

IN THE CASE OF: [REDACTED]

BOARD DATE: 25 July 2024

DOCKET NUMBER: AR20230013815

APPLICANT REQUESTS: reconsideration of his pervious requests for

- payment of 89 days of annual accrued leave
- promotion to the rank of master sergeant (MSG)/E-8

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

- DD Form 149 (Application for Correction of Military Record)
- Orders 354-512, 20 December 1985 (Promotion to Staff Sergeant (SSG)/E-6)
- Memorandum, subject: Administrative Review of Army Board for Correction of Military Records (ABCMR) Applications, 12 August 1986
- DA Form 705 (Army Physical Fitness Test Scorecard), 3 April 1997
- Two DA Forms 3349 (Physical Profile), 4 December 1997 and 29 July 1998
- DA Form 2-1 (Personnel Qualification Record – Part II), 27 February 1998
- Letter to Doctor, 2 July 1998
- Leave and Earnings Statement (LES), 1 through 31 August 1998
- Memorandum, subject: Adverse Action, 17 August 1998
- Memorandum, subject: Medical Board Processing, 17 August 1998
- Medical Board Summary
- Memorandum, subject: Physical Condition of [Applicant], 18 August 1998
- Memorandum, subject: Request for Continuance on Active Duty, 9 December 1998
- Memorandum, subject: Discontinuance of Physical Evaluation Board (PEB) Proceedings, re: [Applicant], 11 December 1998
- PEB, 4 January 1999
- DA Form 3947 (Medical Evaluation Board (MEB) Proceedings), 17 November 1998
- Memorandum, subject: Appeal of Findings and Recommendation from MEB, 7 December 1998
- Memorandum, subject: MEB, 10 December 1998
- DA Form 199 (PEB Proceedings), 9 February 1999
- Memorandum, subject: Appeal of PEB Findings, 18 February 1999
- DA Form 5893 (Soldier's MEB/PEB Counseling Checklist), 19 February 1999

- Memorandum, subject: Rebuttal of PEB Findings, 24 February 1999
- Memorandum, subject: Nonconcurrence/Rebuttal to PEB Findings, 3 March 1999
- Memorandum, subject: Presumption of Fitness Appeal, 19 March 1999
- Memorandum, subject: Injustice Has Been Done, 23 April 1999
- Congressional Correspondence
- Memorandum, subject: Case History on [Applicant], 22 November 1999
- Email Communication to Command Sergeant Major [REDACTED]
- Memorandum Congressional Inquiry - Reply to Request for Information, 22 November 1999
- Orders 005-0130, 5 January 2000 (Retirement Orders)
- Orders 90-113, 1 February 2000 (Revocation of Retirement Orders)
- Orders 32-114, 1 February 2000 (Retirement Orders)
- Army Review Boards Agency (ARBA) Decision Letter, 15 March 2000
- ABCMR Record of Proceedings in Docket Number AR1999031821, 14 March 2000
- Statement by Specialist [REDACTED] re: Identification Card
- Letter to Defense Finance and Accounting Service (DFAS)
- LES, 1 through 30 September 2001
- Orders 267-0079, 24 September 2001 (Retirement Orders)
- Excerpt of DA Form 638 (Recommendation for Award) Meritorious Service Medal, 18 October 2001
- Letters from Department of Veterans Affairs (VA) 22 September 2003 and 24 June 2004
- DD Form 149, 10 July 2013
- Letter from U.S. Army Human Resources Command (HRC), 22 July 2013
- Letter from ARBA, 22 July 2013
- Email from ARBA, 30 January 2019
- Self-Authored Letter to Army Inspector General (IG), 2 May 2019
- Self-Authored Statement, 25 September 2023
- Certified Mail Receipts
- Medical Documents

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous considerations of the applicant's case by the ABCMR in Docket Numbers AR1999031821 on 1 March 2000, AR2001053827 on 17 July 2001, AR2019001192 on 22 June 2020, and AR20210014616 on 17 March 2022.

2. The applicant states he had an accrued annual leave expiration term of service (ETS) balance of 89 days when he retired from the Army. He also did not receive his promotion to MSG from 1997 through 2001, which was not given to him because of

reprisal/whistleblower he made against "them." The Board has all the paperwork. At the time, he was going through the medical board process at Fort Sill, Oklahoma. He was also stopped from retiring and kept on active duty for 2 years. He should have received his promotion, which was held up because of reprisal/whistleblower he made against Fort Sill and everything they did wrong on his medical board and his promotion.

3. The applicant provides:

a. LES from 1 through 31 August 1998, which shows he had an ETS leave balance of 89 days. He had been paid for 51.5 days of leave.

b. Memorandum Request for Continuance on Active Duty, 9 December 1998, states he requested to remain on active duty until surgery and full recovery was completed or he requested that he be fully disabled at 100 percent until he received his operation and fully recovered completely.

c. Memorandum injustice has been done, 23 April 1999, states, in pertinent part:

(1) He strongly disagreed with what had happened, an injustice was done to him and it needed to be corrected. He would explain and his records would speak for themselves. He had medical problems throughout his whole career and it was never put in his records. He had the same problems for over 10 years and the Army did not put it into his records until the last several years. After the records were placed in his file, he told them they could not put the records in and he was told they had to.

(2) His medical problems were used against him to not promote him and his medical board was used against him to deny him disability or severance pay. His rebuttals and appeals throughout the process would explain the situation in detail.

(3) When he asked why he was not getting promoted, all the top command sergeants major said it was because of his profile. He repeatedly said he was fit for duty and tried to remove his profiles. This is an injustice. No one would help him get it corrected.

(4) His medical board started on 16 December 1997. The Army sat on his paperwork until he was one year within his retention control point (RCP), which was wrong and clearly an injustice. The Army says it cannot medically retire him because he was within one year of his RCP. After proving them wrong, they came back and said he was fit for active duty and was deployable. If that is true, why was he not promoted years ago and why were those things put in his record and held against him.

(5) An injustice had been done. Everyone he talked to said what the Army was doing to him was wrong. After 21 years in the Army, he never thought the Army would do this.

d. Memorandum for Record from the commandant of the Noncommissioned Officer Academy (NCOA), 22 November 1999, states in pertinent part, the applicant had a problem that needed to be resolved that had been going on for almost 2 years. He had a legitimate complaint and the commandant believed it needed to be addressed in all fairness to the applicant. The commandant provided a history of facts concerning the applicant's case. The applicant had been extended on active duty past his RCP until a final decision was made. In all fairness to him, if he was fit for duty and he must be promoted to MSG, receive back pay, and retire as a MSG. If he was not fit for duty, he should be medically retired with the appropriate disability rating/benefits. The entire memorandum is available for the Board's review.

e. Memorandum Congressional Inquiry - Reply to Request for Information, 22 November 1999 from the Commandant of the NCOA, states in pertinent part, the applicant's request to remain on active duty until his application to the ABCMR was final was only an administrative request and was not the primary issue. He was determined as "not fit for duty" resulting in an extremely restrictive medical profile being annotated in his official file. His records were reviewed for promotion to MSG, during which time he was not selected. After the selection board, he was determined "fit for duty". The entire memorandum is available for the Board's review.

f. Letter to DFAS which states he was retired in 2001 and had 83.5 days of leave that he was never paid for. He was also promoted. He stayed in the Army two years which was needed for his promotion. Post command thought he was promoted.

g. LES, 1 through 30 September 2003 shows his ETS balance of 83.5 days and he had been paid 51.5 days of leave.

h. Letter to Senator, 26 November 2001, states, in pertinent part:

(1) Regarding his inquiry about his 83.5 days of leave, he totally disagreed. He was appealing the decision made by Lieutenant Colonel [REDACTED] Adjutant General. It would take ten months or longer before he would get an answer to his ABCMR case AR2001053827. He would have received an answer by 2 January 2002, which at that time he would have been forced out of the Army.

(2) He waited as long as he could before he had to make a decision. He would be forced out, dropped from rolls, and had all kinds of problems with his pay and his family was suffering.

(3) He decided to request an exception to policy to be extended past his RCP. They did it before, why not again. Would it have hurt the United States Army to have let him stay in the Army three months at a time when they were at war with terrorists. The entire letter is available for the Board's review.

i. Letter to the Army IG, 2 May 2019, "The 18 years and 8 Months Imprisonment in the Mind Which is the Worst Kind of Torture" states in pertinent part:

(1) This whole matter started with the promotion board at Fort Sill, Oklahoma and from there everything he did someone else took credit for it.

(2) Because of what he did, we now have the Integrated Disability Evaluation System, which was started at Fort sill. Everyone else followed them on the work he did. We also have AHRC which was moved from Alexandria, Virginia. When a Soldier gets promoted they will not be removed by the command because they feel that the Soldier is substandard and put who they want on the promotion list.

(3) The promotion board released the Department of Army (DA) list and a young Soldier was promoted, who was not on the list because he was a drill sergeant. They gave him the strip the applicant should have received.

(4) There were people trying to help him to correct this horrible travesty of justice by going through the system. He wrote to the DA and asked how the Soldier got promoted and he did not. This was not about his promotion. It was about the retaliation and reprisal. The entire letter is available for the Board's review.

j. Letter from the IG, 13 September 2019, states in pertinent part after a careful review, the IG determined the issue he presented was not appropriate for the IG to become involved. Civilians must seek and exhaust the prescribed redress or remedy before an IG could provide assistance. His case was appropriate for the ABCMR. The entire letter is available for the Board's review.

k. Email from Personnel Command (PERSCOM), 2 October 2000, states in pertinent part, the applicant would receive a standby advisory board (STAB) beginning on 18 October 2000 and he should be notified in late December or early January 2001 of the results.

l. Memorandum Promotion Board Appeal to the Deputy Assistant Secretary, 5 February 2001, states, in pertinent part:

(1) He feels the decision of the promotion Board, 14 December 2000, was in error. The decision made stated there were several problems with the case, which made the decision favorable to him.

(2) He included a timeline of what was accomplished prior to the promotion board.

(3) There were several errors on the promotion board. There were material errors on the corrected DA Form 2-1 (Personnel Qualification Record). They did not send a copy of his 2A (Personnel Qualification Record) with the promotion packet. They made the mistake of giving him the STAB letter for PERSCOM. They claimed they had not seen the letter he received from the Enlisted Records Center (EREC), 20 April 1999. They claimed it was a mistake. DA does not make mistakes at the highest level of the Army. It states on the letter that his supporting Personnel Service Battalion had been furnished a copy of this letter. The Chief of Records Division of EREC signed the letter.

(4) During the 1998 MSG Promotion Board, the panel called the NCOA to ask about his condition. This is common and happens all the time. The DA Promotion Board knew about his condition that is why they called and asked what was wrong. His records should have been prepared for the 1998 Promotion Board. They were not.

(5) He realized he had been lied to when the Fort Sill Adjutant General (AG) gave him a copy of the cover sheet that was going up for the STAB, 11 January 2000. The AG said they did not receive a copy of the message from EREC to correct his records, yet, they gave him a cover sheet. The AG did know.

(6) He does not think justice was served, during the promotion board. The members of the AG once again had prejudiced the board against him. The Army or someone had been trying to make this go away for a long time. The entire letter is available for the Board's review.

m. Letter to the ABCMR, 18 May 2021, states in pertinent part:

(1) The Board had hundreds even thousands of paperwork. He was not sending anything other than things that support his particular case. He was told by the DA not to share anything other than to those that need to know.

(2) His case started back in 1997 and it was still ongoing. Most of the people involved had retired and the Board was put on the hot seat to clean up someone else's mess. He strongly disagreed with the Board's finding.

(3) Since 8 November 1999, Senator [REDACTED] had been on this from the beginning and it was requested the Board extend all possible favorable consideration.

(4) The Senator knew about the case and also knew about his leave. The Senator asked the Board give the applicant's request their full consideration. The Board

did not have all the facts. To be fair to him and his family, the Army had a lot to answer for. This was not going to go away, the Board denied his applicant not knowing the facts.

(5) The Board took too long. When it should have taken 30 to 60 days, it took over a year.

(6) The Secretary of the Army (SA) has all power, which had been stated by the Assistant SA, which could override the Board decision as before.

(7) If this would have been done correctly, he would have stayed in the Army for 28 years. The Senator asked the Board show favorable consideration on his behalf. This will not be going anywhere until all leadership has taken responsibility for what happened to him and his family. They threw them out like a piece of trash. The Board was not there but they are being asked to make a decision without all the facts on his behalf. He would go to Washington DC to the press corps asking them for help. The entire letter is available for the Board's review.

4. The applicant's service record shows:

a. DD Form 4 (Enlistment or Reenlistment Agreement - Armed Forces of the United States) shows he enlisted in the Regular Army and entered active duty on 29 September 1977.

b. Order Number 101-42, published by U.S. Army Total PERSCOM, 28 June 1993 promoted him to sergeant first class (SFC) effective 1 August 1993 with a date of rank of 1 August 1993.

c. DA Forms 2166-7 (NCOER) show he was rated as a SFC from:

(1) June 1993 through September 1993 as excellence in competence and training and success in physical fitness and military bearing, leadership, and responsibility and accountability. His rater rated him as among the best. His senior rater did not meet ratings qualification.

(2) October 1993 through June 1994 as excellence in competence, leadership and training and success in physical fitness and military bearing and responsibility and accountability. His rater rated him as among the best. His senior rated him one of five in overall performance and overall potential stating promote ahead of peers and select for first sergeant (1SG) now.

(3) July 1994 through October 1994 as excellence in training and success in competence, physical fitness and military bearing, leadership and responsibility and

accountability. His rater rated him as among the best. His senior rated him one of five in overall performance and overall potential stating select above his peers for selection to MSG now and send to advanced schooling, clearly in the top ten percent of his peers.

(4) November 1994 through February 1995 as excellence in competence, leadership, and training and success in physical fitness and military bearing and responsibility and accountability. His rater rated him as among the best. His senior rated him one of five in overall performance and overall potential stating promote immediately.

(5) March 1995 through June 1995 as success in competence, physical fitness and military bearing, leadership, training, and responsibility and accountability. His rater rated him as among the best. His senior rated him one of five in overall performance and overall potential stating promote immediately.

(6) July 1995 through February 1996 as excellence in competence, leadership, and responsibility and accountability and success in physical fitness and military bearing, leadership, and training. His rater rated him as among the best. His senior rated him one of five in overall performance and overall potential stating promote ahead of peers.

(7) March 1996 through July 1996 as excellence in physical fitness and military bearing and success in competence, leadership, training, and responsibility and accountability. His rater rated him as among the best. His senior rated him one of five in overall performance and overall potential stating promote immediately to MSG.

(8) August 1996 through July 1997 as excellence in competence and physical fitness and military bearing and success in leadership, training, and responsibility and accountability. His rater rated him as among the best. His senior rated him one of five in overall performance and overall potential stating promote immediately to MSG.

(9) August 1998 through March 1998 as excellence in competence and success in physical fitness and military bearing, leadership, training, and responsibility and accountability. His rater rated him as among the best. His senior rated him one of five in overall performance and overall potential stating promote ahead of peers.

(10) April 1998 through March 1999 as success in competence, physical fitness and military bearing, leadership, training, and responsibility and accountability. His rater rated him as fully capable. His senior rated him one of five in overall performance and two of five overall potential stating promote with peers.

(11) April 1999 through March 2000 as excellence in competence and responsibility and accountability, and success in physical fitness and military bearing, leadership, and training. His rater rated him as among the best. His senior rated him

one of five in overall performance and overall potential stating promote to MSG and assign to 1SG position now.

(12) April 2000 through March 2001 as excellence in competence, leadership, training and responsibility and accountability, and success in physical fitness. His rater rated him as among the best. His senior rated him one of five in overall performance and overall potential stating promote to MSG and assign to 1SG position immediately.

d. DA Form 199 (PEB Proceedings), 9 February 1999, shows he was found fit and returned to duty. He did not concur, appealed, and demanded a formal hearing. The entire PEB and appeal are available for the Board's review.

e. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was honorably transferred the U.S. Army Reserve Control Group (Retired) on 30 September 2001. He had completed 24 years and 2 days of active duty service. He had 8.5 days accrued leave paid.

f. There is no documentation in his service record regarding the amount of leave he was paid nor is there documentation showing he was considered for promotion to MSG. His service record is void of an IG complaint or information regarding a complaint reference his command or Fort Sill.

5. The applicant's requests were previously considered by the Board:

a. AR1999031821, 15 September 2000, he requested reconsideration of the earlier decision denying him promotion reconsideration. After carefully examining the evidence of record, the Board concurred with the earlier findings and conclusions of the ABCMR. That he was properly and equitably evaluated by the Disability Evaluation System, and that the ultimate result of the PEB process was correct. However, the Board did find that the previous panel's decision to deny promotion reconsideration was based solely on the results of the 1999 MSG promotion board; however, he was not considered by this promotion board and was in fact requesting reconsideration by the 1998 MSG promotion board. The Board concluded it would be appropriate to have him considered to MSG by a STAB using the criteria of the 1998 MSG promotion board.

b. AR2001053827, 25 July 2001, he requested reconsideration by the STAB for promotion to MSG under the provision of calendar year 1998 competitive year criteria. The Board found the overall merits of the case, including the latest submissions and arguments of the applicant were insufficient as a basis for the Board to reverse its previous decision.

c. AR20190001192, 20 April 2021, the applicant requested reimbursement for 83.5 days of unused leave. The Board noted he was paid for 8.5 days of leave upon

retirement. The Board also noted he had already been paid for 51.5 days of leave in his career. The Board noted the maximum amount of leave that can be sold in a career is 60 hours, which is the exact total of all leave he sold back during his career. The Board determined there was no basis for paying him for additional leave he was unable to use prior to retirement.

d. AR20210014616, 27 September 2022, he requested reconsideration of his previous request to be paid for 83.5 days of unused accrued leave. After reviewing the application, all supporting documents and the evidence found with the military record, the Board found relief was not warranted. As found in the previous consideration of this case, the applicant sold the maximum amount of leave authorized and there was no authority for reimbursing him for additional leave he did not use. Based on a preponderance of evidence, the Board determined any forfeiture of leave upon his retirement was not in error or unjust.

6. On 8 May 2024, the IG provided unredacted copies of all IG record pertaining to the applicant.

a. The IG opened a case for the applicant on 8 July 2019 and closed it on 19 September 2019. The applicant had requested IG assistance with correcting his military record to reflect his promotion selection to MSG. The matters he presented were not IG appropriate.

b. The IG opened a case for the applicant on 19 February 2021 and closed it on 8 March 2021. The applicant had requested IG assistance with an ongoing matter that was being addressed by ARBA. The issues presented were not appropriate for the IG.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the available evidence showing the applicant sold back the maximum amount of leave during his period of military service and the lack of evidence showing he was promoted to the rank of Master Sergeant during his period of military service, the Board concluded there was insufficient evidence of an error or injustice warranting a correction to the applicant's record.

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.

1/7/2025

X █

CHAIRPERSON

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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. Army Regulation (AR) 600-8-10 (Leave and Passes). This regulation prescribes the policies and mandated operating tasks for the leave and pass function of the Military Personnel System. It provides a single-source operating document to the field, and as such, is binding on all communities involved in granting leaves and passes. Transition leave (formerly called terminal leave) is a chargeable leave granted together with transition from the Service, including retirement. The unit commander or designee is the approval authority for transition leave requests. The leave and pass program is designed to allow Soldiers to use their authorized leave to the maximum extent possible. A caution to Soldiers who do not take leave, that they may lose leave at the end of the fiscal year (FY). Also, Soldiers who maintain a 60-day leave balance, and wait late in the FY to take leave, will be informed that they risk loss of leave over 60 days if the operational situation requires their presence. Accrued leave that exceeds 60 days at the end of the fiscal year is lost except as authorized. Paragraph 2-4 (Payment

of Accrued Leave) provides that by law, payment of accrued leave is limited to 60 days one time during a military career, unless earned in a missing status.

2. The Barring Act, 31 U.S.C. § 3702 states that the Secretary of Defense shall settle claims involving uniformed service members' pay, allowances, travel, transportation, payments for unused accrued leave, retired pay, and survivor benefits. A claim against the Government presented under this section must contain the signature and address of the claimant or an authorized representative. The claim must be received by the official responsible under subsection (a) for settling the claim or by the agency that conducts the activity from which the claim arises within 6 years after the claim accrues. A claim that is not received in the time required under this subsection shall be returned with a copy of this subsection, and no further communication is required.

3. AR 15-185 (ABCMR) paragraph 2-9 states the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

4. AR 600-8-19 (Enlisted Promotions and Reductions) in effect at the time, prescribes the enlisted promotions and reductions function of the military personnel system. Chapter 4 provides the rules and steps for managing the Centralized Promotion System to SFC, MSG, and SGM. Commander, Personnel Command, promotes Soldiers to the grades of SFC, MSG, and SGM. In pertinent part, the regulation states:

a. The selection board will recommend a specified number of Soldiers by military occupational specialty (MOS) from the zones of consideration who are the best qualified to meet the needs of the Army. The total number selected for each Career Progression Military Occupational Specialty (CPMOS) is the projected number the Army needs to maintain its authorized-by-grade strength. Soldiers who are not selected for promotion will not be provided specific reasons for non-selection. Soldiers may consult the statistical analysis portion of the promotion list or they may write to the Career Professional Development NCO of their respective branch for an analysis on how to enhance their careers.

b. Soldiers eligible for consideration may write to the president of the promotion board to provide documents and information drawing attention to any matter concerning themselves that they feel is important to their consideration. Although written communication is authorized, it is only encouraged when there is something that is not provided in the Soldier's records that the Soldier feels will have an impact on the board's deliberations. Correspondence must be received by the date stated in the zone message, will not be the basis for promotion reconsideration, and will not be included in the Soldier's official military personnel file (OMPF). Receipt of correspondence will not be acknowledged.

c. The following documents will not be given to the board, therefore, should not be forwarded to USAEREC.

(1) Correspondence received from anyone other than the Soldier concerned.

(2) Correspondence that criticizes or reflects on the character, conduct, or motives of any other Soldier.

(3) Incomplete appeals such as NCOER, AER, courts-martial, Article 15, etc.

(4) Copies of NCOER. Only originals processed through Personnel Service Battalion/Military Personnel Division that have been received and processed by EREC will be seen by the board.

d. Memorandums (including all enclosures) seen by a selection board become a matter of record for that board and will not be filed in the OMPF. Non-receipt of a memorandums by the board president does not constitute a ground for reconsideration by a Standby Advisory Board.

e. Paragraph 4-6 (Board results) states, in pertinent part, PERSCOM will announce the results of a selection board by command memorandum. The memorandum will include considered/selected list. Names of Soldiers considered for promotion will be placed in alphabetical order. Soldiers who are recommended will be assigned sequence numbers for promotion to SFC, MSG and SGM.

f. Paragraph 4-7 (Monthly promotions) provides, in pertinent part, PERSCOM will publish orders announcing promotions to SFC, MSG, and SGM.

g. Paragraph 4–10 (Rules for pre-board processing for NCOs in zone of consideration) provides that:

(1) Soldier must meet announced eligibility requirements for promotion board consideration.

(2) Soldier will review and sign Personnel Qualification Record (PQR), which includes an ERB/DA Forms 2A, and 2–1, for submission to board. For Soldiers serviced by SIDPERS III the Enlisted Records Brief (ERB) will replace the DA Form 2A.

(3) OMPF should be reviewed by Soldier 3 to 6 months prior to board. Documents submitted for correction or additions to OMPF should be submitted through Personnel Service Battalion (records work center)) to CDR, USAEREC, Indianapolis, IN 46249–5301.

h. Paragraph 4-12 (Rules for processing promotion list results and orders) states, in pertinent part, commanders will notify Soldiers of selection or non-selection for promotion. The considered portion of the promotion selection list will be screened to ensure all eligible soldiers were considered. Monthly PERSCOM enlisted promotion orders must be screened to ensure promotable Soldiers designated by sequence number memorandum were promoted.

i. Paragraph 4-14 (Rules for processing Standby Advisory Board consideration) provides that:

(1) The Deputy Chief of Staff for Personnel (DCSPER) or designee may approve cases for referral to a STAB upon determining that a material error existed in a Soldier's OMPF when the file was reviewed by a promotion board.

(2) For the purpose of this paragraph, PERSCOM is a designee.

(3) Error is considered material when there is a reasonable chance that had the error not existed, the Soldier may have been selected.

(4) STABs are convened to consider records of those –

(a) From the primary and secondary zones not reviewed by a regular board.

(b) From a primary zone that were not properly constituted, due to a material error, when reviewed by the regular board.

(c) Recommended Soldiers on whom derogatory information has developed that may warrant removal from a recommended list.

(5) Soldiers selected by a STAB will be added to the appropriate recommended list and promoted along with their contemporaries when their seniority sequence number is reached.

(6) Only Soldiers who were not selected from a primary zone of consideration will be reconsidered for promotion. Soldiers who were considered in a secondary zone will not be reconsidered.

(7) Reconsideration normally will be granted when one or more of the following conditions existed on the Soldier's OMPF at the time it was reviewed by a promotion selection board. Soldiers requesting reconsideration under (b) through (f) below normally will be granted reconsideration only for the most recent board held prior to the Soldier's request.

(a) Adverse NCOER or Academic Evaluation Report (AER) reviewed by a board was subsequently declared invalid in whole or in part and was determined by the ESRB to constitute a material error.

(b) An adverse document belonging to another Soldier is filed on the OMPF.

(c) An Article 15 administered on or after 1 September 1979 that was designated for file in the MPRJ only but was erroneously filed on the OMPF reviewed by the board.

(d) An Article 15 punishment that was wholly set aside before 1 September 1979 and the set aside instrument was not filed on the OMPF.

(e) An Article 15 punishment that was wholly set aside on or after 1 September 1979 was filed on the OMPF when reviewed by the board.

(f) Court-martial orders were filed on the OMPF when the findings were "not guilty."

(g) A document was filed on the OMPF that erroneously identified the non-select as AWOL or a deserter.

(h) Transcript awarding a degree (for example: AA, BA, BS) was excluded from the records. If the degree was posted to either the OMPF, PQR, or was seen in hard copy by the board, a STAB is not authorized. Only college degrees that are awarded by an accredited college or university (shown on official transcript dated prior to the convening date of the board) will be considered. The date of the transcript will not be older than 3 months before the convening date of the board.

(i) Absence of an award of a Meritorious Service Medal or higher (initial award only). If the award was recorded on the OMPF, PQR, or was reviewed in hard copy by the board, a STAB is not authorized. The date used for determination of reconsideration will be the date of the order or the ending date, whichever is later, and will not be older than 3 months before the convening date of the board.

(j) An annual or change of rater NCOER that was received at USAEREC early enough for processing and filing before the convening date of the promotion selection board that was not reviewed. 75-days is allowed for processing after the through date of the report or the date the PSB completes Part I, Section 1, for late reports. NCOERs received at EREC prior to convening date of the board and was returned to the PSB for administrative reasons may be a basis for reconsideration. The NCOER must be for a period of not less than 6 months.

(k) An individual was considered in an MOS or CPMOS that is not the Soldier's normal career progression.

//NOTHING FOLLOWS//