

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 10 September 2024

DOCKET NUMBER: AR20240000901

APPLICANT REQUESTS: reconsideration of her previous request: to be promoted to the rank/grade of major (MAJ)/O4.

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

- Self-authored statement
- Emails

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 AR20230000387 on 8 August 2023. The Board determined the evidence presented was 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 44, issued by the National Guard Bureau (NGB) on 3 March 2016 to show the applicant's effective date and date of rank to CPT as 1 March 2014 vice 11 February 2016. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to promotion to MAJ and correction of all records to show she was promoted to MAJ.

2. The applicant states she requests reconsideration of her previous request to be promoted to the rank of MAJ.

a. In addition to her being professionally and academically qualified, she met all of the Army training requirements ahead of her peers and was committed to ensuring she acquired any training that would benefit her to best serve the service members and her command. She also believes the following should be taken into consideration: when she joined the California Army National Guard (CAARNG), she became the first African American female chaplain to serve in the CAARNG, which she was honored to be. However, not long after, unscrupulous and discriminatory acts began and there were many due to her ethnicity and gender. She will discuss two incidents.

(1) The State chaplain recruiter contacted her and asked if she had an issue with being transferred to another unit to put her in line for promotion to the rank of captain (CPT). He also stated the assignment would be good for her career. She believed his intentions to be honorable but she found them to be sexist and discriminatory. She found out he wanted to move her out of the position to have it occupied by a white male so he could get promoted. Not only did the transfer remove her from a position that was a direct pathway for promotion to CPT, but she was then double slotted with another Soldier and deemed as excess. She believed he did this because he had no respect for her. When she confronted him about this, he would not acknowledge what he did. He would only state repeatedly that he was attempting to get her promoted and claimed he submitted her promotion packet in 2013. He taught her to be on guard and to validate everything for herself.

(2) Another incident which occurred during her service, was at the Chaplain Basic Officer Leader Course (CH BOLC) on 13 February 2013 while the class was participating in mandatory training on a confidence course. One of the events required two spotters for safety purposes. These spotters did not do their job to keep her safe when she fell backwards from a height of 10-feet and hit her head on the ground. These two 6-feet tall white male spotters intentionally neglected to even attempt to catch her to prevent her from hitting the ground which was their duty. She did not go to sick call until the next morning and after she was treated for her pain, she returned to class and reported to MAJ C-, a white female who disliked her, the small group leader. MAJ C- told her, she owed a memorandum of explanation why she missed class, as if she did not know.

b. There was no denying discriminatory and sexist actions were prevalent in her military career and those actions hindered her promotions. She also operated with honor and fulfilled the requirements for her position but unfortunately those who had the decision making power over her career did not operate with honor, respect, duty or integrity. Therefore, she hopes the Board will right the injustice and determine she deserves and earned the rank of MAJ.

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

a. With prior U.S. Army Reserve (USAR) enlisted service the applicant executed her oath of office and was appointed as a first lieutenant (1LT)/O-2 in the CAARNG on 30 March 2011.

b. On 8 September 2011, Special Orders Number 215 issued by the NGB, the applicant was extended Federal recognition for her initial appointment in the ARNG in the rank of 1LT, effective on with a Date of Rank (DOR) of 30 March 2011.

c. The applicant's DD Form 220 (Active Duty Report) shows the applicant was ordered to active duty for training to attend the CH BOLC, effective 7 January 2012. She was released from active duty on 4 February 2012 after completing 29-days of active service.

d. On 16 January 2013, Orders Number 016-414, issued by the State of CA Office of the Adjutant General, the applicant was ordered to active duty for training, effective 10 February 2013 to attend CH BOLC Phases one through three.

e. DA Form 1059 (Service School Academic Evaluation Report) shows the applicant achieved course standards for CH BOLC during the period of 14 January through 12 April 2013.

f. On 18 June 2013, Orders Number 169-1005, issued by the Joint Force Headquarters (HQs), CAARNG, the applicant was released from the 40th Infantry Division as the chaplain and assigned to the HQs and HQs Company, 250th Military Intelligence Battalion as the chaplain, effective 18 June 2013.

g. On 3 March 2016, Special Orders Number 44, issued by the NGB, the applicant was extended Federal recognition and promoted to the rank of CPT, effective on with a DOR of 11 February 2016.

h. The applicant's DA Form 1059 shows she attended the Chaplain Captains Career Course (CH CCC) Phase I during the period of 6 April 2015 through 6 April 2016.

i. The applicant's DA Form 1059 shows she achieved course standards for the CH CCC during the period of 15 through 26 August 2016. It also stated she should be promoted to the rank of MAJ and enrolled in Intermediate Level Education at the earliest opportunity.

j. On 3 August 2017, Orders Number 05-215-0108, issued by the State of CA Office of the Adjutant General, the applicant was ordered to active duty in support of Operation Enduring Freedom (Spartan Shield), effective 21 September 2017.

k. On 23 December 2017, Orders Number LN-7357-00005, issued by Landstuhl Regional Medical Center, the applicant was to report to Madigan Army Medical Center, Fort Lewis, WA, for medical evacuation of Reserve component Soldiers for continued medical care, effective 24 December 2017.

l. On 11 January 2018, Orders Number MM-8011-00028, issued by HQs, U.S. Army Medical Command (MEDCOM), the applicant was retained on active duty to participate in Reserve component medical hold transfer from completion of medical care and treatment, effective 23 January 2018.

m. On 26 February 2018, Orders Number MM-8057-00025, issued by MEDCOM, the applicant was retained on active duty to participate in Reserve component medical hold transfer from completion of medical care and treatment, effective 27 February 2018.

n. On 29 June 2018, Orders Number MM-8180-00016, issued by MEDCOM, the applicant was retained on active duty to participate in Reserve component medical hold transfer from completion of medical care and treatment, effective 9 July 2018.

o. On 9 August 2019, the informal Physical Evaluation Board found the applicant physically unfit for retention and recommended she be placed on the Permanent Disability Retired List (PDRL) with 40 percent disability. The applicant concurred with the findings and waived a formal hearing of her case; however, she requested the Department of Veterans Affairs reconsider her disability rating.

p. On 31 October 2019, Orders Number 304-0037, issued by the Directorate of Human Resources, Military Personnel Division, the applicant was released from active duty and placed on the PDRL in the rank of CPT with the DOR of 11 February 2016 effective 11 December 2018 with a 40 percent disability.

q. On 11 December 2019, the applicant was honorably retired from active duty and assigned to the USAR Control Group (Retired Reserve). DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant completed 2-years and 21-days of active service. Item 4a (Grade, Rate or Rank) shows CPT and item 12i (Effective Date of Pay Grade) shows 11 February 2016.

r. The applicant's NGB Form 22 (Report of Separation and Record of Service) shows she was honorably transferred to the USAR Control Group (Retired Reserve), effective 11 December 2019. It also shows she completed 8-years, 8-months and 12-days of active service.

s. On 1 June 2020, Special Orders Number 143, issued by the NGB, the applicant's Federal recognition was withdrawn due to her transfer to the USAR Control Group (Retired Reserve), effective 11 December 2019.

t. On 8 August 2023, the Army Board for Correction of Military Records convened and determined the applicant should be granted partial relief. As a result, the Board recommended the NGB amend Special Orders Number 44 dated 3 March 2016 to show the applicant's effective date and DOR to CPT as 1 March 2014. However, the Board further determined there was insufficient evidence to warrant the promotion to the rank of MAJ or the correction of her records to reflect she had been promoted to the rank of MAJ.

u. On 30 November 2023, Special Orders Number 399, issued by the NGB, which amended Special Orders Number 44 which extended a Federal recognition to the applicant, effective 11 February 2016, for her promotion to CPT with the same DOR. The order was amended to reflect the effective date and DOR to CPT as 1 March 2014.

v. On 20 May 2024, the NGB corrected the applicant's NGB Form 22 to change her DOR to 1 March 2014.

4. The applicant provides several e-mails from the chaplain recruiter Chaplain J-C- which span of a 2-year period of time from 2013 through 2015 that stated he was working on her promotion. He explained the applicant was being reassigned to the 250th Military Intelligence Battalion and her replacement would be reporting within 60-days. He also advised the applicant to submit a packet for a promotion vacancy board as the normal promotion process could take up to eight-months to complete.

5. In the processing of ABCMR Docket Number AR20230000387, the NGB provided an advisory opinion regarding the applicant's request for adjustment of her DOR for CPT and promotion to MAJ. The advisory opinion recommended a partial relief by the adjustment of her DOR for CPT. It was recommended her request for promotion to the rank of MAJ be denied as she had not gone through the promotion selection board process for MAJ nor had she met the requirements for promotion to the rank of MAJ during her service in the ARNG. Therefore, she should not be promoted to the rank of MAJ. Additionally, it is difficult to predict the results of a promotion selection board and therefore one cannot positively say she would have been promoted to the rank of MAJ.

#### 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 Board corrects military records, it is not a promotion board. For Army National Guard (ARNG) Soldiers, promotion in the ARNG is a function of the State and extension of Federal recognition by the NGB. The Board found no evidence the applicant had gone through the promotion selection board process for MAJ or that she met the requirements for promotion to the rank of MAJ during her service in the ARNG. Additionally, promotion in the Regular Army and the U.S. Army Reserve is accomplished via selection by a particular promotion board under certain criteria. The Board did not find evidence the applicant was considered or selected for promotion to MAJ. Finally, if the Board find a material error in a Soldier's records, the remedy would be to send the Soldier's records before a special selection board (SSB). An SSB is only authorized with a DA mandatory board; there is no SSB for a unit vacancy promotion. Since the Board did not find a material error in the applicant's case, the Board determined consideration by an SSB is not warranted.

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 to amend the decision of the ABCMR set forth in Docket Number AR20230000387 on 8 August 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. Title 10, United States Code, section 14303 (Eligibility for consideration for promotion), minimum years of service in grade) states officers in Pay Grades O3 and Above, an officer who is on the reserve active-status list (RASL) of the Army, Air Force, or Marine Corps and holds a permanent appointment in a grade above first lieutenant may not be considered for selection for promotion to the next higher grade, or examined for Federal recognition in the next higher grade, until the officer has completed 3-years, in the case of an officer of the Army, Air Force, or Marine Corps holding a permanent appointment in the grade of captain, major, or lieutenant colonel.

2. National Guard Regulation (NGR) 600-100 (Commissioned Officer Federal Recognition and Related Personnel Activities) in effect at the time, prescribes policies and procedures governing the appointment, assignment, Federal recognition, reassignment, transfers between States, branch transfers, area of concentration designation, utilization, branch detail, attachment, and separation of commissioned officers of the Army National Guard (ARNG).

a. Paragraph 8-2 (Promotion criteria), promotion criteria will be based on efficiency, time in grade, time in commissioned service, demonstrated command and staff ability, military and civilian education, and potential for service in the next higher grade. Promotion will not be used solely as a reward for past performance.

b. Paragraph 8-7 (Eligibility for promotion), to be considered for Federal recognition and subsequent Reserve of the Army promotion following State promotion to fill a unit vacancy, an ARNG commissioned officer must:

- Be in an active status;
- Be medically fit in accordance with Army Regulation (AR) 40-501 (Standards of Medical Fitness) and meet the height and weight standards prescribed in AR 600-9 (Army Body Composition Program);
- Have completed the minimum years of promotion service indicated in paragraph 8-8, below;
- Have completed the minimum military education requirements prescribed in paragraph 8-9, below;
- Have completed the minimum civilian education requirements prescribed in chapter 9; and
- Have passed an Army Physical Fitness Test (APFT) within the time frame prescribed, an officer who has failed the APFT or failed to take the APFT should be flagged and is not eligible for Federal recognition

c. Paragraph 8-8 (Minimum years of promotion service), a commissioned officer must complete the following minimum years of promotion service prior to being considered for promotion and Federal recognition in the higher grade. For promotion to MAJ 4 years minimum in the lower grade of CPT.

d. Paragraph 8-9 (Military education requirement), the minimum military education requirements for promotion to the rank of MAJ is any officer advanced course or Combined Arms and Services Staff School (CAS3).

e. Paragraph 8-15 (Federal recognition after selection for promotion as a Reserve of the Army), an ARNG commissioned officer, not on active duty, who is selected for promotion as a Reserve commissioned officer of the Army resulting from mandatory

consideration may be extended Federal recognition in the higher grade, subject to the following conditions:

- officer has reached promotion eligibility date
- officer has remained in an active status since the date selected for promotion
- officer is medically qualified in accordance with (IAW) AR 40-501 and meets the height and weight standards IAW AR 600-9
- officer is promoted in State status to fill an appropriate position vacancy in the higher grade

3. AR 135-155 (Army National Guard and U.S. Army Reserve – Promotion of Commissioned Officers and Warrant Officers Other Than General Officers), in effect at the time, prescribes policy and procedures used for selecting and promoting commissioned officers (other than commissioned warrant officers) of the ARNG of the United States. To be considered for promotion by a selection board, a commissioned officer (other than a commissioned warrant officer) must have continuously performed service on the RASL, the ADL, or a combination of both during the 1-year period ending on the date the board convenes. To be considered for promotion to Major, the Soldier must have a minimum time in grade of 4-years and have completed the officer advanced course.

a. Section II (Eligibility for Consideration and General Qualifications for Selection),

(1) Paragraph 2-5 (Eligibility for consideration), to be eligible for consideration for promotion to the next higher grade, an ARNGUS or USAR officer must have continuously performed service on either the RASL or the ADL (or a combination of both lists) during the 1-year period ending on the convening date of the promotion board and must meet the Time in Grade (TIG) requirements in tables 2-1 or 2-3, as appropriate. ARNGUS and USAR officers will be considered for promotion in their competitive category only: Army Promotion List (APL, to include JA); Chaplains (CH); Army Nurse Corps (AN); Dental Corps (DC); Medical Corps (MC); Medical Service Corps (MS); Army Medical Specialist Corps (SP); and Veterinary Corps (VC).

(2) Paragraph 2-8 (Military educational requirements), to qualify for selection, commissioned officers (other than commissioned warrant officers) must complete the military educational requirements in table 2-2 not later than the day before the selection board convene date. An officer will be considered educationally qualified for promotion to the next higher grade under the conditions listed in paragraphs (a) through (c), below. The officer must have completed at least 2-years of consecutive ADL service as a commissioned officer but cannot be presently serving on the ADL.

b. Section III (Board Considerations)



(1) Paragraph 2-10 (Mandatory selection boards), mandatory selection boards will convene each year. These boards will consider ARNGUS and USAR officers on the RASL for promotion to CPT through LTC. First consideration for promotion will occur well in advance of the date the officer will complete the TIG requirements in tables 2-1 or 2-3, as appropriate. Those officers noted in b, above, who were not selected for promotion on the first consideration, and who remain in an active status, will be reconsidered by the next board considering their grade and/or branch. To be considered for promotion by a selection board, a commissioned officer (other than a commissioned warrant officer) must have continuously performed service on the RASL, the ADL, or a combination of both during the 1-year period ending on the date the board convenes.

(2) Table 2-1 Time in grade requirements commissioned officers

From	To	Minimum Years in lower grade	Maximum Years in lower grade
2LT	1LT	2	42-months
1LT	CPT	2	5
CPT	MAJ	4	7
MAJ	LTC	4	7
LTC	COL	3	(See note below.)

Notes: Announced annually. Normal time in grade is 5-years, subject to the needs of the Army.

(3) Table 2-2 Military educational requirements commissioned officers

From	To	Requirements
2LT	1LT	Resident officer basic course
1LT	CPT	Resident officer basic course
CPT	MAJ	Any officer advanced course
MAJ	LTC	Fifty percent of the Command and General Staff Officers Course (CGSOC)

c. Paragraph 3-7 (Selection), except as stated elsewhere in this regulation, promotions will be made only on recommendation of a selection board.

d. Paragraph 3-14 (Method of selection), the selection board will base their recommendations for promotion on impartial consideration of all personnel being considered. The board will use a method of selection as prescribed below. Fully qualified; to be fully qualified for selection, an officer must be:

- Eligible for consideration
- Participating satisfactorily
- Qualified physically, morally, and professionally

- Capable of performing the duties of the next higher grade under mobilization conditions
- Educationally qualified
- Must possess appropriate Area of Concentration in specialty fields of aviation, AMEDD, CH, and JAGC (for USAR position vacancy promotion only)

Best qualified; to select those who are best qualified, the board must first determine which members of a group are fully qualified. The best qualified are then selected from that group.

e. Paragraph 3-19 (Promotion Reconsideration Boards), officers and warrant officers who have either failed of selection for promotion, or who were erroneously not considered for promotion through administrative error may be reconsidered for promotion by a Special Selection Board (SSB). SSBs, convened under the Reserve Officer Personnel Management Act on and after 1 October 1996, will reconsider commissioned officers who were wrongly not considered and reconsider commissioned officers who were considered but not selected by mandatory promotion boards that convened on or after 1 October 1996. Records of officers or former officers will be referred for SSB action when the Office of Promotions (RC) determines the following:

- An officer was eligible for promotion consideration; however, the officer's records were, through error, not submitted to a mandatory promotion selection board
- A review of a mandatory selection board finds that an officer's records contained a material error
- The ABCMR requests such a referral

//NOTHING FOLLOWS//