

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 June 2025

DOCKET NUMBER: AR20240001101

APPLICANT REQUESTS:

- Correction to his Date of Rank (DOR) to the rank/grade of major (MAJ)/O-4 to reflect 1 November 2022 vice 29 September 2023 with applicable back pay
- A personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Self-Authored Statement
- Order Number 091-10, dated 1 April 2022 to be addressed in the service record below
- Memorandum, Subject: Recommendation for Promotion of Officer, 8 November 2022 showing his recommended placement and recommendation for promotion in an O-4 position, effective 1 November 2022
- Order Number 0002123751.00, dated 1 November 2022 to be addressed in the service record below
- Special Orders Number 342-AR, dated 11 October 2023 to be addressed in the service record below
- Email correspondence showing his consistent communication with his unit leadership, beginning 6 May 2021, regarding proper processing for his promotion eligibility to the grade of MAJ due to his upcoming fulfillment on a position slotted for a MAJ beginning 1 July 2022

FACTS:

1. The applicant states, in part:

- He is the sole provider for his family for his wife and 5 children
- They made financial plans to survive on captain (CPT) pay in the National Capital Region for between 6 - 9 months, with the hope that he would be promoted within about 6 months after being placed in a MAJ/O-4 slot

- However, he was not promoted until 16 months after arrival, and the pay increase did not take effect for an additional month
- This extended delay placed a tremendous financial strain on his family, from which it may take years to recover
- He was placed in a CPT/O-3 slot for deployment to Operation Inherent Resolve from January 2017 – January 2018; however, his promotion to CPT was not effective until May 2018, a total delay of approximately 15 months
- Besides the professional and operational consequences of leading a Forward Support Medical Platoon; a platoon is a Battalion-level asset led by a CPT as a first lieutenant (1LT) in a joint and multinational environment this delay placed an unnecessary financial hardship on his family
- Due to such a negative experience, he was determined to ensure that his next promotion did not adversely affect his family
- He was the trailblazer for the process of transitioning from Title 32 to Title 10 through the Harvard Strategist Program, an accession pipeline for Functional Area 59 Strategists; all Strategist positions are coded as MAJ/O-4 or higher
- He knew that, following graduation, he would join the Army National Guard (ARNG), be placed in an O-4 billet, and function as a MAJ in his new job
- He spoke with the Oregon Army National Guard (ORARNG) a year prior to departing and followed up several times while at Harvard to ensure that his promotion request would not be a surprise and that there would be a clear pathway to MAJ
- Despite his early and repeated advanced notice, his state delayed the promotion nearly six months due to miscommunication with the National Guard Bureau (NGB) regarding who (State or NGB) was responsible for processing his promotion as each wanted the other to initiate it
- He entered a Title 10 O-4 position on 27 May 2022
- The ORARNG promotion to O-4 was effective 1 November 2022
- His state G-1 submitted the complete promotion packet to NGB on 2 December 2022; the NGB did not approve his packet until 11 July 2023, and the Secretary of Defense signed the promotion scroll on 29 September 2023
- Total delay from state submission to DOR was 302 days
- At every point the delay is entirely attributable to the NGB: initial confusion and miscommunication regarding the process delayed his state from submitting the packet in the first place, continued complications led to various offices evading responsibility, and leadership failed to take appropriate actions they knew were required

- Ultimately, he was promoted only because he incessantly pursued it, following up repeatedly to ensure movement and eventually ghost writing the required O-8-level Exception to Policy (ETP)
- In accordance with Title 10, section 14308(f)(2), if there is a delay of more than 100 days from the time an officer's promotion packet is completely submitted by the state and ready for review by NGB, to the date of federal recognition (and the delay is not attributable to the Soldier), the effective date of promotion may be adjusted backwards to a date determined by the Secretary of the Army, not to exceed the effective date of State promotion
- In support of request, he provides an abbreviated and a detailed timeline for the Board to review

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

- Having prior enlisted service with the ORARNG, on 24 August 2013 he accepted a Reserve Commission and executed an oath of office; in conjunction, NGB Form 337 (Oaths of Office) shows he accepted a commission with the ORARNG
- Special Orders Number 39, dated 19 February 2015 was issued for Federal recognition of his initial appointment in the rank/grade of second lieutenant (2LT)/O-1 with a retroactive effective date of 24 August 2013
- Orders Number 027-016, dated 27 January 2016 was issued showing a retroactive discharge from the ARNG and as a Reserve of the Army with reappointment in the ARNG in the rank/grade of first lieutenant (1LT)/O-2, effective 21 January 2016
- A Memorandum, Subject: Appointment as a Reserve Commissioned Officer of the Army, dated 6 April 2016 was issued with a retroactive effective date of 22 January 2016
- Special Orders Number 111, dated 22 May 2018 was issued for Federal Recognition for his promotion to the rank/grade of CPT, effective on with a DOR of 4 May 2018
- Order Number 091-10, dated 1 April 2022 was issued ordering him to serve on active duty with the NGB, Human Capital Management Division from 27 May 2022 to 31 May 2025
- Orders Number 0002123751, dated 1 November 2022 was issued showing a duty position change (Operations and Training Officer) with a retroactive reporting date of 26 October 2022
- Special Orders Number 342 AR, dated 11 October 2023 was issued for Federal Recognition of his promotion to the rank/grade of MAJ/O-4, effective on with a DOR 29 September 2023
- He continues service with the ARNG

3. On 14 January 2025, the NGB, Chief, Special Actions Branch, provided an advisory opinion recommending partial relief of the applicant's request stating, in part:

a. The applicant states that he was promoted to MAJ on 29 September 2023, and requests a change to his DOR based on the delays caused by NGB Human Capital Management (HCM) and Federal Recognition (FEDREC) branches. He claims the delay was no fault of his own and should be backdated to match the date that ORARNG approved his promotion packet.

b. He was placed into a O-4 position on 27 May 2022. The ORARNG conducted a State Federal Recognition Board (FRB) and approved the applicant's packet on 1 November 2022. The applicant's packet was submitted to NGB on 2 December 2022. Even though the packet was accepted by NGB on 16 December 2022, the packet was not screened and returned for corrections until 30 May 2023. The ETP required for control grade was not approved until June 2023. The Federal Recognition branch received the packet on 11 July 2023 and processed it within 90 days with an effective promotion date to MAJ on 29 September 2023.

c. According to Title 10 USC, section 14308: Promotions, if there is a delay in extending federal recognition in the next higher grade in the ARNG to a reserve commissioned officer that exceed 100 days from the date the NGB deems such officer's application for federal recognition to be completely submitted by the State and ready for review, and the delay was not attributable to the action or inaction of such officer, the effective date of the promotion concerned may be adjusted to a date determined by the Secretary concerned but not earlier than the effective date of the State promotion.

d. According to Personnel Policy Operational Memorandum (PPOM) 23-047, an officer's promotion packet is considered completely submitted when reviewed and cleared by the NGB and assigned to a Promotion Screening List (PSL). If the extension of FEDREC exceeds 100 days, an officer's effective DOR will be adjusted to equal 100 days following assignment to a PSL.

e. While it is true that the applicant's promotion packet took more than 100 days to be processed, the delay was not due to an injustice that occurred at any one department. HCM does not have a policy to process promotion voucher requests within a specific timeline. Promotion voucher processing can normally take over 30 days based on the quality of the request. However, the applicant's request took over 176 days to process at HCM. It was received in December 2022, but it was not returned for corrections until May 2023. There were no significant delays at FEDREC. The promotion packet was assigned to a scroll and sent to the Directorate of Military

Personnel Management (DMPM) within 90 days, which is within the reasonable timeframe for processing packets.

f. Based on these reasons; it is the recommendation of this office that the applicant's request be partially approved. There is no record of a significant delay over 100 days from when FEDREC considers the promotion packet completely submitted according to PPOM 23-047. However, since there were significant delays in processing the packet by HCM at NGB, the applicant should receive some relief for the delay. Once the ETP was finally obtained, the control grade authorization was available effective 15 May 2023. This date reflects the typical processing time for Unit Vacancy Promotions (163 days), and still offers the applicant relief from the unduly delay of his promotion.

g. The Army National Guard Federal Recognition Branch concurs with this recommendation.

h. The Oregon Army National Guard concurs with this recommendation.

4. On 15 January 2025, the applicant was provided with a copy of the advisory opinion and afforded an opportunity to respond.

5. On 27 January 2025, he responded to the advisory opinion stating, in part:

a. From his understanding of the advisory, it appears that Paragraph 3f recommends that the request be partially approved, with the backdate of his promotion to reflect 15 May 2023. Assuming this is the proposal, he appreciates NGB seeking to provide relief.

b. He concurs that the delay was not necessarily due to a specific injustice within the FEDREC branch (other than not following up with the G5 after issuing an additional requirement to ensure that the ETP was submitted in a timely manner) and agrees that setting the promotion at date of control grade availability is reasonable. However, given that this date resulted from an injustice within his individual leadership at the G5, he offers a counterproposal.

c. His control grade authorization was available on 15 May 2023, the same day that Colonel H- submitted the ETP. He began ghost writing the ETP on 8 May 2023; it therefore took one week from the time he began drawing his own ETP to the time the control grade voucher was made available. However, FEDREC branch requested the ETP on 28 Dec 2022, and on that same day he offered to ghost write the memo, fearing that it might fall through the cracks during his 4-month Temporary Duty (TDY). He was told by his leadership not to write it because they would take care of it while he was at

school. However, this did not happen, and his first day back in the office, 8 May 2023, he began writing the ETP. The control grade was approved seven days later. If his leadership would have allowed him to write the ETP on 28 December 2022, it would have been submitted no later than 6 January 2023, the final workday before he departed for Basic Strategic Art Program and nine days after he would have written the first draft. He believes the control grade would still have been available the same day.

d. Therefore, he proposes that his DOR be set as 6 January 2023. As best projected, that is what would have happened if his leadership would not have arbitrarily delayed the process by four months while he was TDY. This date is 66 days after the state DOR and 224 days after he was placed in an O-4 position (Incidentally, if the ARNG G5 leadership would have clearly communicated with his state when he first arrived, Oregon likely would have submitted his promotion packet several months sooner).

e. He feels a January 2023 promotion date is eminently reasonable. Had the process progressed as it should have, he likely would have been promoted sometime in the fall 2022. He anticipated unnecessary delays and proactively attempted to minimize them but understands that some delays are simply unavoidable.

f. He feels the process should be fair and is willing to accept and abide by the Board's decision, whatever it may be.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The Board reviewed and concurred with the advisory opinion provided by the National Guard Bureau. The Board noted that there was no record of a significant delay exceeding 100 days from the date Federal Recognition considered the promotion packet completely submitted, in accordance with Personnel Policy Operational Memorandum Number 23-047.

2. Nevertheless, the Board acknowledged that there were significant delays in processing the packet by the NGB. In recognition of this delay, the applicant should receive appropriate relief. Once the ETP was obtained, the control grade authorization became effective on 15 May 2023. The Board determined that while no error occurred under the governing memorandum, equitable relief is warranted due to the administrative delay in processing the applicant's promotion packet.

3. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Army National Guard records of the individual concerned be corrected by issuing the applicant a Special Order extending him Federal recognition for promotion to MAJ with an effective date and date of rank as 15 May 2023, with entitlement to back pay and allowances, if applicable, because of this correction.
2. 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 amending his date of rank to reflect 1 November 2022.

X //SIGNED//

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. Army Regulation 135-155 (Promotion of Commissioned Officer and Warrant Officer Other Than General Officers) prescribes policy and procedures used for selecting and promoting commissioned officers (other than commissioned warrant officers) of the Army National Guard of the United States (ARNGUS) and of commissioned and warrant officers (WO) of the U.S. Army Reserve (USAR). Paragraph 4-21 (Effective dates), except as provided elsewhere in this regulation, the effective date of promotion may not precede the date of the promotion memorandum. An officer is promoted after selection if all qualifications for promotion are met. When an officer does not meet the qualifications for promotion, the effective date of promotion will not be earlier than the later date all qualifications are met. In no case, will the DOR or effective date of promotion be earlier than the date the board is approved, or, if required, the date of Senate confirmation.
2. Department of Defense Instruction 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. Army Regulation 15-185 (Army Board for Correction of Military Records (ABCMR)) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//