

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 3 September 2024

DOCKET NUMBER: AR20240000262

APPLICANT REQUESTS: correction to her Date of Rank (DOR) for Chief Warrant Officer Four (CW4) in the Army National Guard to an appropriate date with applicable back pay and allowances.

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

- DD Form 149 (Application for Correction of Military Record)
- Email correspondence

FACTS:

1. The applicant states, in pertinent part, her promotion packet took nearly 12 months before she was promoted to the rank of CW4. She should have been promoted earlier and awarded applicable back pay.

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

a. Having prior enlisted service with the Texas Army National Guard (TXARNG), on 25 May 2010:

(1) The Texas Military Forces, ARNG, Adjutant General's Department issued Orders Number 145-1008 honorably discharging her from the TXARNG with a retroactive effective date of 24 May 2010.

(2) She was appointed as a Reserve commissioned warrant officer and executed an oath of office.

b. On 28 June 2010, the National Guard Bureau (NGB) issued Special Orders Number 137 AR extending Federal Recognition (FEDREC) for her initial appointment as a warrant officer 1 (WO1) with the TXARNG with a retroactive effective date of 25 May 2010.

c. On 13 September 2012, the Joint Force Headquarters, District of Columbia

National Guard (DCARNG) issued Orders Number 257-016 appointing her as a WO1 with the ARNG, effective 16 September 2012.

d. On 20 April 2017, the NGB issued Special Orders Number 82 extending FEDREC for her promotion to the rank of chief warrant officer three (CW3) with a retroactive effective date of 11 April 2017.

e. On 7 August 2023:

(1) The NGB issued a Memorandum, Subject: Promotion as a Reserve Commissioned Warrant Officer of the Army promoting her to the rank of CW4 with a retroactive effective date of 9 June 2023.

(2) The NGB issued Special Orders Number 254 AR extending FEDREC of her promotion to the rank of CW4, effective on with a DOR of 9 June 2023.

3. The applicant provides email correspondence showing a timeline for which the promotion packet to CW4 was submitted and federally recognized.

4. On 4 June 2024, the NGB, Chief, Special Actions Branch provided an advisory opinion recommending approval of the applicant's request stating, in pertinent part:

a. The applicant requests that her DOR and effective date of promotion be adjusted due to length of time in the FEDREC process.

b. A review of her claim was conducted by the ARNG FEDREC Office and concluded that her Unit Vacancy Promotion packet was uploaded by the TXARNG on 19 August 2022, and that the packet was accepted on 21 October 2022. Additionally, her packet was held at the Directorate of Military Personnel Management (DMPM) for adverse screening review from 8 December 2022 until 2 May 2022 [sic] when she was cleared and added to a promotion scroll. Her single nomination scroll was approved for CW4, and HRP-R published her promotion rank with an effective date of 9 June 2023. A single nomination scroll had to be done to correct her promotion rank.

c. Per National Guard Regulation (NGR) 600-101 (Warrant Officers Federal Recognition and Related Personnel Actions), to be extended FEDREC in the higher-grade Officers must satisfy the requirements prescribed in the regulation and the President of the United States (POTUS), or Secretary of Defense acting on behalf of the POTUS, must first approve the promotion as a Reserve Warrant Officer of the Army through the scrolling process.

d. NGR 600-100 (Commissioned Officers Federal Recognition and related Personnel Actions) provides procedures for processing applications for FEDREC.

Paragraph 10-15b states that temporary FEDREC may be granted by a Federal Recognition Board (FRB) to those eligible when the board finds that the member has successfully passed the examination prescribed herein, has subscribed to the oath of office, and has been appointed by a state order for assignment to a position vacancy in a federally recognized unit of the ARNG. The FRB will forward the NGB Form 89 and allied documents to The Adjutant General. When the member is favorably recommended, The Adjutant General will endorse the packet to the NGB. If the member meets the qualifications and requirements for FEDREC, the Chief, NGB extends permanent FEDREC to the member in the grade and branch in which the member is qualified.

e. It is the opinion of this office in coordination with the ARNG FEDREC office that the applicant's DOR and effective date of promotion be adjusted from 9 June 2023 to 9 February 2023. The FEDREC office found that her claim of delays in the FEDREC process were substantiated, and therefore recommended approval.

f. The ARNG FEDREC Office was consulted in the recommendation of this ABCMR.

5. On 12 July 2024, the applicant was provided a copy of the advisory opinion and given an opportunity to respond. As of 27 July 2024, she did not respond.

#### BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The evidence shows the applicant's Unit Vacancy Promotion packet was uploaded by the TXARNG on 19 August 2022, and was accepted on 21 October 2022. Additionally, her packet was held at the Directorate of Military Personnel Management (DMPM) for adverse screening review from 8 December 2022 until 2 May 2023 when she was cleared and added to a promotion scroll. Her single nomination scroll was approved for CW4, and the NGB published her promotion rank with an effective date of 9 June 2023. The Board accepted her argument that there were delays in the Federal recognition process and agreed with the NGB's determination that her DOR and effective date of promotion should be adjusted from 9 June 2023 to 9 February 2023 because her claims of delays in the FEDREC process were substantiated.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

█	█	█	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army and Army National Guard records of the individual concerned be corrected by amending Special Orders Number 254 AR issued by the NGB to show her promotion to the rank of CW4, effective on and with a DOR of 9 February 2023 vice 9 June 2023.

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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. NGR 600-101 (Warrant Officers Federal Recognition and Related Personnel Actions) prescribes NGB policies and procedures governing the appointment, assignment, and management of Warrant Officers in the ARNG. It provides eligibility requirements, administrative procedures, application processing, and other related Warrant Officer personnel actions to include Military Occupational Specialty Code re-designation, promotion, civilian education, and FEDREC.

a. Paragraph 2-2 states FEDREC is the process to ensure Officers appointed by individual states meet the qualifications required for service in the Federal Armed Forces. Prior to extending FEDREC, the POTUS or the Secretary of Defense acting on behalf of POTUS, must first approve the Reserve Warrant Officer of the Army appointment. When the state appointment is federally recognized, an ARNG Warrant Officer is concurrently appointed as a Reserve Warrant Officer of the Army.

b. Paragraph 2-3 states that temporary FEDREC may be extended to an officer who has been found qualified by an FRB for appointment in the ARNG of a state pending receipt of permanent FEDREC and appointment as a Reserve Officer of the Army. Temporary FEDREC may be withdrawn when necessary at any time. Temporary FEDREC will automatically terminate one-year after the effective date of the state appointment unless sooner withdrawn or if official orders are issued. However, should the initial period of temporary FEDREC expire due to administrative processing delays, through no fault of the applicant, a subsequent FRB must convene to consider granting another one-year period of temporary FEDREC.

2. Department of Defense Instructions 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, 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.

3. Title 10, United States Code (USC), section 741 (Rank: commissioned Officers of the Armed Forces) states the Secretary concerned may adjust the DOR of an officer if the appointment of that officer to that grade is delayed from the date on which it would otherwise have been made by reason of unusual circumstances that caused an unintended delay in the processing or approval of the report of the selection board recommending the appointment of that officer to that grade or the processing or approval of the promotion list established on the basis of that report.

4. Title 10, USC, section 14308 (Promotions: how made) states:

a. The DOR of an officer appointed to a higher grade under this section may be adjusted in the same manner as an adjustment may be made in the DOR of an officer appointed to a higher grade.

b. A Reserve Officer is not entitled to additional pay or allowances if the effective date of the Officer's promotion is adjusted to reflect a date earlier than the actual date of the Officer's promotion.

c. The effective date of a promotion of a Reserve Commissioned Officer of the Army who is extended FEDREC in the next higher grade in the ARNG shall be the date on which such FEDREC in that grade is so extended.

d. If there is a delay in extending FEDREC in the next higher grade in the ARNG to a Reserve Commissioned Officer of the Army that exceeds 100 days from the date NGB deems such officer's application for FEDREC be completely submitted by the state and ready for review at NGB, and the delay was not attributable to the action or inaction of such Officer: In the event of state promotion with an effective date before 1 January 2024, the effective date of the promotion concerned may be adjusted by the Secretary concerned, but not earlier than the effective date of the state promotion.

5. Army Directive 2019-28 (Authority to Adjust Effective Date of Promotion of a Reserve Commissioned Officer in the Event of Undue Delay in Federal Recognition of Promotion), dated 19 September 2019, establishes policy for identifying and addressing delays in processing ARNG unit vacancy promotion FEDREC actions.

a. Effective immediately, an ARNG unit vacancy promotion appointment scroll will be considered delayed for purposes of this directive when processing exceeds a set limit of days as a result of administrative delay within Headquarters Department of the Army (HQDA). To be designated as unduly delayed, the scroll package must meet the following conditions:

(1) The processing time within HQDA from the day of first receipt at the Directorate of Military Personnel Management, Office of the Deputy Chief of Staff, G-1 must exceed 100 days because of a processing delay or administrative error.

(2) The delay is not the result of a promotion review board on adverse information pertaining to an Officer whose name appears on the promotion appointment scroll discovered through exemplary conduct screening.

(3) The delay is not attributable in any other manner to the action (or inaction) of an Officer whose name appears on the promotion appointment scroll.

b. When a delayed scroll meets the criteria above, the Secretary of the Army will determine the effective date for promotion for ARNG commissioned and warrant officers on the affected scroll. The date will not be earlier than 100 days from the date the Directorate of Military Personnel Management first receives the scroll package from NGB, or the date of the most recent previously approved federal recognition list, whichever is later.

//NOTHING FOLLOWS//