal/resubmission/rejection/rewording, etc. The process of getting the OER submitted included a September 2019 meeting between [Applicant] and Major General (MG) [REDACTED] (TAG). After several adjustments, [applicant] signed, and the OER was accepted by HRC in February 2020."

c. "Once the OER was finalized, I re-approached COL [REDACTED] about [applicant's] promotion packet. He told me I was foolish to attempt to get [applicant] promoted. I explained the requirements I and my S4 had given [applicant] and talked about the work he had completed. I elaborated on the satisfactions and dissatisfactions my S4 had, and that I thought progress was positive with the majority of my requirements having been satisfied. In a subsequent telephone conversation COL [REDACTED] said he would only sign the promotion if I would strongly endorse [applicant]."

d. "We delayed further action on [applicant's] promotion packet until I endorsed him to COL [REDACTED] in June or July of 2020. COL [REDACTED] retired 2 August 2020; I do not believe he signed the promotion packet before retiring." During this same period, the applicant's OER, for the rating period ending 31 December 2019, was rejected by HRC and had to be re-written; it was finally accepted in November 2020. "...right before Christmas (2020), I told [applicant] he could resubmit his (promotion) packet. Getting his packet accepted by NGB took until April of 2021, and he is scroll number [REDACTED]"

4. A review of the applicant's service record shows the following:

a. On 18 September 1989, after completing over 2 years of enlisted service in the U.S. Army Reserve, the applicant enlisted into the [REDACTED] ARNG for 6 years. On 25 September 1989, the applicant entered active duty in an Active Guard/Reserve status. Through extensions, he continued his [REDACTED] ARNG service and, effective 2 May 2004, the [REDACTED] ARNG promoted him to sergeant first class (SFC)/E-7. On 17 April 2006, the [REDACTED] ARNG advised the applicant, via memorandum, that he had completed the required years of service for retired pay at age 60.

b. On 23 June 2008, the [REDACTED] ARNG honorably released the applicant from active duty, and concurrently, honorably discharged him so he could accept his appointment as a warrant officer in the [REDACTED] ARNG. On 24 June 2008, the applicant executed his oath of office as a Warrant Officer One (WO1) in the [REDACTED] ARNG. Following the completion of the Property Accounting Technician Warrant Officer Basic Course (Reserve Component), the NGB issued Special Orders (SO) announcing the Federal recognition of the applicant's initial appointment as a WO1, effective 24 June 2008.

c. Subsequent to the applicant's successful completion of the Property Accounting Technician Warrant Officer Advanced Course (Reserve Component), an NGB SO Federally recognized the applicant's promotion to CW3, effective 19 March 2014.

d. On 4 September 2014, the [REDACTED] ARNG ordered the applicant to continue active duty as an AGR for the period 31 August 2014 to 28 February 2022; the orders assigned him as a property accounting technician in a Troop Command at Fort Richardson.

e. On 1 December 2017, a DA Form 1059 (Service School Academic Evaluation Report (AER)) shows the applicant exceeded the course standards for the Warrant Officer intermediate Level Education Course. The report announced that his academic performance put him in the top 20 percent of his class and earned his placement on the Commandant's List. On 8 December 2017, another DA Form 1059, issued for the applicant's completion of the Quartermaster Warrant Officer Intermediate Level Education Course (Follow On), reports that the applicant achieved course standards, and it shows that he earned superior ratings for oral communication and leadership.

f. On 19 December 2017, [REDACTED] ARNG Orders Number 353-011 released the applicant from his position as a property accounting officer and, effective 1 October 2017, transferred him to the position of Senior Property Accounting Officer for the ARNG Staff Element, JFHQ.

g. On or about 30 April 2018, the applicant's rating chain issued him a DA Form 67-10-2 (Field Grade Plate (O-4 – O-5; CW3 –CW5) Officer Evaluation Report (OER)); the rating period was 20170501 through 20180430 and the rated duty position was "Property Book Technician."

(1) The applicant's rater (Captain (CPT) [REDACTED]) gave the applicant a rating of "Excels" and indicated he was in the top 20 percent of all warrant officers with which he (the rater) had worked over the last 15 years.

(2) The senior rater (LTC [REDACTED]) rated the applicant as "Highly Qualified," and stated, "His performance places him the top 50 percent of CW3's I have rated over my career. Promote with peers when eligible." (The applicant signed the acknowledgement of this OER, on 11 December 2018).

h. On 8 September 2018, the [REDACTED] ARNG conducted an OPLB, during which the board decided to reassign the applicant from the Senior Property Accounting Officer to the position of Property Accounting Technician in a missile defense battalion. On 14 November 2018, [REDACTED] ARNG Orders directed the applicant's release from his position as Senior Property Accounting Officer for the ARNG Staff Element, JFHQ and, effective 1 March 2019, ordered his transfer a missile defense battalion at Fort Greely for duty as a Property Accounting Technician.

i. The applicant's JFHQ rating chain issued him a DA Form 67-10-2 for the rating period 20180501 through 20190228; the listed principal duty title was "Property Book

Technician." The rater (MAJ [REDACTED]) rated him as "Proficient." The senior rater (LTC [REDACTED] same as last OER) reflected the applicant as "Highly Qualified" and stated, "Recommend opportunity to manage a Property Book of a full-time unit and consider for promotion to CW4." (The applicant did not sign the acknowledgement of this OER until 18 February 2020).

j. On or about 1 March 2019, the applicant started his new duty assignment as the Property Book Officer for the missile defense battalion. On or about 31 December 2019, the applicant's new rating chain issued him an OER for the rating period 20190301 through 20191231.

(1) The rater (CPT [REDACTED]) rated the applicant as "Capable" and the senior rater (MAJ [REDACTED] battalion executive officer) indicated the applicant was "Qualified."

(2) In comments, the senior rater stated, "Promote with peers and select for leadership training." (The applicant signed the acknowledgement of this OER on 29 October 2020).

k. On or about 31 December 2020, the applicant received his second OER from his missile defense battalion rating chain; the principal duty position was "Property Accounting Technician" and the OER addressed the rating period 20200101 through 20201231. The rater (First Lieutenant [REDACTED]) gave the applicant a rating of "Proficient" and the senior rater (MAJ [REDACTED] battalion executive officer) showed the applicant as "Highly Qualified."

l. On 17 May 2021, the applicant submitted his request for voluntary retirement, with an effective date of 28 February 2022; on 28 July 2021, the [REDACTED] ARNG approved the applicant's request. On 27 October 2021, NGB SO announced the applicant's promotion to CW4, effective 14 October 2021.

m. On 28 February 2022, the [REDACTED] ARNG honorably released the applicant from active duty and, concurrently, honorably separated him from the [REDACTED] ARNG and transferred him to The Retired Reserve. His NGB Form 23 (ARNG Current Annual Statement) shows he completed 36 years and 25 days of creditable service for retired pay.

5. On 23 October 2023, the [REDACTED] ARNG prepared an advisory opinion regarding the adjustment of the applicant's DOR. With the advisory, the [REDACTED] ARNG provided the memorandum and minutes for the September 2018 OPLB; a memorandum offering career development feedback pertaining to the applicant; and a copy of [REDACTED] NGR 600-100, dated February 2019. The [REDACTED] ARNG wrote the following:

a. "[Applicant] has a promotion date of 14 Oct 2021, his DOR for CW3 was 19 Mar 2014. In accordance with NGR 600-101, dated 10 September 2018, he would have been eligible for promotion 19 March 2020 unless he was in a position of higher grade."

b. "[Applicant] was moved 1 March 2019 to a CW2 position based on the 2 Nov 2018 OPLB decision...The OPLB is the governing body for decisions regarding officers within [REDACTED] (AR)NG in accordance with [REDACTED]-NGR 600-101."

(1) "...This was not a punitive action, (rather) it was based on order of merit ranking in the Career Management Board (CMB) and (the) needs of the organization. The OPLB reviewed [applicant's] CMB results verifying his 'Highly Qualified' (OER) rating for 2018. A CW3, who (was) junior to [applicant], was rated as 'Most Qualified.' Per AK-NGR 600-100, (chapter 2) 2f Order of Merit List (OML) Utilization, paragraph 3, 'The CCWO (Command Chief Warrant Officer) and OPLB will use the OML produced by the CMB to recommend selectees for the warrant officer education and warrant reassignments that facilitate early promotion opportunities.'"

(2) "Since [applicant's] rating (was) 'Highly Qualified' and the other CW3's...rating (was) 'Most Qualified,' the OPLB and CCWO had the appropriate authority and met all regulatory requirements to move the most qualified officer into a higher graded position to facilitate (an) early promotion."

(3) "Similarly, [REDACTED]-NGR 600-100 also states in Chapter 3 (Officer Professional Leadership Board (OPLB)), (paragraph) 3-2 Mission d, 'The OPLB will utilize the CMB OML and the Officer/Warrant Officer Preference Worksheet when reassigning officers.' (Paragraph) 3-3a. Objective: 'The OPLB will recommend to the Assistant Adjutant General-Army (ATAG), who is the approval authority, the best-qualified officers for: 2. 'CW3-CW4 positions.' (Paragraph) 3-3j. 'OPLB members will use the 'Whole Soldier' concept in determining the best-qualified officers for assignment. The 'Whole Soldier' concept uses all factors of the officer's career development. The principal criteria for selection must be the potential of the officer for service in the next higher grade.'"

c. "PPOM (Personnel Policy Operational Memorandum) was released 4 Jun 2019, which removed the requirement for Warrant Officers to be in the position of higher grade for promotion eligibility. [Applicant] at this time met the minimum time in grade and education requirements for promotion to CW4. However, this PPOM states that (it) 'remains the responsibility of the Unit Commander and Command Chief Warrant Officer of each state to monitor, mentor, and determine the potential when recommending promotion with the revised NGR 600-101, Chapter 7, Table 7-1.'"

d. "Promotion potential is subjective and based on the commander's opinion. While it can somewhat be extrapolated from the individual's evaluations, it is not outlined or determined in a specific regulation. It is stated in NGR 600-101, para 7-7(a)(6) that the

Warrant Officer must be recommended by the immediate commander. [Applicant] was not recommended by his Battalion Command until 19 February 2021 and Brigade Commander on 23 February 2021. The G1 processed the promotion packet once the commanders recommended [applicant] for promotion, it went to the Federal Recognition Board, on 4 March 2021, and was submitted to National Guard Bureau Federal Recognition branch, (on) 15 March 2021 for further processing and scrolling. The DOR for a Warrant Officer Unit Vacancy Promotion is established when the scroll is approved by the SECDEF (Secretary of Defense) in accordance with PPOM 18-003 (ARNG Commissioned Officer and Warrant Officer Effective Date and DOR), therefore, giving the DOR of 14 October 2021."

6. On 22 July 2024, and based on input from the [REDACTED] ARNG's advisory opinion, the NGB provided an advisory opinion and recommended the Board deny the applicant's request. The NGB stated:

a. "[REDACTED] ARNG does not concur with the Soldier, as an OPLB was held on 2 November 2018 IAW (in accordance with) [REDACTED]-NGR-600-101, which resulted in an order of merit list that dictated the positions and moves of the Career Management Board. Soldier was not moved to a lower grade position as a punitive action and was counseled as such."

b. "The publishing of PPOM 19-029, dated 04 June 2019, changed the requirement for warrant officers to promote in a higher-grade slot, making Soldiers eligible for promotion to CW4. The PPOM also stated that it remains the responsibility of the unit commander to recommend promotion. Soldier was not recommended by his battalion commander until 19 February 2021 and the brigade commander, on 23 February 2021. The Soldier's promotion packet was seen by a Federal Recognition Board on 4 March 2021 and submitted to the National Guard Bureau's Federal Recognition Branch on 15 March 2021. After scrolling and SECDEF approval an order was published with a DOR of 14 October 2021."

c. "It is the recommendation of this office that the applicant's request be denied. The Soldier was promoted IAW NGR 600-101. Eligibility for early promotion includes commander's approval. The commander of Soldier did not endorse the promotion packet for Soldier until 23 February 2021. Based on [REDACTED] ARNG procedures and policies, Soldier was promoted with the correct DOR of 14 October 2021 after the scrolling process."

7. On 25 July 2024, the Army Review Boards Agency provided the applicant the advisory opinions for his review and the opportunity to submit matters in rebuttal. On 8 August 2024, the applicant provided the following in rebuttal:

a. Concerning the NGB advisory, the opinion inaccurately stated the OPLB convened on 2 November 2018; the actual date was 8 September 2018 and the applicant provided a copy in "Attachment A." The advisory also mentioned that his leadership counseled him that his reassignment from the Senior Property Accounting Officer was based on the OML; no OML was ever mentioned.

b. The applicant reiterated the events that occurred after his move to the missile defense battalion and the actions of his chain of command.

c. Regarding the [REDACTED] ARNG's advisory, "Their opinion...glosses over the fact that the other CW3 (who replaced the applicant) was already in a CW4 position, and he was not eligible for promotion before I was. If I got promoted in the JFHQ position, he could still get promoted in his...Troop Command CW4 position. I was moved to a CW2 position that was vacated by a CW2 who moved into the other CW4 position and was not even close to being eligible for promotion. Paragraph 2.(c.) mentions that the unit commander and CCWO determine potential for the promotion. My [REDACTED] Battalion commander recommended me at least twice before the final packet was accepted for my promotion. The first one was submitted on 26 June 2019, right after PPOM 19-029 was released."

d. The applicant points out that, on page 4 of the [REDACTED] ARNG OPLB Proceedings, dated 8 September 2018, he was listed as an agenda item ("Warrant Officer Item 2: Re-Assignment of [Applicant]"); he asks why.

(1) "In the discussion, it mentions that my commander does not recommend me for promotion. CPT [REDACTED] was my unit commander, and he never gave me any indications that he was not pleased with my performance. He even asked me, when I showed him the board results, if they really could do these moves. He never counseled me, telling me I was not going to be recommended for promotion."

(2) "The discussion also mentions promoting CW3 [REDACTED] at MTIG (minimum TIG) and moving him into the W4 position. CW3 [REDACTED] was already in a W4 position in the...Troop Command. There were two CW4 positions in the state. The one I was in and the one CW3 [REDACTED] was in. After I PCS'd to [REDACTED]...I found out that CW2 [REDACTED] had had three investigations, focused on him, about the toxic work environment he was creating at [REDACTED]. He had to be moved and they made me the agenda item. CW2 [REDACTED] should have been the agenda item or CW3 [REDACTED] who they claimed they were moving to facilitate an early promotion."

e. "[REDACTED] Army National Guard humiliated me and trashed my good name. They spread rumors, lies and half truths about me."

(1) "They slandered me and my family. They even said there was going to be a Commander's Inquiry against me. I don't even know all the bad things they said about me."

(2) "Most of those that were involved from the leader level have retired: BG [REDACTED] BG [REDACTED] BG [REDACTED] COL [REDACTED] and LTC [REDACTED] At least three of these officers left under a cloud and I think they were directly responsible for the worst three years of my service, my last three before I retired with 36 years of honorable service."

(3) "These actions and the reassignment PCS move put my family under great stress. I was reassigned to a remote location 350 miles from my home and family...My wife still has flashbacks, my mother was in hospice and died while I was still assigned to [REDACTED] and my father mentally declined, due to isolation from me being stationed so far away and died shortly after I retired."

f. "I have even seen a Financial Liability Investigation of Property Loss (FLIPL) where they blamed me for the loss of accountability from my time at [REDACTED]...The FLIPL investigator (CPT [REDACTED]) implied I did not do my job in a couple large paragraphs, and the unit lost thousands of dollars' worth of equipment...This FLIPL was something that was processed more than a year after I retired. They did not contact me for my input, but they blamed me for the inactions taken by those responsible to manage their components. After all the blame in the FLIPL, I was not found liable."

g. With his rebuttal, the applicant provided a copy of the OPLB results; another copy of the timeline and the [REDACTED] ARNG TAG memorandum he submitted with his application; and his request to extend his MRD. Additionally, he offers an affidavit from a retired SFC, which offers details about the toxic environment created by CW2 [REDACTED] prior to the applicant's arrival at the missile defense battalion.

8. Army Regulation (AR) 15-185 (Army Board for Correction of Military Records (ABCMR), currently in effect, states applicants do not have a right to a hearing before the ABCMR; however, the Director or the ABCMR may grant a formal hearing.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The Board found that the applicant's reassignment and its timing, along with further delays in effecting his promotion, resulted in an injustice. The Board considered the NGB advisory opinion and noted that, while no regulations were violated, the evaluations given to the applicant and his reassignment seemed at least partially grounded on some assertion of poor performance that were not documented or specified. Therefore, the Board determined that granting a correction of the date for his promotion to Chief Warrant Officer Four (CW4)/W-4 in [REDACTED] Army National Guard ([REDACTED] ARNG) to 19 March 2019, if all other appropriate qualifications were met, is warranted.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	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 relief. As a result, the Board recommends that all Department of Army records of the individual concerned be corrected by correcting the Federal recognition date for his promotion to chief warrant officer four (CW4)/W-4 in [REDACTED] Army National Guard ([REDACTED] ARNG) to 19 March 2019, if all other appropriate qualifications were met.

3/31/2025

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.

REFERENCES:

1. National Guard Regulation (NGR) 600-101 (Warrant Officers Federal Recognition and Related Personnel Actions), in effect at the time, prescribed policies and procedures for Army National Guard (ARNG) Warrant Officer personnel management. Chapter 7 (Promotions) states the following:

a. Paragraph 7-1 (Responsibility). Within the ARNG, promotion of warrant officers is a function of the State. However, to be extended Federal Recognition in the higher grade, the officer must satisfy the requirements prescribed in the regulation, as well as those of the President of the United States or the Secretary of Defense, acting on behalf of the President, must first approve the promotion as a Reserve Warrant Officer of the Army. When the State promotion is Federally recognized, the ARNG Warrant Officer is concurrently promoted as a Reserve Warrant Officer of the Army.

b. Paragraph 7-2 (Promotion Criteria). Promotions are based on military occupational specialty (MOS) certification upon satisfactory completion of the appropriate level of military education, time-in-grade (TIG), demonstrated technical and tactical competence, and potential to serve at the higher grade. Promotion is not used solely as a reward for past performance.

c. Paragraph 7-7 (Eligibility for Promotion). To be considered for Federal Recognition and concurrent Reserve of the Army promotion following a State promotion to fill a unit vacancy, an ARNG Warrant Officer must:

- Be in an active status and duty MOS qualified
- Be medically fit and meet height/weight standards
- Complete the minimum TIG; for CW4, the regulation requires 6 years
- Fulfill military education requirements; for CW4, Warrant Officer Intermediate Level Education must be completed
- Pass the Army Physical Fitness Test

2. Personnel Policy Operational Memorandum (PPOM) 19-029 (Modification to NGR 600-101, Chapter 7, Table 7-1 (Minimum TIG for Promotion), dated 4 June 2019, amends Table 7-1 to show minimum TIG for promotion to CW4 as 5, vice 6 years. It additionally states, "It remains the responsibility of the unit Commander and the Command Chief Warrant Officer of each State to monitor, mentor, and determine the potential when recommending promotion...."

3. PPOM 18-003 (ARNG Commissioned Officer and Warrant Officer Effective Date and Date of Rank (DOR)), dated 16 March 2018, states:

a. All officer promotions in the National Guard are promotions to fill a vacancy in a Federally recognized unit of the National Guard. Under the Constitution, the decision by a State to appoint to the next higher grade to fill a vacancy is purely a State decision. Officers promoted to fill a vacancy are examined for Federal Recognition in the grade to which the officer is promoted by the State. National Guard Officers may be considered and found qualified for Federal Recognition of their State promotion using two distinct and largely unrelated processes.

(1) Officers are Federally recognized through State Federal Recognition Boards which are often referred to as "State vacancy promotion boards" or "unit vacancy boards" as part the Unit Vacancy Promotion (UVP) process.

(2) The second way to Federally recognize the State promotion is through the DA Mandatory Promotion Selection Boards process. Mandatory promotion selection boards are convened by the Secretary of the Army. Those National Guard Officers selected (DA Select) by a DA mandatory board who are appointed by the State in that higher grade to fill a vacancy in the Army National Guard are extended Federal Recognition in that grade, without the examination prescribed by law.

(3) Under either process, the condition precedent for an actual promotion in the Army National Guard is State assignment and appointment to the next higher grade.

b. The Effective Date determines the Officer and Warrant Officer pay and allowances in the next higher grade. The DOR is the date the Officer/Warrant Officer actually or constructively was appointed or promoted to a specific grade.

c. Unit Vacancy Promotion (UVP). Effective Date and DOR are the same date and are established when the scroll is either approved by the Secretary of Defense (Lieutenant Colonels (LTC) and below) or the Senate confirmation date (Colonels (COL) only). Warrant Officers are only promoted through the UVP process; therefore, their Effective Dates and DORs will be the same date.

d. Department of the Army (DA) Select M-Day Commissioned Officers. Effective Date and DOR will be the DA Board approval (LTCs and below) or Senate confirmation date (COLs only) if the officer was assigned to a position in the next higher grade. If the officer was not assigned to a position in the next higher grade, the Effective Date and DOR will be the date of assignment to the next higher grade position.

4. Army Regulation (AR) 623-3 (Evaluation Reporting System), in effect at the time, prescribed policies and procedures for OERs.

a. The Evaluation Reporting System (ERS) encompassed the means and methods for developing people and leaders and involved the execution of leadership, the

establishment of a rating relationship with personal interaction, the conduct of developmental counseling and reviews, and the determination of critical assessments. Its intent was to identify Soldiers who are best qualified for promotion and assignment to positions of greater responsibility and combined major elements of counseling, assessment, documentation, and integration with other personnel functions to meet the needs of the Army, rating officials, and rated Soldiers in their current environments.

b. Rating officials were expected to prepare evaluation reports that were forthright, accurate, and as complete as possible, giving due regard to the rated Soldier's rank/grade, experience, and military schooling, and highlighting accomplishments as well as failures.

c. Concerning ratings for Part IVb, the regulation instructed raters to place an "X" in the appropriate block based on the following criteria; when the rated officer's level of performance:

- Exceeded the majority of officers in the same grade, choose "EXCELS"
- Was consistent with the majority of officers in the same grade, select "PROFICIENT"
- Was below the majority of officers in the same grade check "CAPABLE"

d. With regard to the senior rater's evaluation of the rated Soldier's potential, the regulation gave the following guidance; senior raters were compare the rated officer's potential to other officers of the same grade within the senior rater's rating population, and mark one of the following:

- "MOST QUALIFIED" – Exceeded the majority of officers
- "HIGHLY QUALIFIED" – Was consistent with the majority of officers
- "QUALIFIED" – Was below the majority of officers

5. AR 15-185 (Army Board for Correction of Military Records (ABCMR), currently in effect, states:

a. Paragraph 2-2 (ABCMR Functions). The ABCMR decides cases on the evidence of record; it is not an investigative body.

b Paragraph 2-9 (Burden of Proof) states:

(1) The ABCMR begins its consideration of each case with the presumption of administrative regularity (i.e., the documents in an applicant's service records are accepted as true and accurate, barring compelling evidence to the contrary).

(2) The applicant bears the burden of proving the existence of an error or injustice by presenting a preponderance of evidence, meaning the applicant's evidence is sufficient for the Board to conclude that there is a greater than 50-50 chance what he/she claims is verifiably correct.

c. Paragraph 2-11 (ABCMR Hearings). Applicants do not have a right to a hearing before the ABCMR; however, the Director or the ABCMR may grant a formal hearing.

//NOTHING FOLLOWS//