

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 July 2024

DOCKET NUMBER: AR20230013545

APPLICANT REQUESTS: reversal of the U.S. Army Human Resources Command (HRC) denial to change his captain (CPT)/O-3 Date of Rank (DOR) to 12 January 2023.

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

- DD Form 149 (Application for Correction of Military Record)
- Applicant's statement/brief
- Department of Defense Instruction (DoDI) Number 1310.02 - Subject: Original Appointment of Officers, 26 March 2015
- Military Personnel (MILPER) Message Number 20-295 - Title: Announcement of Branch Transfer Opportunity for Army Reserve Non-Active Guard/Reserve (AR Non-AGR) Medical Service (MS) Officers in Area of Concentration (AOC) 70B, Health Care Administrative Assistant, 11 September 2020
- Office of the Deputy Chief of Staff, G-1 Memorandum - Subject: Exception to Army Regulation (AR) 140-10 (Assignments, Attachments, Details, and Transfers), 3 January 2022
- Specialty Branch Transfer Guidance Frequently Asked Questions (FAQ), 11 January 2022
- MILPER Message Number 22-023 - Title: Announcement of Branch Transfer Process for Army Reserve Army Medical Department (AMEDD) Officers, 13 January 2022
- Phone screenshot, January-March 2022
- Email communication(s), September 2021-March 2022
- Email communication, October 2021-February, March 2022
- Secretary of the Army - Subject: Instructions for the Fiscal Year (FY) 2022 (FY22) Reserve Component (RC) CPT AMEDD Promotion Selection Board (PSB), 31 March 2022
- DA Form 4651 (Request for Reserve Component Assignment or Attachment), 19 April 2022
- Orders Number 22-125-00029, 5 May 2022
- Office of the Deputy Chief of Staff, G-1 Memorandum - Subject: Exception to AR 140-10, Assignments, Attachments, Details, and Transfers, 27 October 2022
- MILPER Message Number 23-005 - Title: Announcement of Branch Transfer Process for Army Reserve AMEDD Officers, 5 January 2023

- HRC Memorandum - Subject: Promotion list for FY22 RC, CPT, AMEDD, Army National Guard of the United States (ARNGUS), Army Reserve AGR, and Army Reserve Non-Active Guard Reserve (AR Non-AGR), Competitive Categories (CC), PSB, 20 January 2023
- FY22 RC CPT AMEDD PSB Results, 27 January 2023
- FY22 RC CPT AMEDD PSB Demographics
- Email communication, February - March 2023
- Orders Number 0004077148.00, 24 February 2023
- Orders Number 0003147014.01, 6 April 2023
- DA Form 7774 (Promotion Qualification and Verification Statement), 2 May 2023
- Email communication, March-June 2023
- Email communication, March-June 2023
- Inspector General (IG) email communication, June 2023
- HRC response to Congressional Representative, 21 August 2023
- Office of the Inspector General letter, 15 September 2023

FACTS:

1. The applicant states:

a. Despite being on a Department of the Army (DA) Promotion list, HRC has refused his promotion to CPT. He is requesting promotion orders be issued with a DOR of 12 January 2023, in accordance with (IAW) AR 135-155 (Promotion of Commissioned Officers and Warrant Officers), paragraph 2-19j, paragraph 3-3a(2)(b), and an Exception to Policy (ETP) from Headquarters DA (HQDA) G-1.

b. This correction should be made because 1) it is precisely in line with Army and DoD regulations and policies, and 2) any Soldier who met all stated requirements and performance put him in the top 10 percent of his peers should be treated accordingly. HRC Director of Military Personnel Management (DMPM) has invented an extra-regulatory rationale beyond their own authority to justify denying a promotion to a fully qualified officer. Complete memorandum with a timeline of events and supporting documentation is attached.

c. He was considered for promotion by the FY22 RC CPT AMEDD PSB and placed on the promotion list. The results were approved on 12 January 2023. He occupies an O-3 slot in the 719th MCB [Movement Control Battalion] and has submitted a DA Form 7774, signed by his Battalion Commander to HRC. He meets all requirements for promotion as outlined in AR 135-155, paragraph 2-7 and has completed all actions necessary for promotion orders to be issued. HRC has rejected this request for promotion because of an unusual branch transfer from a special branch authorized by HQDA G-1, and a misunderstanding of the governing regulations. He is requesting

intervention with HRC, Officer Promotions, to generate promotion orders to CPT IAW AR 135-155, paragraph 2-19j and paragraph 3-3a(2)(b).

d. He was a MS (Medical Service Corps) 70B (Health Services Administration) officer in the U.S. Army Reserve (USAR), which during 2021 reached a 700 percent overstrength status. Due to this, promotions to CPT dropped to 10 percent in his competitive category, and MILPER Message Number 20-295 was published, encouraging these officers to seek reappointment in a basic branch.

e. He attempted this, but during the packet consideration, the HQDA G-1, Lieutenant General (LTG) B_, released an ETP to AR 140-10, enabling branch transfers rather than re-appointments for special branch officers to simplify the process for these officers to stay in the Army in another capacity. The ETP states "Reserve Component Specialty Branch Officers will be authorized to voluntarily branch transfer to a basic branch without loss of service credit, or change in grade," [emphasis mine]. HRC released MILPER Message Number 22-023 to implement this ETP. Despite the accelerated process; multiple bureaucratic hurdles, errors, and miscommunications resulted in him being required to submit three separate branch transfer packets in 2022 (in addition to a rejected reappointment packet in 2021). This was also enabled by an extension to the ETP released by the new HQDA G-1, LTG S_, in October of 2022 which was implemented by MILPER Message Number 23-005.

f. After submitting a branch transfer packet, he reached out to Major S_, the Logistics (LG) Branch Manager, in March 2022 for guidance on the process, citing the looming boards for the Army Promotion List (APL) and AMEDD. He asked about how he should try to sequence 1) his promotion board, 2) his transfer, and 3) promotion itself, and he [LG Branch Manager] stated that the branch transfer packet would not be processed prior to the board. The LG branch manager then advised the applicant to transfer while still a first lieutenant (1LT)/O-2. While still a 1LT, he stated that the requirement to transfer to the LG Branch is simply being "Basic Officer Leader Course (BOLC) - complete," without regard to the Military Occupational Specialty (MOS) of the BOLC, while the requirement to transfer as a CPT is "Logistics CCC complete." [Captains Career Course-complete] The LG Branch Manager then stated that he [the applicant] could promote with the recommendation from the AMEDD board after completing the transfer.

g. While attempting to transfer, his Reserve Personnel Action Center (RPAC) informed him that he needed to be in a valid logistics position on a Unit Manning Report (UMR)/Human Resources Authorization Report (HRAR) to process a branch transfer (8 March 2022, email enclosed). He was informed this was incorrect after he completed the unit transfer (19 May 2022, email enclosed), but requested and received a transfer to the 719th MCB in paragraph 105, line number 03, an O-3 logistics position (DA Form 4651 and transfer orders are enclosed).

h. While attempting to process one of the branch transfer packets, Chief Warrant Officer Five H_ from HRC disseminated a "Q&A" [question and answer] referencing the now superseded AR 135-155 (2004), paragraph 1-1b, as a response to the question "Will Specialty Branch officers be promote [sic] to the next higher grade if selected in special branch if basic branch transfer is approved?" The answer provided cited the old regulation [emphasis mine]:

(1) Paragraph 1-1b: "Commissioned officers appointed to or from assignment to the AMEDD, Chaplains (CH), and the Judge Advocate General's Corps (JAGC) will not be promoted if, before promotion, the officer receives a new original appointment with assignment to a branch other than the branch or corps to which assigned when considered for promotion," advising:

(2) "Promotion must occur prior to branch transfer." With another citation from paragraph 3-18a(4)g:

(3) [An officer is ineligible if he or she] Was appointed to or from assignment to a special branch (AMEDD, CH, or JAGC) before effective date of promotion (paragraph 1-1b)."

(4) This verbiage is replicated in the new AR 135-155 (2022), Paragraph 2-19, b(1):

(5) "[...] An officer is ineligible if he or she- [...] (g) Was appointed to or from assignment to a special branch (AMEDD, Chaplain Corps, or JAGC) before effective date of promotion (see para 2-1b)."

i. He received guidance from the HRC Reserve Personnel Management Directorate (RPMD) MS Talent Manager stating, because he had already been reviewed by the FY22 board, did not expect to reappoint, and was confused by the Q&A document, the applicant reached out to the MS Branch Manager Major (MAJ) K_ about the situation. MAJ K_ stated plainly, "When you branch transfer, you are not reappointed, so it does not apply," (email enclosed).

j. To support the interpretation that HQDA G-1's guidance is specific to reappointments, rather than transfers, the new AR 135-155 also states explicitly in para 2-19j:

(1) "A commissioned officer who was on a promotion list in one competitive category and, before promotion, is transferred to a different competitive category, will be promoted from the competitive category that made the original recommendation. However, if the transfer to the new competitive category also involves a new appointment the promotion status will not automatically transfer."

(2) This paragraph makes it clear that the promotability status not transferring is entirely contingent on receiving a new appointment and is not specific to the board that recommends you for promotion, which is obviated for branch transfers pursuant to MILPER Message Number 23-095.

k. Based on the guidance from both his gaining and losing branch managers (paragraph 4 and 7), as well as the clear difference in the regulation between a "re-appointment" and a "branch transfer," he attempted to complete his branch transfer while waiting for promotion results. He submitted the packet again after the transfer to the 719th MCB was effective, on 1 June 2022, and did not see this actioned until the next year.

l. After the Integrated Personnel and Pay System - Army (IPPS-A) brown-out/cutover (BO/CO), HRC released the FY22 board results, and he was in the 10.1 percent of his peer group recommended for promotion (Results and Summary are enclosed). After waiting to see if his packet for a branch transfer would be actioned following the IPPS-A BO/CO, and seeing nothing happening, he requested his S-1 send a DA Form 7774 to HRC for his promotion, but at that point he was informed that 1) He was no longer in an O-3 position (5 March 2023, email is enclosed), despite his reason for transferring to the unit being explicitly a 90A (Logistics) position, see paragraph 5 of this memo, and 2) they were unable to move anyone on the UMR/HRAR since the IPPS-A transition, for which they "had a support ticket in with the pentagon," (13 March 2023, email is enclosed). The Case identification for these support tickets are 453388, 404162 and 426341. Shortly after this notification, he received his branch transfer order (order is enclosed).

m. After the unit's support ticket was resolved, they promptly moved him back to his 90A O-3 position and submitted a DA Form 7774 to HRC (position transfer order and DA Form 7774 are enclosed). This was then rejected because "the officer was a board transfer from AMEDD to APL prior to finalization [sic] of AMEDD promotion to CPT. The officer will have to be reboarded on the next RC CPT APL board." He is not sure what regulation, policy, or statute this individual is attempting to cite, but after referring them to AR 135-155, paragraph 2-19j, the only response he received was that they "have initiated a legal review," (conversation is enclosed). He followed up with an inquiry to the DMPM and received an initial rebuff (conversation is enclosed).

n. After not receiving a definite response from DPMP at HRC, he initiated an IG complaint with HRC. According to their business rules, the most they could do was to reach out to DMPM (who he already contacted), who responded to the IG with a legal opine. The IG provided this to him as their "final notification," (enclosed). This opine stated (in subparagraphs a [1] and b [2], comments in sub-subparagraphs):

(1) "Pursuant to paragraph 2-19(b)(1)(g), AR 135-155, an officer is deemed ineligible for promotion if he was appointed to or from assignment to a special branch (AMEDD) before the effective date of his promotion. Thus, the officer should be removed from the CPT, AR Non-AGR MS promotion list because he is no longer eligible to be promoted in the MS."

(a) This seems to say that a provision relating explicitly to a reappointed officer applies to an officer who was not reappointed. He is unaware of any law, regulation, or policy prescribing this.

(b) This analysis invents a rule out of whole cloth, where the authority to do so does not exist, because of the directive contained in para 2-19j – "A commissioned officer who was on a promotion list in one competitive category and, before promotion, is transferred to a different competitive category, will be promoted."

(c) This opine seems to suggest removing him from the FY22 CPT, AR Non-AGR MS promotion list. The authority to remove the name of a commissioned officer from a promotion list per Title 10, United States Code (USC), section 14310 is delegated to the Secretary of the Army (SECARMY). If an officer is determined to be ineligible for consideration for a reason listed in paragraphs 2-19b(1)(a) through 2-19b(1)(h), the DA Promotions Branch will verify the officer's ineligibility and recommend to the SECARMY that his name is removed from the promotion list, (AR 135-155, paragraph 2-19b). The only potential reason the opine suggests would be valid is (g), "was appointed to or from assignment to a special branch (AMEDD, Chaplain Corps, or JAGC) before effective date of promotion (see paragraph 2-1b)." But again - he was not appointed from assignment to a special branch. He transferred from a special branch. He still has his appointment from 2017.

(2) "Further the law provides separate original appointment authority for U.S. Army Reserve (USAR), Regular Army, and Special Branches. DoDI 1310.02, enclosure 4, paragraph 1.a.1. clarifies that an officer transferring from a basic branch to special branch (or vice versa) requires an original appointment. We have to apply the rules for original appointment when going from one to the other."

(a) DoDI 1310.02, enclosure 4, paragraph 1.a.1 does not require this (enclosed). The title of paragraph 1 is "Overall Guidance," and paragraph a. introduces itself with "in general." If interpreted in the manner that the legal opine suggests, this would mean that the HQDA G-1 does not have the authority to issue an ETP permitting officers in a special branch (a concept specific to the Army) to branch transfer, as opposed to reappointing, as two successive HQDA G-1's have now done (LTG B_ and LTG S_).

(b) Given that the HQDA G-1 has indeed issued this ETP, the DMPM should interpret a branch transfer as exactly that - a branch transfer, and not a reappointment. MILPER Message Number 23-005 states "All Army Reserve Troop Program Unit (TPU) AMEDD officers are eligible for the basic branch transfer process only." He was explicitly disallowed from reappointment.

o. He inquired with the HRC IG who provided their final notification about the concerns in paragraph 12. They acknowledged his concerns and recommended he contact legal assistance in U.S. Army Garrison (USAG) Wiesbaden, Germany (also enclosed). He set up an appointment with their office, and they attempted to contact the lawyers who drafted the opine that DMPM requested, who refused contact with USAG Wiesbaden Legal Assistance. After which, Legal Assistance advised him to initiate a Congressional complaint. He also initiated an IG complaint with HQDA on 21 July 2023, who, after 2 months of investigation, referred the applicant to the Army Board for Correction of Military Records (ABCMR) (enclosed). After the Congressional inquiry to HQDA, they referred back to HRC, Promotions Branch, and they advised him to reach out to the ABCMR as well (enclosed).

p. He is requesting promotion orders be issued with a DOR of 12 January 2023. This is in line with all applicable regulations, including AR 135-155, paragraph 3-3a(2)(b) and paragraph 2-19j. Despite numerous glaring failures of communication from HRC and a technical error in IPPS-A which misplaced him on the UMR/HRAR which temporarily removed his eligibility for promotion, he has taken all necessary steps and met all requirements for this action, following guidance from Human Resources professionals every step of the way. This issue is a "fluke" resulting from the "semirandom" timing of the processing of multi month-long staff actions across multiple echelons, and HRC's inability to review and understand the regulations that are supposed to guide their own actions. Had his branch transfer been processed only a couple weeks later, his promotion would have processed with no issue, and his branch transfer thereafter as well.

2. A review of the applicant's official records show the following:

a. Having prior USAR enlisted and Cadet service, DA Form 71 (Oath of Office - Military Personnel) shows he was appointed as a Reserve commissioned officer and executed his oath of office on 11 August 2017 in the rank/grade of second lieutenant (2LT)/O-1.

b. On 15 December 2017, DA Form 1059 (Service School Academic Evaluation Report) shows he exceeded course standards and successfully completed AMEDD BOLC.

c. On 14 February 2019, HRC published Orders Number B-02-901170, which promoted the applicant to the rank/grade of 1LT/O-2, with an effective date and DOR of 10 February 2019.

d. On 11 June 2021, HRC published Orders Number T-06-115065, which ordered the applicant to active duty for training to attend the Logistics Captain Career Course (CCC) with a report date of 14 June 2021.

e. On 25 June 2021, DA Form 1059 shows he completed phase one of the Reserve Component Logistics CCC. This form shows his branch as MS.

f. On 22 October 2021, HRC published Orders Number HR-1295-00002, which ordered the applicant to active duty for 365 days for Contingency Operation for Active Duty Operational Support (CO-ADOS) in support of Operation Enduring Freedom with a report date of 13 November 2021. His duty would be performed at Wiesbaden, Germany.

g. On 5 May 2022, Headquarters, 99th Readiness Division published Orders Number 22-125-00029, which reassigned the applicant from Detachment 3, 1st Battalion, 304th Regiment to the Headquarters and Headquarters Company, Movement Control, 719th Transportation Battalion, effective 1 June 2022, as a MS officer.

h. On 15 November 2022, HRC published Orders Number HR-2319-00024, which ordered the applicant to Active Duty for Operational Support (ADOS) for 292 days with a report date of 13 December 2022. His duty would be performed at Wiesbaden, Germany.

i. On 24 February 2023, the Department of the Army published Orders Number 0004077148.00, which ordered a branch transfer due to completion of formal training, effective 24 February 2023 in MOS 088A (Transportation Officer). These orders show his "functional area" as 70.

j. On 26 May 2023, DA Form 1059 shows he successfully graduated and completed the Reserve Component Logistics CCC. This form shows his branch as Transportation Corps.

k. On 17 August 2023, HRC published Orders Number HR-3229-00012, which ordered the applicant to ADOS for 305 days with a report date of 1 December 2023. His duty would be performed at Wiesbaden, Germany.

l. On 29 November 2023, the applicant was honorably released from active duty and was transferred to his USAR unit in Brockton, MA. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 2 years and 17 days net

active service this period. Item 4a (Grade, Rate or Rank) shows 1LT and item 12i (Effective Date of Pay Grade) shows 10 February 2019. Item 11 (Primary Specialty) shows 70B and item 14 (Military Education) shows Logistics CCC, 4 weeks, 2023.

m. On 22 March 2024, the Department of the Army published Orders Number 0007646111.00, which promoted the applicant to rank/grade of CPT/O-3, effective 9 February 2024. The orders show his Rank/Grade Entry date as 9 February 2024.

3. The applicant provides the following supporting documents and enclosures:

a. DODI 1310.02 which establishes policy, assign responsibilities, and provide procedures for the original appointment of individuals, enlisted members, and officers as Regular or Reserve commissioned or warrant officers in or to the grades O-6 and below.

b. MILPER Message Number 20-295 issued on 11 September 2020, intended for MS Officers in the rank of 2LT, 1LT, and CPT who hold the AOC 70B, Health Care Administrative Assistant and wish to branch transfer to a basic branch. This message only applies to Army Reserve Soldiers under the command and control of USAR Command. It provided eligibility criteria and implementation guidance for the branch transfer opportunity for Officers who hold the 70B AOC in the Army Reserve. This opportunity was available to select USAR Officers who meet the following criteria. In pertinent part, it states, Commissioned Officers appointed to or from assignment to the AMEDD will not be promoted if, before promotion, the Officer receives a new original appointment with assignment to a branch other than the branch or corps to which assigned when considered for promotion (per AR 135-155, paragraph 1-1b).

c. Office of the Deputy Chief of Staff, G-1 Memorandum - Subject: Exception to AR 140-10, Assignments, Attachments, Details, and Transfers, dated 3 January 2022, which shows the Deputy Chief of Staff, G-1 (LTG B_) approved an ETP to AR 140-10, paragraph 3-1, authorizing Reserve Component Specialty Branch Officers to voluntarily branch transfer to a basic branch without loss of service credit, or change in grade. "RC Specialty Branch Officers who voluntarily branch transfer will not be required to reappoint unless there is a change in grade." The ETP was effective immediately and expired one year from the date of the memorandum unless superseded or rescinded.

d. Specialty Branch Transfer Guidance Frequently Asked Questions dated 11 January 2022, which states, in relevant part, IAW AR 135-155, paragraph 1-1b. b. Commissioned officers appointed to or from assignment to the AMEDD, CH, and the JAGC will not be promoted if, before promotion, the officer receives a new original appointment with assignment to a branch other than the branch or corps to which assigned when considered for promotion. Promotion must occur prior to branch transfer. IAW paragraph 3-18a(4)g. Was appointed to or from assignment to a special branch

(AMEDD, CH, or JAGC) before effective date of promotion (paragraph 1-1b).

e. MILPER Message Number 22-023 issued on 13 January 2022, which provided that, all Army Reserve AMEDD officers were eligible for the branch transfer process. It applied to all Army Reserve AMEDD officers; however, MS officers are/were in an unprecedented over-strength status. Consequently, hundreds of MS officers face separation from the Army Reserve within the next 5 years due to an excess of over 900 officers in the ranks of 2LT through CPT. In pertinent part, it states, Basic Branch to Basic Branch Transfer vs. Reappointment:

(1) Prior to the approved Specialty Branch ETP, specialty-branch officers required a reappointment before transferring to a basic branch. Now, in accordance with the approved Specialty Branch ETP, no reappointment is required because there will be no change in grade.

(2) Whereas reappointments were approved by HRC Accessions, branch transfers are approved at the Readiness Division (RD) level IAW USARC Personnel Actions Guide (PAG) T-2-O-1.

f. Phone screenshot, January-March 2022, showing he communicated with the Logistics Branch Manager.

g. Email communication(s) during the period of September 2021-March 2022 between the applicant, HRC RC officer promotions, Career Management Office (AR Careers Group), HRC RPMD Talent Manager, 99th Readiness Division RPAC, Deputy Director Officer and Senior Integrator Personnel Management Directorate G-1, and his chain of command, discussing his contentions related to reappointment versus branch transfer and his promotion to CPT. He inquired about policy and regulatory concerns pertaining to his promotion and the interpretation of policy and regulatory guidance. He also highlights the specific statute related to reappointments.

h. DA Form 4651 dated 19 April 2022, which shows, the applicant requested voluntary reassignment between TPUs, effective 1 June 2022.

i. Office of the Deputy Chief of Staff, G-1 Memorandum - Subject: Exception to AR 140-10, Assignments, Attachments, Details, and Transfers, dated 27 October 2022, which shows the Deputy Chief of Staff, G-1 (LTG S_) approved an ETP to AR 140-10, paragraph 3-1, which authorized Reserve Component Specialty Branch Officers to voluntarily branch transfer to a basic branch without loss of service credit or change in grade. "RC Specialty Branch Officers who voluntarily branch transfer will not be required to reappoint unless there is a change in grade." The ETP was effective immediately and expired 12 months from the date of the memorandum unless superseded or rescinded.

J. MILPER Message Number 23-005 issued on 5 January 2023, which states, all Army Reserve TPU AMEDD officer are eligible for the "basic branch transfer process only." HRC is the approval authority for reclassification actions i.e., Functional Area designations, requests for awarding or withdrawing Additional Skill Identifiers and Special Qualification Identifiers for AMEDD officers. However, MS officers are in an unprecedented over-strength status. Requesting officer completes a branch-transfer packet consisting of three documents, and the unit submits packet to Major Subordinate Command (MSC). MSC reviews packet and either approves or disapproves. The Brigades sends the packet to the applicable MSC for approval.

(1) If approved, the MSC will publish reclassification/branch transfer memorandum and distribute to the officer and HRC, to verify removal from any upcoming AMEDD Promotions Boards.

(2) If disapproved, the MSC will return the packet to the unit with justification. The MSC then updates personnel systems and files appropriate documents in the officer's record.

k. HRC Memorandum - SUBJECT: Promotion list for FY22 RC, CPT, AMEDD, ARNGUS, AR AGR, and AR Non-AGR, CC, PSB, dated 20 January 2023, which states, in part, the Office of the Secretary of Defense approved the board report on 12 January 2023. It contained and shows the Secretary of the Army's instructions to the Board, Summary of Board Actions, promotion list instructions and details, Board demographics, counseling instructions, and declination of promotion action.

l. FY22 RC CPT AMEDD PSB Results, dated 27 January 2023, which lists the applicant's name under the Non-AGR Competitive Categories.

m. FY22 RC CPT AMEDD PSB Demographics which provides an overview of the promotion board selection percentage rates based on Race, Ethnicity, and Gender for the Active Duty Component to include that of the board's membership.

n. Email communication from February to March 2023 between the applicant, 719th MCB HR Noncommissioned Officer (NCO), 316th NCOs and civilians, and an Army Reserve Administrator (S-1), discussing his promotion selection to CPT, submission of DA Form 7774, slotting him to meet promotion requirements, and the regulatory guidance and requirements per AR 135-155, chapter 3, that would allow and authorize him to be promoted to CPT. Additionally, the email communication shows the applicant stated:

"I am now 1LT(P) (They promoted 10.1% of us). I believe the next step for my promotion is to submit a form to HRC- but I would like to pause that for now. My understanding from the LOG branch manager is that I meet their requirements as

a 1LT, but if I intend to transfer as a Captain, I need to be CCC complete. Once the transfer packet completes, please submit my promotion paperwork. I have CCC scheduled for May, and USAREUR-AF will fund my participation."

o. Orders Number 0003147014.01 dated 6 April 2023, published by the Department of the Army, which amended Orders Number 0003147014. The orders show:

- Action: Permanent Change of Assignment
- Reason: Reassignment
- Effective Date: 2 June 2022
- Report Date: 2 June 2022
- End Date: 1 September 2045
- Report To: "WSY4AA - 0719 TC HHD MVT CTL BN"
- Position Number: 02733268
- Position Title: "#3 MOVEMENTS CONTROL OFFICER"

p. DA Form 7774 dated 2 May 2023, which shows the applicant's immediate commander reviewed and verified the applicant's promotion qualification(s). This forms shows his branch as Transportation Corps/88A and his authorized grade was O-3 in paragraph 104 and line number 01 position number 02733268.

q. Email communication(s) during the period of March to June 2023, between the applicant, the Career Management Officer Headquarters, Army Reserve Careers Group, the HRC Senior RC DASO Team Lead Officer Promotions, the Senior Integrator Directorate of Military Personnel Management, and the Deputy Director Officer Personnel Management Directorate, discussing the applicant's Branch Transfer and Promotable Status and ETP for AR 140-10 and Promotability Status. The email communication shows:

(1) The applicant stated, he was branch transferred and not reappointed. The reason this is different from the requirement from AR 135-100, requiring officers moving from a special branch to a basic branch to reappoint, is because MILPER Message Number 23-005 states that for the period the MILPER is in effect, MS officers are authorized to branch transfer to a basic branch only. Because he transferred, rather than reappointed, the regulation states that he "will be promoted." He requested clarification from the HRC Senior RC, DASO, Team Lead Officer Promotions.

(2) The HRC Senior RC, DASO, Team Lead Officer Promotions responded to the applicant and stated, due to the branch transfer from AMEDD to APL, the applicant changed competitive category for the board, if an AMEDD board recommends an officer, he/she cannot be promoted if no longer an AMEDD branch. The term "appointed/appointment" is referring to the branch transfer from the specialty competitive category to the APL competitive category. An APL board did not review the

applicant's board file to determine if he was qualified to be promoted as an APL branch, an AMEDD board voted the applicant's board file, but the applicant is no longer an AMEDD branch, this is what requires a reboarding on an APL board. She would forward the applicant's concerns for a legal review from OTJAG at the Pentagon, she could not determine when this action would be completed.

(3) The applicant responded and stated, a reappointment is fundamentally different from a branch transfer, and using a transfer rather than an appointment was the intent of the ETP. Appointments are governed by AR 135-100. Transfers are governed by AR 140-10. The proponent for both regulations, HQDA G-1, issued the ETP authorizing the branch transfer for special branches. He also highlighted the differences in the packets per the regulations.

(4) The HRC, Senior RC, DASO, Team Lead Officer Promotions responded to the applicant and stated, the promotion board is a different regulation, the applicant may be able to branch transfer, however, the change in competitive category for a promotion board is a separate rule. This is the aspect of the JAG opinion, in as much as, the requirement to be reboarded in the applicant's new competitive category. An AMEDD board recommended as MS, however, an APL board did not vote and select as an APL Basic Branch, these boards contain separate voting members. He will forward this to the JAG officer for determination.

(5) The Senior Integrator, DMPM stated, before his AMEDD person advises him, his initial review and opinion was that the original consideration against requirements for MS should not drive the promotion when the transfer is to a basic branch with an entirely different board and set of requirements.

(6) The HRC Deputy Director RPMD stated "Same assessment here (No the promotion does NOT follow), but I have my HSD folks looking into a deeper dive. More to follow soon."

r. IG email communication in June 2023, between the applicant and HRC IG, wherein, the HRC IG stated:

(1) This is the final notification from the HRC IG, regarding the applicant's IG Action Request; case number: DX2307XX. The IG office has completed an assistance inquiry with the Officer Promotions Branch, TAGD, pertaining to the applicant's request for assistance to be issued promotion orders with a DOR of 12 January 2023, IAW AR 135-155, paragraph 3-3a(2)(b). Per the Subject Matter Expert (SME) in the Officer Promotions Branch, TAGD, and per the DMPM JAG SME, "The officer is not eligible for promotion from the FY22 CPT AMEDD, MS NON-AGR board and to support our previous responses and communication with the officer, we did receive a legal opine from DMPM.

(2) After reviewing the applicant's follow-on questions, he discussed the applicant's case with the Chief of Assistance, Mr. B_ and he stated that the applicant's best course of action at this point was to request legal assistance from his legal assistance team. They would be best suited to assist him in interpreting DMPM's legal opine, as well as the way ahead. The IG Office provided the regulatory guidance and laws from which they based their determination and response.

s. HRC Chief, Officer Promotions Announcements, Board Support and Promotions response to Congressional Representative dated 21 August 2023, which states, we note that the applicant has previously been provided with clear and concise explanations to his questions from the United States Army's highly reputable departments, such as the HQDA G-1, DMPM, HRC IG (with legal opine) and HRC Officer Promotions. The applicant was referred to the ABCMR.

t. Office of the IG letter dated 15 September 2023, which states, this letter responds to the applicant's 21 July 2023 correspondence to the Department of the Army IG concerning assistance with promotion. After additional review, we determined the matters the applicant presented are under the jurisdiction of the ABCMR.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The evidence of record shows the applicant was selected for promotion CPT by the FY2022 CPT, AMEDD, MS, Non-AGR selection board. This promotion board was approved on 12 January 2023, and was released on 27 January 2023. The applicant was assigned to an CPT, LG, APL position effective 2 June 2022 at the time the FY2022 CPT, AMEDD, MS, Non-AGR board was released on 27 January 2023. Since the applicant changed competitive categories before being eligible for the CPT, AMEDD, MS promotion, the applicant would have to be re-boarded on the next available CPT, APL, NON-AGR, USAR board. In accordance with AR 135-155, an officer is deemed ineligible for promotion if he was appointed to or from assignment to a special branch (AMEDD) before the effective date of his promotion. Thus, the officer should be removed from the CPT, AR Non-AGR MS promotion list because he is no longer eligible to be promoted in the MS. Therefore, the Board determined the action taken by HRC to deny him promotion is not in error or unjust.

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.

■

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. AR 135-100 (Appointment of Commissioned and Warrant Officers (WO) of the Army) prescribes policy and procedures for the appointment of commissioned and warrant officers in the ARNGUS and the USAR. Paragraph 2-1 (Applications and allied papers) states, applications for appointment will include DA Form 61, documentary evidence of educational qualifications, a statement that the applicant has a Secret clearance, the appropriate Standard Forms, Department of Defense and DA Forms.

2. AR 140-10 (Assignments, Attachments, Details, and Transfers) prescribes policies, responsibilities, and procedures to assign, attach, detail, remove, or transfer USAR Soldiers.

a. Paragraph 3-1 (Branch transfer) states branch transfer of officers is authorized between basic branches only. A new appointment is required for transfers:

- Between special branches
- From a basic branch to a special branch
- From a special branch to a basic branch

The following are special branches of the Army, all others are basic branches:

- Chaplain
- Judge Advocate General Corps
- Army Medical Department branches (Specialist Corps, Army Nurse Corps, Medical Service Corps (MC), Dental Corps, Veterinary Corps)

b. Paragraph 3-2 (Approval authority for officer branch transfer and warrant officer MOS reclassification) states, the following commanders are authorized to approve branch transfer of commissioned officers and MOS reclassification of warrant officers under their administrative control: (1) CG, HRC. (2) Area commanders. This authority may be delegated to subordinate regional support command commanders. Delegation of authority below Readiness Division level is not authorized. (3) HQDA for branch transfers/MOS reclassification and AMEDD/special officer branch transfers/reclassifications. Such requests will be forwarded from the unit through the MSC/DRC/GOCOM commander to CG, HRC.

3. AR 135-155 (Promotion of Commissioned Officers and Warrant Officers) prescribes the officer promotion function of the military human resource support operations for officers on the Reserve active status list (RASL) and USAR WOs.

a. Paragraph 2-3(c) states, a separate selection board will convene for each competitive category and grade for commissioned officers; such boards may be

convened concurrently. The SECARMY will establish competitive categories for promotion. Officers in the same competitive category will then compete among themselves for promotion.

b. Paragraph 2-9a (Military educational requirements) states, the following do not preclude mandatory promotion consideration but are required to be considered fully qualified for selection to the respective rank. For promotion to 1LT and CPT, officers must have completed all phases of the Basic Officers Leadership Course that are required for an officer to be deployable. This is nonwaivable.

c. Paragraph 2-9b (Equivalent credit) states, for promotion consideration only — officers enrolled (and actively participating) in an authorized resident course or final phase of a non-resident course as required in paragraph 2–9a at the time they are considered for promotion, will be deemed military educationally qualified for promotion consideration and selection.

d. Paragraph 2-19b(1)(g) (Removal from promotion list) states, before the selection board report is approved by the President or the President’s designee, the name of an officer in the rank of 1LT or above, may be removed from the report of the board only by the President or President’s designee per Title 10, USC, section 14111. The authority to remove the name of a commissioned officer from a promotion list per 10 USC 14310 is delegated to the SECARMY. See chapter 7, Promotion Review Boards for additional guidance. If an officer is determined to be ineligible for consideration for a reason listed in paragraphs 2–19b(1)(a) through 2–19b(1)(h), the DA Promotions Branch will verify the officer’s ineligibility, explain the basis for the officer’s ineligibility to the SECARMY, and advise the SECARMY to request that the President approve removal or administrative deletion of the officer’s name from the promotion board report or the promotion list. A promotion advisory board is not required for a determination that an officer was ineligible for consideration for reasons listed in paragraphs 2–19b(1)(a) through 2–19b(1)(h). An officer is ineligible if he or she — Was appointed to or from assignment to a special branch (AMEDD, Chaplain Corps, or JAGC) before effective date of promotion (see para 2–1b).

e. Paragraph 3-3a(2)(b) (Effective date) states, an officer is promoted after selection if all qualifications for promotion are met (chapter 2). In no case will the DOR or effective date of promotion be earlier than the date the board is approved, or, if required, the date of Senate confirmation. Promotion of unit officers, provides that, unit officers selected by a mandatory board will have a promotion date and effective date no earlier than the date the board is approved or the date of Senate confirmation, if required, provided they are assigned to a position in the higher grade. When the board approval or, if required, Senate confirmation is before assignment to the position in the higher grade, the effective date and the date of promotion will be the date of assignment to the higher graded position. If the officer voluntarily delays promotion and is later assigned to a

higher graded position during the period of delay, the effective date and date of promotion becomes the date of assignment to the higher graded position.

4. DoDI Number 1310.02 (Original Appointment of Officers), dated 26 March 2015, Enclosure 4 (Original Appointments), paragraph 1.a, provides that, in general, an original appointment applies to an individual entering a Military Service for the first time through any military accession program; a former officer returning to service; an enlisted member completing an officer program; an officer transferring between Military Services; an officer transferring between components within a Military Service; an individual, enlisted member, or officer appointed by warrant or commissioned as a warrant officer; or a warrant officer being appointed as a commissioned officer. In addition, there are other circumstances that require an original appointment, including:

- a. An Army officer transferring from a basic branch to a special branch, from a special branch to a basic branch, or between special branches.
- b. A Regular officer of the Navy, in a grade not above lieutenant commander, transferring from the line to a staff corps or from a staff corps to the line.
- c. An enlisted member or warrant officer appointed as a limited duty officer in the Navy or the Marine Corps.
- d. An officer whose transfer results in the loss of service credit or a change in grade.

5. DoDI Number 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, U.S. Code (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.

6. The ABCMR may correct an officer's DOR/effective DOR when a proper appointment has already occurred. Title 10, USC, sections 624 and 741 provide for situations in which properly appointed officers are provided "backdated" DOR and effective dates to remedy errors or inequities affecting their promotion. The authority to remedy these errors or inequities is given to the Service Secretaries.

//NOTHING FOLLOWS//