

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 29 October 2024

DOCKET NUMBER: AR20240001116

APPLICANT REQUESTS: adjustment of his date of rank (DOR) for promotion to captain (CPT)/O-3 to an earlier date, with back pay and allowances.

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

- ACTS Online application in lieu of DD Form 149 (Application for Correction of Military Record), 14 December 2023
- Signature Page, 14 December 2023
- DA Form 67-10-1 (Officer Evaluation Report), 24 June 2017—23 June 2018
- DA Form 67-10-1, 5 October 2019—4 October 2022
- memorandum, Detachment 1, Cyber Protection Team 172, Michigan Army National Guard (MIARNG), dated 20 October 2021 subject: Recommendation for Promotion of Officer
- National Guard Bureau (NGB) Special Orders Number 27, 13 September 2022
- DD form 214 (Certificate of Release or Discharge from Active Duty), 30 October 2023
- Report, "SecArmy Memo Addresses Fedrec Delays," National Guard Association of the United States, 21 September 2022

FACTS:

1. The applicant is presently on active duty in the Army National Guard (ARNG).
2. The applicant states:
 - a. He was not promoted to the rank of captain (CPT)/O-3 for over 9 months after Federal Recognition submittal, due to no fault of his own.
 - b. His unit vacancy promotion packet was submitted for Federal Recognition on approximately 10 November 2021. He was not permanently placed on a Federal Recognition promotion list until May 2022, but no one was able to see updates since the G1 tracker remained at 0 days throughout the duration.

c. The promotion order was published on 13 September 2022 with a DOR of 16 August 2022.

d. In 2019, a memorandum from the Army Secretary (SecArmy) stated Federal Recognition of guard officers would be considered delayed if processing exceeded 100 days. The delay could not be based on adverse information pertaining to the promotion of the officer.

e. His packet took over 280 days for action.

f. He is requesting a DOR of 18 February 2022.

2. The applicant provides:

a. Officer Evaluation Reports for the periods ending 23 June 2018 and 4 October 2020, showing his rank as second lieutenant (2LT)/O-1 and first lieutenant (1LT)/ O-2, respectively.

b. A vacancy promotion recommendation from his unit, Detachment 1, Cyber Protection Team 172, dated 20 October 2021.

c. NGB Orders showing he was promoted to CPT with a DOR of 16 August 2022.

d. A DD Form 214, reflecting release from active duty on 30 October 2023 in the rank of CPT/O-3 and a DOR of 16 August 2022.

e. A SecArmy report, dated 21 September 2022, reelecting guidance for ARNG promotion delays of over 100 days.

3. A review of the applicant's service records show:

a. On 24 June 2017, he was appointed as a reserve commissioned officer and he accepted commission as a 2LT in the MIARNG, following a period of prior enlisted service in the MIARNG.

b. On 4 October 2019, Joint Force Headquarters (JFHQ), MIARNG, promoted him to 2LT/O-2.

c. On 8 August 2022, he was ordered to active duty.

d. Orders issued by JFHQ, MIARNG, dated 19 September 2022, promoted him to CPT/O-3, effective 16 August 2022.

e. Special Orders Number 65 AR, dated 13 September 2002, extended Federal Recognition to him in the ARNG at the rank of CPT/E-3 with a DOR of 16 August 2022.

f. On 30 October 2023, he was released from active duty and returned to control of the MIARNG. His DD Form 214 for this period shows his rank as CPT and his DOR as 16 August 2022.

g. Orders 24-4220-0002 issued from the MIARNG, dated 7 August 2024, mobilized him to active duty.

4. On 12 August 2024, the Chief, Special Actions Branch, NGB provided an advisory opinion. The advisory official noted and opined, in pertinent part:

a. The applicant claims that his promotion to the rank of Captain was delayed over 9 months after his unit vacancy promotion packet had been submitted for Federal recognition on approximately 10 November 2021.

b. A review of the Soldier's claim by the Army National Guard Federal Recognition Office showed that the applicant's Federal recognition packet had been forward to their office on 15 November 2021, and that his order was published on 13 September 2022 with a DOR of 16 August 2022.

c. The applicant additionally references Army Directive 2019-28 which authorizes the adjustment to the effective date of promotion of a Reserve Commissioned Officer in the event of undue delay in the Federal Recognition process. Army Directive 2019-28 which was signed 19 September 2019 cannot be applied to the applicant's ABCMR claim because the conditions of the directive only apply to the delays at the Headquarters Department of the Army level.

d. On 12 February 2024, the Secretary of the Army signed an exception to policy to Army Directive 2019-28 which authorizes the National Guard Bureau to amend effective date and DOR of promotions for commissioned officers and warrant officers due to undue delays exceeding 100 days during the time between 1 June 2021 to 1 October 2022. The Soldier's DOR issue was part of a group application correction being addressed by the Army National Guard Bureau, whose name had been mistakenly left off the list after being returned to the Michigan Army National Guard for a name correction.

e. It is the opinion of this office in coordination with the Army National Guard Federal Recognition office, that there was a delay in the process and that the Soldier should have been promoted to the rank of Captain on 3 March 2022. The Soldier's DOR and the effective date of promotion should be adjusted in accordance with the Secretary

of the Army's exception to policy to Army Directive 2019-28 memorandum dated 12 February 2024.

5. On 20 August 2024, the applicant was provided with a copy of this advisory opinion to give him an opportunity to submit a response/rebuttal. He did not respond.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted.

2. The Board carefully considered the applicant's request, his record of service and the date of his promotion to Captain. The Board considered the review, conclusions and recommendation of the National Guard Bureau advising official. The Board concurs with the advising official's recommendation. Based on a preponderance of evidence, the Board determined that there was a delay in his promotion due to a processing error and that relief is warranted in accordance with NGB advisory opinion.

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 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 issuing the applicant a Special Order extending him Federal recognition for promotion to CPT with an effective date and date of rank as 3 March 2022, with entitlement to back pay and allowances, if applicable, as a result of this correction.

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. National Guard Regulation 600-100 (Commissioned Officers Federal Recognition and Related Personnel Actions):

a. The promotion of officers in the ARNG is a function of the State. As in original appointments, a commissioned officer promoted by State authorities has a State status in the higher grade under which to function. However, to be extended Federal Recognition in the higher grade, the officer must have satisfied the requirements prescribed herein. National Guard officers may be considered and found qualified for Federal Recognition of their State promotion using two distinct processes: State Federal Recognition Boards and DA Mandatory Boards. Under either process, the precedent for an actual promotion in the Army National Guard is State assignment and appointment to the next higher grade. State Federal Recognition Boards (FRB). Officers may be federally recognized through State FRB which are often referred to as "State vacancy promotion boards" or "unit vacancy boards" as part the Unit Vacancy Promotion.

b. A commissioned officer who has been promoted by the State and extended Federal Recognition in the higher grade will be concurrently promoted to the higher grade in the Reserves of the Army with assignment to the ARNGUS. An officer's effective date and DOR as a Reserve of the Army will be determined by their duty

status, type of selection board which selected the officer, and delay status (if applicable), and will be as defined below, unless otherwise provided by law. The Chief, NGB will extend Federal Recognition in the higher grade to an ARNG commissioned officer using NGB Form 0122E series orders (NGB Special Federal Recognition Orders).

c. Unit Vacancy Promotion (UVP). Effective Date and DOR are the same date and are established when the scroll is either approved by the Secretary of Defense (Lieutenant Colonel and below).

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.

//NOTHING FOLLOWS//