

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 June 2025

DOCKET NUMBER: AR20240001943

APPLICANT REQUESTS:

- His promotion Date of Rank (DOR) to lieutenant colonel (LTC) be changed from 28 June 2024 to 23 September 2022
- A personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- U.S. Army Human Resources Command (HRC) Special Selection Board (SSB) Results Fiscal Year 2022 (FY22), LTC, Army Medical Department (AMEDD), Army National Guard (ARNG) of the United States, Promotion Selection Board (PSB) dated 11 October 2023, which states:
 - The applicant was considered for promotion by a Department of the Army, SSB to LTC under the FY22 criteria and he was not selected; the reason for his non-selection is unknown because of statutory requirements in Title 10, U.S. Code, Section 14104
- Board Officer Record Brief (ORB) dated 10 January 2024, which shows his assignment information, service data, military and civilian education, awards and decorations, and assignment history
- Applicant's request for reconsideration for promotion to LTC dated 19 January 2024, wherein he states:
 - The purpose of this memorandum is to ask for reconsideration for promotion because he does not feel his promotion was given adequate consideration due to the fact that he was not federally recognized as an officer in [REDACTED] Army National Guard ([REDACTED] ARNG)
 - When he transferred over to the [REDACTED] ARNG from the Army Reserves on 16 August 2021 the G-1 section never submitted his packet to get federally recognized
 - The state never realized it until November of 2023 after the results of the FY22 LTC SSB and FY23 LTC board results came out

- He has gone above and beyond to perform his duties and to be held up for promotion due to not being Federally recognized is unfair
- He meets the military and civilian education requirements and asks for consideration to award him the rank of LTC as of 23 September 2022 when the results of the FY22 LTC board came out

FACTS:

1. The applicant states:

- He was given improper consideration for LTC during a SSB for the FY22 LTC AMEDD Board
- He believes he met the requirements to be promoted, and his DOR should be backdated to 23 September 2022, when he transferred over to the [REDACTED] ARNG on 16 August 2021
- The [REDACTED] ARNG G-1 section never submitted his packet to get Federally recognized for the state
- He does not believe that should have interfered with his promotion as he was still functioning as a [REDACTED] ARNG officer and going above and beyond to perform his duties as an aeromedical physician assistant

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

- With prior ARNG and active duty enlisted service, the applicant was appointed in [REDACTED] ARNG ([REDACTED] ARNG) as a second lieutenant on 24 April 1995
- On 22 November 1995, he was honorably separated from the [REDACTED] ARNG, and he was transferred to the U.S. Army Reserve (USAR) Control Group (Annual Training)
- On 25 July 2001, he was promoted to the rank of captain
- On 8 April 2005, he was appointed in the Air National Guard
- On 11 September 2006, Special Order Number A-654 promoted the applicant to the rank of major (MAJ) in the [REDACTED] ARNG effective upon extension of Federal recognition (FEDREC)
- On 10 July 2008, he was discharged from the Air National Guard in the rank of MAJ
- On 11 July 2008, the Federal Recognition Examining Board (FREB) recommended the applicant be granted FEDREC and he subsequently executed an oath of office
- On 18 July 2008, Orders Number 200-1027 appointed him in the [REDACTED] ARNG, Army Medical Specialist Corps, in the rank of MAJ, effective 11 July 2008
- On 9 April 2010, he was issued a Notification of Eligibility for Retired Pay at Age 60 (Twenty Year Letter)
- On 3 August 2010, Orders Number 215-1008 separated him from the [REDACTED] ARNG,

effective 18 March 2010 and transferred him to the Retired Reserve

- On 6 September 2012, Army Board for Correction of Military Records, Docket Number AR20120004380 shows the applicant's request for extension of permanent FEDREC in the [REDACTED] ARNG in the rank of MAJ, effective 8 July 2008, was granted full relief
- On 28 February 2013, Special Orders Number 63 AR transferred the applicant from the USAR, effective 8 July 2008
- On 5 March 2013, Special Orders Number 67 AR withdrew the applicant's FEDREC and transferred him to the Retired Reserve, effective 18 March 2010
- On 15 June 2020, Orders Number C-06-007946 released the applicant from the Retired Reserve and assigned him to the USAR Control Group (Reinforcement), effective 22 June 2020
- On 1 July 2020, Orders Number C-07-008648 released the applicant from the USAR Control Group (Reinforcement) and assigned him to his USAR unit, effective 30 June 2020
- On or about 10 August 2021, the applicant's request for conditional release from the USAR was approved
- On 16 August 2021:
 - DA Form 71 shows the applicant was appointed as a Reserve commissioned officer, in the rank of MAJ, and executed his oath of office
 - NGB Form 337 shows he was appointed as MAJ in the [REDACTED] ARNG, and he executed his oath of office
 - NGB Form 62E (Application for FEDREC as an ARNG Officer or Warrant Officer and as a reserve Commissioned Officer or Warrant Officer of the Army in the ARNG) shows
 - the applicant signed and submitted his application for FEDREC as an ARNG officer and appointment as a Reserve commissioned officer of the Army in the ARNG of the United States; his chain of command did not endorse the application until November 2023
- On 13 October 2021, Orders Number 21-286-00002 reassigned the applicant from his USAR unit and assigned him to his [REDACTED] ARNG unit, effective 15 August 2021
- On 10 November 2021, Order Number 0001511851.00 rehired and appointed the applicant in the [REDACTED] ARNG, in the rank of MAJ, effective 16 August 2021
- On 16 September 2022, the U.S. Army Human Resources Command released and distributed the Promotion List for FY22 Reserve Component (RC) LTC AMEDD, ARNG, Army Reserve Active Guard/Reserve (AGR), and Army Reserve Non-AGR, Competitive Categories, PSB Zones of Consideration; and it states:

- The FY22, RC, LTC, AMEDD, PSB convened on 8 March 2022 and recessed on 24 March 2022
 - The Office of the Secretary of Defense approved the board report on 9 September 2022

 - On 19 December 2023, Special Orders Number 421 AR transferred the applicant from the USAR to his NVARNG unit, effective 16 August 2021; the order shows his MAJ DOR as 4 January 2007
 - On 22 December 2023, Special Orders Number 430 amended Special Orders Number 421 AR by changing the applicant's MAJ DOR to 10 September 2006 vice 4 January 2007
 - On 6 September 2024, Special Orders Number 354 AR extended the applicant FEDREC for promotion to the rank of LTC, effective on with a DOR of 28 June 2024
 - On 9 September 2024, Order Number 0009448688.00 promoted the applicant to the rank of LTC, effective 28 June 2024
3. On 12 November 2024, the NGB, Chief, Special Actions Branch, provided an advisory opinion for this case and recommended approval. The NGB official stated:
- a. The applicant states that when he entered the [REDACTED] ARNG in August 2021, he was never federally recognized in the state which delayed his promotion. He requests that his DOR to LTC be backdated to correct this mistake.

 - b. The applicant's records show that he transferred into the [REDACTED] ARNG on 16 August 2021 from USAR. When he transferred to the [REDACTED] ARNG, he was not federally recognized in [REDACTED] right away. The unit did not process this paperwork properly, and his packet for federal recognition was not submitted and approved until December 2023. At this point, he had already missed the suspense for the FY22 LTC AMEDD Department of the Army (DA) Board. The applicant could not be seen by this board because he did not have the proper paperwork from [REDACTED] ARNG.

 - c. The applicant submitted an SSB for FY22 due to the administrative error by the Office of Personnel Management (OPM) in 2021 of no federal recognition submission. Because the OPM did not submit for his federal recognition until December 2023, the applicant was a non-select by the SSB in FY22 due to no federal recognition orders at the time the SSB was conducted. It was not until after the SSB results were received that the OPM realized it may have been due to the lack of federal recognition orders to the [REDACTED] ARNG. The applicant had to also submit for an SSB for FY23 LTC AMEDD DA Board because he was omitted from the results list of that board due to all the above discrepancies.

 - d. For these reasons, it is the recommendation of this office that the applicant's

request be approved. Based on the applicant's records, the applicant met all requirements for promotion in the FY22 promotion board if it were not for the delay of federal recognition processing by the [REDACTED] ARNG. [REDACTED] ARNG fully recognizes this issue and supports the applicant's request. The FY22 LTC AMEDD DA Board results were approved on 9 September 2022, which should be when the applicant's DOR to LTC should be backdated to.

e. The Army National Guard Federal Recognition Branch concurs with this recommendation and the [REDACTED] ARNG concurs with this recommendation.

4. On 11 December 2024, the applicant responded to the NGB advisory opinion and stated, he is very pleased with the results of his application and wish to proceed with finalizing this issue. If there is anything else he needs to do, please do not hesitate to ask.

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 Board 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 of the applicant's petition, available military records and National Guard Bureau – Special Actions Branch advisory opinion, the Board concurred with the advisory opinion recommendation for approval finding the applicant met all requirements for promotion in the FY22 promotion board if it were not for the delay of federal recognition processing by the [REDACTED] ARNG and determined relief should be granted. The opine noted the FY22 LTC AMEDD DA Board results were approved on 9 September 2022, which should be the applicant's DOR to LTC. Based on the preponderance of evidence and the advising opine recommendation for approval, the Board granted relief.

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 records of the individual concerned be corrected by amending his date of rank to lieutenant colonel to reflect 9 September 2022.

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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. National Guard Regulation 600-100 (Commissioned Officers – Federal Recognition and Related Personnel Actions) prescribes the procedures governing the appointment, assignment, temporary/permanent Federal Recognition of commissioned officers. The regulation states in:

a. Paragraph 2-2a states that appointment of an officer in the ARNG is a function of the State concerned, as distinguished from Federal recognition of such appointment. Upon appointment in the ARNG of a State and subscribing to an oath of office, an individual has a State status under which to function. Such individuals acquire a federal status when they are Federally recognized and appointed as a Reserve of the Army.

b. Paragraph 2-2b states the effective date of Federal recognition for original appointment is that date on which the commissioned officer executed the oath of office in the State. Federal recognition will continue in effect as long as the commissioned officer continues to meet requirements of the grade and position or until recognition is withdrawn with regulations, or as otherwise provided by law.

c. Paragraph 2-13 states that temporary Federal recognition may be extended to an officer who has been appointed in the ARNG of a State and found to be qualified by an FREB pending final determination of eligibility and appointment as a Reserve commissioned officer of the Army. Such recognition may be withdrawn at any time. If not sooner withdrawn or replaced, temporary Federal recognition will automatically terminate 6 months after the effective date of State appointment.

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. 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. In pertinent part, the regulation states that the ABCMR begins its consideration of each case with the presumption of administrative regularity. It will decide cases based on the evidence of record and it is not an investigative body. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. Paragraph 2-11 states 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//