

IN THE CASE OF: [REDACTED]

BOARD DATE: 13 August 2024

DOCKET NUMBER: AR20230015002

APPLICANT REQUESTS: through counsel for reconsideration of previous request for:

- retroactive promotion to the rank/grade of Sergeant Major (SGM)/E-9 with an effective date commensurate with the date she would have been promoted had these injustices never occurred
- retroactive payment of all pay and entitlements from the effective date of promotion to SGM
- retroactive payment of all retirement benefits at the rank of SGM

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

- DD Form 149 (Application for Correction of Military Record)
- Legal Counsel Letter
- Application packet for Army Board for Correction of Military Records (ABCMR) Docket Number AR20200009881
- Office of the Adjutant General Joint Force Headquarters (HQs) Orders Number 082-1002
- [REDACTED] Army National Guard ([REDACTED] ARNG) Orders Number [REDACTED]
- [REDACTED] Army National Guard ([REDACTED] ARNG) February 2005 Promotion Roster E8 to E9
- [REDACTED] ARNG February 2007 Promotion Roster E8 to E9
- [REDACTED] Combat Battalion (Heavy) [REDACTED] ARNG memorandum, Subject: Nomination for Command Sergeant Major (CSM)
- ABCMR Docket Number AR20200009881, dated 24 September 2021
- ABCMR Docket Number AR20150009364 dated 15 November 2016

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20200009881 on 24 September 2021. After reviewing the application and all supporting documents, the Board found that relief was not warranted. The Board carefully considered the applicant's request, supporting

documents, the applicant's statement, and the applicant's record of service. Board members noted that on 3 November 2009, the Joint Force Headquarters issued Orders reducing the applicant due to misconduct from sergeant first class (SFC)/E7 to staff sergeant (SSG)/E6. However, she was promoted back to SFC/E7 on 20 January 2012. In December 2013, a Physical Evaluation Board (PEB) permanently retired her due to a physical disability. On 28 March 2014, she was retired due to physical disability at the rank of SFC. Board members noted that the applicant did not provide nor does the review of her available service records reflect evidence of her selection for promotion beyond the rank of master sergeant (MSG). In order to be promoted to SGM/E9, the applicant must first be promoted to MSG/E8, something the evidence of record does not show she accomplished. There is also, no evidence she was selected to attend, attended, or completed the Sergeant's Major Course. For that reason, Board members voted to deny relief.

2. The applicant states in effect, through counsel, she requests for reconsideration of previous request for:

- retroactive promotion to the rank/grade of Sergeant Major (SGM)/E-9 with an effective date commensurate with the date she would have been promoted had these injustices never occurred
- retroactive payment of all pay and entitlements from the effective date of promotion to SGM
- retroactive payment of all retirement benefits at the rank of SGM

a. The previous Board decision was extremely poorly written and contained multiple assertions that were factually inaccurate. The drafter was under the impression that the applicant is a SFC/E7 and the Board, therefore, could not grant the requested rank correction from MSG/E8 to SGM/E9. When in fact, the applicant is a MSG/E8 who is requesting correction of the record to reflect the promotion to SGM/E9 that would have occurred but for the error and injustices that have already been confirmed by this Board in a previous application and favorable decision letter for ABCMR Docket Number AR20050009364. The Decision specifically and incorrectly asserts that "the applicant must first be promoted to MSG/E8, something the evidence of record does not show she accomplished."

b. Spelling errors aside, the applicant is MSG/E8. The applicant was a MSG/E8 and was number one on the promotion list to SGM at the time she was unjustly demoted to SFC/E7, which this honorable board has already corrected in a previous submission. The Board and the drafter of this poorly written decision clearly failed to review the simplest of records. They apparently failed to review their own previous letter correcting this error and returning the applicant to MSG/E8. They included additional facts in that same paragraph that appear nowhere in the record and imposed fantasy requirements, such as a necessity for a medically retired MSG/E8 who was number one on the SGM

promotion list to complete the Sergeants Major Course when no such requirement exists. The drafter doesn't appear to know the basics about military rank structure. Counsel requests that a proper board be convened to consider the evidence presented in this submission and the prior submissions. The errors that have been committed by the military branch and now the Board responsible for correcting such errors and injustices must be reviewed and corrected. Failing to correct these errors will constitute further error and injustice.

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

a. On 10 July 1975, the applicant enlisted in the Army National Guard (ARNG) of the United States in the rank of private one/E1. She had continuous service through extensions or reenlistments.

b. The applicant's DD Form 214 (Report of Separation from Active Duty) shows the applicant was ordered to active duty for training effective 2 January 1976. She was honorably released from active duty on 13 April 1976 after completion of 3-months and 12-days of active service. She was awarded the military occupational specialty (MOS) 75B (Unit Clerk).

c. The applicant's DA Form 1059 shows the applicant achieved course standards for the Advanced NCOC phase I during the period of 4 through 18 June 1993.

d. On 25 August 1993, Orders Number 12-1, issued by the [REDACTED] Group [REDACTED] ARNG, the applicant was promoted to the rank of SFC/E7 effective 15 August 1993 with the same date of rank in the primary MOS of 75Z (Personnel Services Specialist) and secondary MOS of 51H (Construction Engineering Supervisor).

e. The applicant's DA Form 1059 shows she exceeded course standards for the Senior Personnel Services Sergeant ANCO phase II during the period of 1 through 13 September 1996.

f. On 26 November 2001, the applicant was assigned to the duty position paragraph 102, line number 03 with the duty MOS of 51Z5M effective 16 November 2001.

g. On 28 November 2001, Orders Number 332-001, issued by [REDACTED] shows the applicant was awarded the primary MOS of 51H, secondary MOS of 75H and additional MOS of 92Y effective 16 November 2001 with the duty MOS of 51Z5M.

h. On 28 November 2001, Orders Number 332-002, issued by [REDACTED] Command, shows the applicant was promoted to the rank of MSG/E8 effective 16

November 2001 with the same date of rank in the primary MOS of 51Z5, secondary MOS of 75H and additional MOS of 92Y (Unit Supply Specialist).

i. The applicant's DA Form 1059 shows the applicant achieved course standard for the First Sergeants Course during the period of 7 through 21 December 2002.

j. On 24 February 2003, Orders Number 055-101, issued by [REDACTED] Command, shows the applicant was laterally appointed to the rank of first sergeant (1SG) effective 21 December 2002 with the date of rank of 16 November 2001 in the primary MOS 51Z5M, secondary MOS 75H5M and additional MOS 92Y5M.

k. On 1 December 2003, the applicant was assigned to the duty position paragraph 106, line number 02 with the duty MOS of 92Y4O. The remarks stated the Soldier is retained in current grade for up to 1-year before involuntary reduction or reclassification to fill a valid position in accordance with National Guard Regulation (NGR) 600-200 (Enlisted Personnel Management System), paragraph 11-58 (Other Reasons for Reduction) subparagraph c(1).

l. [REDACTED] Army National Guard ([REDACTED] ARNG) Orders Number [REDACTED] dated 16 January 2004 which shows the applicant was laterally appointed to the rank of MSG/E8 with the primary MOS of 92Y5O, secondary MOS of 75H and the additional MOS 51Z effective 1 December 2003 with the date of rank of 16 November 2001.

m. On 6 December 2005, the applicant was flagged for adverse action by her battalion commander.

n. On 2 September 2006, the applicant was assigned to the duty position paragraph 110, line number 05 with the duty MOS 92Y4O (handwritten) as a military technician effective 2 September 2006.

o. On 17 October 2006, the suspension of favorable personnel action was removed effective 10 September 2006 with a favorably closed case.

p. On 16 January 2008, Orders Number 016-1057, issued by the Office of the Adjutant General Joint Force HQs, the applicant was reduced in grade to SFC/E7 effective 16 January 2008 in the primary MOS of 92Y4, secondary MOS 42A4O and additional MOS of 21H4O in accordance with NGR 600-200, paragraph 3-13.

q. On 10 October 2009, the applicant accepted non-judicial punishment for disrespect to a commissioned officer and dereliction in the performance of her duties. Her punishment included reduction to the rank of SSG/E6. The applicant appealed the non-judicial punishment which was denied.

r. On 3 November 2009, Orders Number 307-1037, issued by the Office of the Adjutant General Joint Force HQs, the applicant was reduced to the rank of SSG/E6 effective 3 November 2009 with the date of rank of 27 October 2009.

s. On 30 November 2010, Orders Number [REDACTED] issued by the Office of the Adjutant General Joint Force HQs, the applicant was assigned to position paragraph 110, line number 06 in the MOS of 92Y3O effective 30 November 2010.

t. On 4 March 2011, Orders Number 063-1052, issued by the Office of the Adjutant General Joint Force HQs, the applicant was awarded the primary MOS 92Y and secondary MOS 12H effective 4 March 2011.

u. On 20 January 2012, Orders Number [REDACTED], issued by the Office of the Adjutant General Joint Force HQs, the applicant was promoted back to the rank of SFC/E7 effective 20 January 2012 with the same date of rank.

v. On 26 March 2012, Orders Number [REDACTED] issued by the U. S. Army Human Resources Command (AHRC), the applicant was retained on active duty to participate in Reserve component warriors in transition medical retention processing program for completion of medical evaluation board appointments effective 3 April 2012.

w. On 6 July 2012, Orders Number [REDACTED] issued by the U. S. AHRC, the applicant was ordered to active duty to participate in the Reserve component managed care evaluation / disability evaluation system related to medical appointments effective 11 July 2012.

x. On 23 December 2013, the informal physical evaluation board (PEB) found the applicant physically unfit for retention and recommended she be placed on the Permanent Disability Retired List (PDRL) with 70 percent disability for a major depressive disorder with anxiety disorder and lumbar intervertebral disc disease.

z. On 18 February 2014, The Army Grade Determination Review Board (AGDRB) convened on behalf of the Secretary of the Army to consider the case regarding the applicant. After the review of the applicant's service record and the PEB proceedings which reflected she had been reduced from MSG/E8 to SFC/E7 on 16 January 2008 and subsequently reduced to SSG/E6 on 27 October 2009. The Board determined the highest grade in which the applicant served satisfactorily for the purpose of computation of disability retirement pay was her grade on the date of her separation.

aa. On 21 February 2014, Orders Number [REDACTED] issued by the U. S. Army Physical Disability Agency, the applicant was placed on the PDRL effective 28 March 2014 in the rank of SFC/E7 with a 70 percent disability.

bb. On 26 February 2014, Orders Number [REDACTED] issued by the Office of the Adjutant General Joint Force HQs, the applicant was honorably retired in the rank of SFC/E7 and assigned to the U. S. Army Reserve (USAR) Control Group (Retired Reserve) effective 27 March 2014. The additional instructions stated the personnel loss was due to placement on the PDRL.

cc. The applicant's NGB Form 22 (NGB Report of Separation and Record of Service) shows the applicant was honorably released from the ARNG effective 27 March 2014 and assigned to the USAR Control Group (Retired Reserve). It also shows she completed 38-years, 8-months and 18-days of service.

dd. On 9 December 2014, the ABCMR Docket Number AR20140015388 denied the applicant's request to be placed on the retired list in the rank of MSG/E8 the highest grade satisfactorily she held. A person who is granted retired pay will receive such pay in the highest grade satisfactorily held during the entire period of service. Service in the highest grade will not be deemed satisfactory if it is determined that the revision to a lower grade was due to misconduct or court-martial or if there is information in the Soldier's service record to indicate clearly that the highest grade was not served satisfactorily. The applicant served in the rank/grade MSG/E8 during the period of 22 December 2002 through 16 January 2008 when she was administratively reduced to the rank/grade SFC/E7. Although her revision to a lower grade was not for prejudice or cause, was not due to misconduct or punishment pursuant to an Article 15, Uniform Code of Military Justice or court-martial. During the period she held the rank of MSG, there was clear information in her service record to indicate she did not serve satisfactorily in this grade. Her Noncommissioned Officer Evaluation Report (NCOER) for the rating period of 1 September 2006 through 15 July 2007 confirmed her unsatisfactory service in the rank/grade MSG/E8.

(1) She was reduced from SFC/E7 to SSG/E6 on 3 November 2009 by reason of misconduct. The reinstatement of her grade to SFC/E7 on 12 January 2012 was a result of a settlement agreement. At the time of her retirement, she held the rank/grade SFC/E7.

(2) It appeared the AGRDB correctly determined the applicant did not serve satisfactorily in the rank/grade of MDG/E8. Therefore, notwithstanding the favorable advisory opinion provided by the NGB, the applicant had not demonstrated she served satisfactorily in the rank/grade of MSG/E8. Therefore, she was not entitled to the requested relief.

ee. On 15 November 2016, the ABCMR determined the applicant accepted a reduction in grade to SFC/E7 to maintain her dual status as a military technician and ARNG status as a Soldier. Commanders have the authority to request a Soldier to accept an administrative reduction to ensure military leadership positions in units are

managed effectively. The counseling from her battalion commander had shown she complied with the request without protest. Later, she was reduced to SSG/E6 for misconduct. However, the evidence clearly shown she succeeded during litigation and her rank was restored on 20 January to SFC/E7. Per the litigation agreement, her reduction to SSG/E6 cannot be used in any other administrative manner.

(1) Thus, taking into consideration the evidence presented it clearly shows the applicant served satisfactorily as MSG/E8 although with one marginal NCOER. This one marginal NCOER does not meet the criteria to withhold her highest rank satisfactorily held for the purposes of her retired pay grade and rank.

(2) Therefore, after a comprehensive review of the law and regulations the highest grade she satisfactorily held for purposes of retirement and the placement on the Retired List was MSG/E-8. Based on this recommend correction, and in compliance with applicable laws and regulations, she was authorized a correction to her personnel and finance record at a minimum to show she was placed on the Retired List as MSG/E8 effective 27 March 2014 with entitlement to arrears pay.

(3) In reference to the request to remove the contested NCOER; the applicant did not sign the contested NCOER and in view of the evidence presented, it should be removed from her OMPF. The corrected NCOER the applicant provided is of very poor quality. It should not be added to her OMPF.

ff. On 23 March 2017, Orders Number [REDACTED] issued by the Office of the Adjutant General Joint Force HQs, amended Orders Number [REDACTED] issued by the same organization, to reflect the applicant was retired in the rank of MSG by authority of Title 10 United States Code (USC), section 1552 (ABCMR).

gg. On 23 May 2017, Orders Number [REDACTED] issued by the U.S. Army Physical Disability Agency, amended Orders Number [REDACTED] issued by the same organization to the applicant was placed on the PDRL in the rank of MSG/E8.

hh. The applicant did not provide nor does review of her available service records reflect evidence (Army Promotion List, Orders etc.) of her selection for promotion beyond the rank of MSG.

4. The applicant provides:

a. Application packet for Army Board for Correction of Military Records (ABCMR) Docket Number AR20200009881, provided through counsel which was reviewed by a previous Board.

b. Office of the Adjutant General Joint Force Headquarters (HQs) Orders

Number 082-1002 amended Orders Number [REDACTED] dated 26 February 2004 by authority of Title 10 USC, section 1552 ABCMR changing the applicant's rank from SFC to MSG.

c. HQs, 53rd Troop Command, NYARNG Orders Number [REDACTED], 16 January 2004 which shows the applicant held the rank of First Sergeant/E8 with the MOS of 92Y4O (Unit Supply Specialist with skill level 4) and awarded her the primary MOS of 92Y5M (skill level 5 first sergeant (1SG)), secondary MOS of 75H (Personnel Services Specialist) and the additional MOS of 51Z (Construction Engineering Supervisor) effective 1 December 2003.

d. [REDACTED] ARNG) February 2005 Promotion Roster E8 to E9:

- dated 2 February 2005 by Career Progression Military Occupational Specialty (CPMOS) 2 M-Day Soldiers were selected for promotion to CSM in the CPMOS and primary MOS of 21X (General Engineering Supervisor). The applicant's name was "handwritten" in with 698 points in the CPMOS of 21X and primary MOS of 92Y, secondary MOS of 75H and additional MOS of 21X.
- dated 3 February 2005 by Secondary MOS 42A (Human Resources Specialist) the applicant was considered with 698 points in with the SCPMOS of 42A and primary MOS of 92Y, secondary MOS of 42A and additional MOS of 21X; however, was not considered for 1SG or CSM; an Active Guard Reserve (AGR) Soldier was recommended for CSM and one M-Day Soldier was not recommended for 1SG or CSM

e. [REDACTED] ARNG 12 February 2007 Promotion Roster E8 to E9:

- by CPMOS 92Y, the applicant had 634 points but was not considered for CSM, 1SG, regional training institutes (RTI) or outside; 1-AGR Soldier was considered for CSM, 2-AGR Soldiers for CSM and 1SG and 1-AGR Soldier for CSM, 1SG and RTI
- by SCPMOS 42A, the applicant had 634 points but was not considered for CSM, 1SG, RTI or outside

f. HQs, 204th Engineer Combat Battalion (Heavy) [REDACTED] ARNG memorandum dated 20 January 2004, Subject: Nomination for Command Sergeant Major (CSM) where the applicant requested to be nominated for consideration as a CSM. Her CSM nominated her with the concurrence of her immediate commander as it was determined she posed the skills, knowledge, and abilities to perform the duties required of a CSM.

g. ABCMR Docket Number AR20200009881, dated 24 September 2021, reflective of the applicant through counsel, requested the applicant be:

- retroactive promotion to the rank/grade of Sergeant Major (SGM)/E-9 with an effective dated commensurate with the date she would have been promoted had these injustices never occurred
- retroactive payment of all pay and entitlements from the effective date of promotion to SGM
- retroactive payment of all retirement benefits at the rank of SGM

The Board carefully considered the applicant's request, supporting documents, the applicant's statement, and the applicant's record of service. Board members noted that on 3 November 2009, the Joint Force Headquarters issued Orders reducing the applicant due to misconduct from SFC/E-7 to SSG/E-6. However, she was promoted back to SFC/E-7 on 20 January 2012. In December 2013, a PEB permanently retired her due to a physical disability. On 28 March 2014, she was retired due to physical disability at the rank of SFC. Board members noted that the applicant did not provide nor does review of her available personnel records reflect evidence (Army Promotion List, Orders etc.) of her selection for promotion beyond the rank of MSG. In order to be promoted to SGM/E-9, the applicant must first be promoted to MSG/E-8, something the evidence of record does not show she accomplished. There is also, no evidence she was selected to attend, attended, or completed the Sergeant's Major Course. For that reason, Board members voted to deny relief.

h. ABCMR Docket Number AR20150009364 dated 15 November 2016, reflective of the applicant, through counsel, requested reconsideration of the findings of ABCMR Docket Number AR20140015388. Upon review, the Board determined that the applicant's argument did have merit and therefore directed that rank upon retirement be changed from SFC to MSG, with all pay and allowances due as a result of this change.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board through counsel carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review through counsel of the applicant's petition and available military records, the Board determined that relief is not warranted for retroactive promotion to the rank/grade of Sergeant Major (SGM)/E-9 or the associated retroactive payment of pay, entitlements, and retirement benefits. The Board acknowledged the prior correction of the applicant's military records as directed under ABCMR Docket Number AR20150009364 (dated 15 November 2016), which appropriately amended the retirement rank from Sergeant First Class (SFC) to Master Sergeant (MSG), with all due pay and allowances.

2. The Board found in reviewing promotion documentation, including the certified true copy of the E9 Promotion Roster dated 6 May 2005, the Board noted the applicant's name was handwritten above other listed candidates. However, the Board found this insufficient to establish official selection for promotion. The applicant's name appearing on a standing list does not constitute promotion under National Guard Bureau (NGB) regulatory guidance, which requires valid unit vacancy and proper selection procedures. Additionally, the February 2007 E9 roster did not indicate the applicant was selected for consideration as Command Sergeant Major (CSM), unlike other individuals who were clearly marked. While the Board recognized the endorsement memorandum from the CSM, [REDACTED] ARNG—citing the applicant's qualifications for CSM duties—this endorsement alone does not equate to formal promotion action.

3. Based on a preponderance of evidence, the Board found that counsel did not substantiate the claim that promotion to SGM/E-9 would have occurred but for alleged injustices. The promotion rosters and associated documentation failed to demonstrate that the applicant was formally selected or met the criteria for retroactive advancement under NGB regulatory guidelines. Accordingly, the Board concluded that retroactive promotion to SGM/E-9 and corresponding back pay and retirement benefits are without merit, and the request for reconsideration is denied..

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
■	■	■	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board found 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 to amend the decision of the ABCMR set forth in Docket Number Docket Number AR20200009881 on 24 September 2021.

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. Title 10 USC, section 1372 (Grade on Retirement for Physical Disability: Members of the Armed Forces) provides that unless entitled to a higher retired grade under some other provision of law, any member of an armed force who is retired for physical disability under section 1201 or 1204 of this title, or whose name is placed on the temporary disability retired list under section 1202 or 1205 of this title, is entitled to the grade equivalent to the highest of the following:

a. The grade or rank in which he is serving on the date when his name is placed on the temporary disability retired list or, if his name was not carried on that list, on the date when he is retired.

b. The highest temporary grade or rank in which he served satisfactorily, as determined by the Secretary of the armed force from which he is retired.

c. The permanent regular or reserve grade to which he would have been promoted had it not been for the physical disability for which he is retired, and which was found to exist as a result of a physical examination.

d. The temporary grade to which he would have been promoted had it not been for the physical disability for which he is retired, if eligibility for that promotion was required to be based on cumulative years of service or years of service in grade and the disability was discovered as a result of a physical examination.

2. Army Regulation (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.

a. Paragraph 1-20 (Promotion of Soldiers pending referral to a Military Occupational Specialty Medical Retention Board, medical evaluation board, or physical evaluation board), a. Soldiers who are pending referral to a Military Occupational Specialty Medical Retention Board (MMRB) or referral to a medical evaluation board (MEB) or physical evaluation board (PEB) will not be denied promotion (if already promotable) on the basis of medical disqualification if they are otherwise qualified for promotion. b. Soldiers who have been conditionally promoted but are unable to meet the condition of their promotion solely because of a medical condition that results in a finding of unfit by the Physical Disability Evaluation System (PDES) will not be subject to administrative reduction if otherwise qualified to retain promotable status. c. Per the provisions of Title 10 USC, section 1372, Soldiers on a promotion list at the time of retirement for disability will be retired for disability at the promotion list grade. Further, the Soldier will be promoted to the designated grade effective the day before placement on the retired list.

b. Paragraph 1-27. Noncommissioned Officer Education System requirement for promotion and conditional promotion a. The Noncommissioned Officer Education System requirements for promotion. Soldier must be: (4) A U.S. Army Sergeants Major Course (USASMC) graduate for promotion to SGM (see para b, below). b. Conditional promotion to SGM; (1) Soldiers selected for promotion to SGM who are nongraduates of the USASMC will be conditionally promoted. (2) Soldiers who fail to successfully complete, fail to remain eligible to be scheduled for or attend, who are denied enrollment in, or who do not attend their scheduled Noncommissioned Officer Education System (NCOES) class (through fault of the Soldier) will be administratively reduced or removed from the promotion list.

c. Paragraph 7- 20 (Criteria for Promotion to Sergeant through Sergeant Major), To be eligible for consideration, selection, and promotion to SGT through SGM, Soldiers must:

- Be considered and placed in the selection objective of the current promotion list, all Soldiers must go through the board process before they may be selected and promoted; except when concurrent with separation from the ARNG and transfer to the Retired Reserve or placement on the retired list, Soldiers will be promoted to the highest enlisted grade satisfactorily held, provided they were not reduced for misconduct or inefficiency
- Be in promotable status, the board will consider a Soldier who has a FLAG (regardless of type) in effect provided they are otherwise eligible for

consideration, but the Soldier cannot be selected nor promoted until the suspension has been removed

- Be participating satisfactorily in the active ARNGUS in the next lower grade

Soldiers undergoing medical evaluation processing will be considered for promotion board action or, if already promotable, will not be denied promotion based on medical disqualification if they are otherwise qualified for promotion. Paragraph 1-20 (Promotion of Soldiers in the Disability Evaluation System) provides that Soldiers on a promotion list who are retired for physical disability or who are placed on the Temporary Disability Retired List (TDRL) at the time of retirement for disability will be retired for disability at the promotion list grade. The Soldier will be promoted effective the day before placement on the retired list or TDRL regardless of cutoff scores, sequence numbers, or position availability. In all cases, the Soldier must otherwise be fully eligible for promotion.

d. Paragraph 7-23 (Noncommissioned Officers Education System requirements for promotion), promotion to SGM in paragraph b(11), below, is a conditional promotion. All NCOES requirements for the grade in which promoted must be fulfilled before further promotion consideration. b. When selected for promotion and listed in the selection objective of the promotion lists, Soldiers are eligible for training and, provided they are in or will be concurrently assigned to positions authorized the higher grade, promoted as shown below. Soldiers may not be promoted until they are assigned to the higher graded position. (11) MSGs (this includes 1SGs) with SLC credit but without USASMC credit and who are in the selection objective of the SGM promotion list or CSM selection list are promotable only after they are enrolled in the USASMC by CNGB. This is the only means to enroll in the USASMC. (a) For the nonresident course, State AGs will submit DA Form 7432 and Statements of Agreement and Certification to CNGB. Receipt of the confirmed enrollment is the authority to conditionally promote the Soldier to SGM on the date enrollment is confirmed, upon assignment to a SGM or CSM position, whichever is later.

e. Paragraph 7-41 (Selecting or nominating Soldiers to fill first sergeant and sergeant major vacancies), States will follow the procedures to select Soldiers to fill NCO vacancies. Leadership positions (1SG/CSM) will be filled through an interview process of Soldiers found best qualified during the annual board process as outlined below. Selections outside this regulatory process are prohibited. b. Command sergeant major vacancies. The AG must first consider qualified serving SGMs, excess personnel, and lateral transfer personnel prior to nominating a 1SG or MSG from the list. The MPMOs may announce current and projected CSM vacancies throughout the State for a minimum of 15-days. The JFHQ will conduct the nomination board.

f. Paragraph 7-44 (Administrative removal), Soldiers will be notified of removal action, in writing. Once a Soldier is removed the action is final. CDRs will promptly notify

the State AG and forward supporting documents to remove from a promotion list a Soldier who: Is reduced, discharged from the ARNGUS for any reason other than immediate reenlistment or has been considered by a reduction board whose recommendation was to remove the Soldier from the list.

//NOTHING FOLLOWS//