

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 December 2024

DOCKET NUMBER: AR20240002190

APPLICANT REQUESTS:

- promotion reconsideration to sergeant first class (SFC)/E-7 based on the selection criteria for 2018-2022
- personal appearance

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

- DD Form 149 (Application for Correction of Military Record)
- Timeline of events
- Soldier Talent Profile
- Enlisted Record Brief
- DA Forms 268 (Report to Suspend Favorable Personnel Actions (Flag))
- Self-authored letter, 26 September 2023
- U.S. Army Human Resources Command (AHRC) letter, 18 December 2023
- Self-authored letter, 5 January 2024
- AHRC letter, 24 January 2024
- Memorandum – Subject: Senior Leader Course (SLC) Enrollment, 5 January 2024
- Official Military Personnel File (OMPF)
- Slide presentation
- Fragmentation Order 1 to Headquarters Department of the Army Executive Order 236-15 Army Wide Implementation of Non-Commissioned Officer Professional Development System 15 October 2015
- Military Personnel (MILPER) Message 16-089 (Select Train Educate Promote (STEP) NCOPDS Scheduling Procedures, 29 March 2016
- MILPER Message 23-418 (Reinforcement of Select Train, Educate, Promote (STEP) Policy for Noncommissioned Officer (NCO) Promotions and Limited Application of Temporary Promotions, 10 June 2023

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.
2. The applicant states in pertinent part that he was improperly considered for promotion to SFC from 2018-2022. The applicant contests that he was prohibited from attending the Senior Leaders Course (SLC) and he believes that this was viewed negatively by the promotion selection boards which resulted in him being placed lower on the Order of Merit List (OML). Service members placed higher on the OML are selected to attend the SLC before those ranked lower on the list. On 20 February 2018, the applicant was flagged for failing his Army Physical Fitness Test (APFT) and released from the SLC. In May 2018, the applicant passed the APFT, and the flag was removed. However, in accordance with MILPER Message 16-089, a service member released from SLC is barred from future attendance until the first General Officer in their chain of command endorses a DA Form 4187 (Personnel Action) and submits it to the U.S. Army Human Resources Command (AHRC). The applicant notes that this action never occurred, and his leadership was unaware of this requirement. In late 2021, the applicant's leadership identified the issue prohibiting his SLC enrollment and submitted the required DA Form 4187.
3. A review of the applicant's available service records reflects the following:
 - a. On 8 September 2004, the applicant enlisted in the Regular Army with duty as a 42R (Musician).
 - b. On 24 January 2013, Headquarters, U.S. Army North (Fifth Army) issued Orders Number 024-802 announcing the applicant's promotion to staff sergeant (SSG)/E-6 effective 1 February 2013.
 - c. On 13 December 2013, the applicant completed the Advanced Leaders Course (ALC).
4. The applicant provides the following a:
 - a. Timeline of events reflective of the applicant's account of events occurring between February 2018 – January 2024. In February 2018, the applicant failed an APFT and was subsequently disenrolled from SLC. In May 2018, the applicant passed the APFT. Between May 2018 - November 2021, the applicant inquired about his low placement on the OML and the impact of it. In September 2023, the applicant submitted

a congressional inquiry requesting a reevaluation of his OMPF and reconsideration for promotion from 2018 to present as if he had completed SLC or retroactive promotion.

b. Soldier Talent Profile reflective of the applicant's pertinent personnel information to include assignment, education and award history.

c. Enlisted Record Brief reflective of the applicant's pertinent personnel information to include assignment, education and award history. Section VI (Military Education) reflects the applicant's highest level of military education completed as ALC.

d. DA Form 268 (Report to Suspend Favorable Personnel Actions (Flag)), 23 February 2018, reflective of the applicant being flagged for failing a record APFT on 20 February 2018.

e. DA Form 268, 17 May 2018, reflective of the applicant's APFT flag being removed effective 17 May 2018.

f. Self-authored letter, 26 September 2023, reflective of the applicant's submitted request for congressional assistance with obtaining promotion reconsideration. The applicant again raises issue with his SLC attendance, the actions which precluded him from attending the course (APFT failure) and the personnel actions that were not executed to permit his enrollment.

g. U.S. Army Human Resources Command (AHRC) letter, 18 December 2023, reflective of their response to the applicant's congressional representative regarding his submitted request for promotion reconsideration. AHRC stated: The applicant was not selected for promotion between Fiscal Years 2015 through 2019 and could not have been promoted. Starting in 2020, the Army switched from a promotion board system to an evaluation board system. Centralized Evaluation Boards are not utilized to promote all Soldiers evaluated on any given list. They are standing lists of over 25,000 staff sergeant (SSG) and sergeant first class (SFC) that are utilized to promote in order, on any given month, to meet the Army's promotion requirements for each Military Occupational Specialty (MOS) in each rank. Any Soldier not promoted during the life of the list (one year) must recompute on the next scheduled Evaluation Board. The applicant would have been promoted if his OML was passed while he was on the FY21, FY22, or FY23 SSG Evaluation Boards, unfortunately, his OML was never passed. The fact that he was not selected for school or lacked required military education did not have an impact on him not being promoted. The Army implemented Temporary Promotions which suspended the education requirement as of 1 November 2021, so he would have been promoted while on the FY21 through FY23 lists, except while flagged, if his OML had passed for any given month. AHRC is still operating under these guidelines. AHRC, Military Schools Branch functions under the guidance that does not prohibit the promotion of Soldiers since 1 November 2021. The applicant cannot be

retroactively promoted as his OML never passed; therefore, he was never selected for promotion since FY15. The applicant is currently on the FY23 SSG Evaluation List, and promotions from this list will run through 1 June 2024.

h. Self-authored letter, 5 January 2024, reflective of the applicants for promotion reconsideration again noting his inability to attend SLC. This letter is further provided in its entirety for the board members review within the supporting documents.

i. AHRC letter, 24 January 2024, reflective of their response to the applicant's congressional representative regarding his submitted request for promotion reconsideration. Senior Enlisted Promotions is unable to re-evaluate his promotion board file as there are no mechanisms in place to accomplish this. The implementation of the Evaluation Boards removed the procedures for Stand-by Advisory Boards, however, these boards were never used to re-evaluate a Soldier where there is no change to the board file. Any re-consideration would look at the applicant's file as it was constituted for each earlier year as he has offered no evidence for inclusion of documents into any board file. The applicant was therefore redirected to the ABCMR for his requested relief.

j. Memorandum – Subject: SLC enrollment, 5 January 2024, reflective of the applicant's Battalion Command Sergeant Major's statement regarding the applicant's enrollment in SLC noting that after communicating with the Noncommissioned Officer Academy, she submitted a DA Form 4187 to AHRC requesting for the applicant's enrollment in SLC. At that time, she was advised that the applicant had been dropped from an earlier SLC class due to a flagging action and could not attend without approval from a General Officer. There was no evidence of his ineligibility on any administrative reports or records. In order for the applicant to secure a course seat, he needed another DA Form 4187 approved by a General Officer stating his availability for enrollment. From the time the applicant was flagged at his previous unit until the time the General Officer-level DA 4187 was approved, the applicant was ineligible to attend SLC.

k. Official Military Personnel File (OMPF), reflective of the applicant's various personnel documents to include award certificates, civilian and military education, evaluations etc.

l. Slide presentation, reflective of information pertaining to the SFC Board Review and Analysis for 42R and the HQDA Centralized NCO Evaluation Boards.

m. Fragmentation Order 1 to Headquarters Department of the Army Executive Order 236-15 Army Wide Implementation of Non-Commissioned Officer Professional Development System 15 October 2015, reflective of the Secretary of the Army directing that effective 1 January 2016, Enlisted Soldiers must graduate the appropriate formal military education course before attaining eligibility for promotion pin-on. For promotion

to SFC, eligible service members must have completed Structured Self Development Level 3 (recommendation) and SLC (promotion). With regard to Soldiers previously disenrolled for failing to meet course standards, these Soldiers must submit their request to AHRC with endorsement by the first General Officer in their chain of command.

n. Military Personnel (MILPER) Message 16-089 (Select Train Educate Promote (STEP) NCOPDS Scheduling Procedures, 29 March 2016, reflective of the implementation of the STEP process for promotion to SFC beginning in June 2016. For promotion to SFC, SSGs must have completed SLC. Soldiers selected by the promotion board will be scheduled to attend SLC based on assigned sequence numbers.

o. MILPER Message 23-418 (Reinforcement of Select Train, Educate, Promote (STEP) Policy for Noncommissioned Officer (NCO) Promotions and Limited Application of Temporary Promotions, 10 June 2023, reflective of the requirement for Soldiers to be graduates of a requisite professional military course of instruction to qualify for promotion.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. One potential outcome discussed was to grant partial relief by allowing the applicant to attend the Senior Leader Course now that he has passed an APFT. However, based upon the available evidence showing the applicant failed an APFT while attending SLC and being removed from the course for the failure, the Board concluded there was insufficient evidence to grant relief. The Board found that sending a Soldier to NCOES is a leadership decision, and the discretion of those individuals placed in leadership positions. Based upon the evidence showing he was previously sent to NCOES and failed, it is the discretion of local leadership to determine when it's the appropriate time for the Soldier to return.

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 for correction of the records of the individual concerned.

12/27/2024	
X	
CHAIRPERSON <div style="background-color: black; width: 280px; height: 15px; margin-top: 2px;"></div>	

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, U.S. Code, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.

2. Army Regulation (AR) 600-8-19 (Enlisted Promotions and Reductions) prescribes policies and procedures governing promotions and reductions of Army enlisted personnel. Chapter 4 (Centralized Promotions (Sergeant First Class, Master Sergeant and Sergeant Major) provides that Soldiers must meet the eligibility criteria prescribed within the board announcement message.

a. Paragraph 5-7 (Eligibility Criteria for Selection Board Consideration) provides that Military occupational specialty. Soldiers may compete for promotion in their PMOS, SMOS, or AMOS. They must be fully qualified in the MOS for which they are selected for promotion. Soldiers may compete for promotion in their PMOS, SMOS, or AMOS. They must be fully qualified in the MOS for which they are selected for promotion. Soldier must meet the NCOPDS requirements per their rank. Completion of Structured Self Development 3 is an eligibility requirement for promotion consideration to SFC. Graduation of the SLC is a promotion requirement to SFC.

b. Section IV (Processing Request for Standby Advisory Board (STAB) Consideration) provides that the Deputy Chief of Staff, G1 or his designee may approve cases for referral to a STAB upon determining that a material error existed in the Soldiers record when the file was reviewed by the selection board. STABs are convened to consider records of those –

- 1) Otherwise eligible Soldiers whose records were not reviewed by a centralized selection board
- 2) Soldiers whose records were not properly constituted, due to material error, when reviewed by the regular board
- 3) Recommended Soldiers on whom derogatory information has developed that may warrant removal from a recommended list.

Reconsideration normally will be granted when one or more of the following conditions existed on the Soldier's AMHRR and was reviewed by a selection board.

- 1) An adverse NCOER or AER reviewed by a board was subsequently declared invalid in whole or in part

- 2) An adverse document belonging to another Soldier is filed on the AMHRR
- 3) A UCMJ, Article 15, administered on or after 1 September 1979 that was designated for file in the local file only but was erroneously filed on the AMHRR reviewed by the board
- 4) A UCMJ, Article 15 punishment that was wholly set aside on or after 1 September 1979 and was filed on the AMHRR when reviewed by the board
- 5) Court-martial orders were filed in the performance folder of the AMHRR when the findings were “not guilty.”
- 6) A document was filed on the AMHRR that erroneously identified the nonselect as AWOL or a deserter.

The following items do not constitute material error and will not be reasons for reconsideration –

- 1) Omission of letters of appreciation, commendation, congratulations, or other similar commendatory correspondence
- 2) Documents that are not derogatory having been filed on the wrong AMHRR
- 3) Absence of documents (such as transcripts) written, prepared, or computed following the convening of a board
- 4) Incorrect data on the ERB/SRB
- 5) Failure to review promotion board files by the considered Soldier
- 6) Absence of the ERB/SRB
- 7) Absence of official photograph or the presence of an outdated photograph
- 8) Absence of an AER showing completion of a NCOPDS Course
- 9) A “complete the record” NCOER is an optional report and the absence of this report will not, under any circumstances, be a basis for reconsideration

10) Absence of an award for achievement or meritorious service lower than a Meritorious Service Medal

11) Omission of an AER dated 120 days prior to the board convene date

3. MILPER Message Number 21-314 (Noncommissioned Officer Education System Course Scheduling Procedures) provides that The U.S. Army Human Resources Command (HRC) centrally manages RA and USAR AGR Soldiers' attendance at the Advanced Leader Course (ALC), Senior Leader Course (SLC), and Master Leader Course (MLC). Soldiers are scheduled for training based on priorities and their current standing based upon promotion points or order of merit list (OML). Following the approval of the Staff Sergeant (SSG) evaluation board, Soldiers are scheduled 90-120 days prior to class start date by current OML and MOS. In those cases where multiple MOSs attend the same course, Soldiers are scheduled based on promotion requirements of the MOS. Scheduling priorities are conducted by the following:

- Priority 1 – Soldiers temporarily promoted after 2021 without required professional military education
- Priority 2 – SFCs on an OML stemming from an approved NCO Evaluation board ; scheduled for SLC by OML number
- Priority 3 – Soldiers promoted as an ETP
- Priority 4 – Soldiers deferred for failure to meet course standards
- Priority 5 – Train ahead

In all cases, Soldiers cancelled, operationally or administratively deferred, or removed from a course require a DA Form 4187 signed by the first General Officer (GO) (or SES equivalent) in the Soldier's chain of command to be rescheduled. All requests must state when the NCO is available to attend training and forwarded to HRC for approval. Soldiers that have been deferred/removed/cancelled will be rescheduled for training based on the above priorities and their current promotion points or OML standing at the time they are rescheduled.

4. AR 15-185 (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 applicant's 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//