

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 December 2024

DOCKET NUMBER: AR20240006736

APPLICANT REQUESTS: Exception to Policy (ETP) permitting promotion reconsideration by a Special Selection Board (SSB) based on the Fiscal Year (FY) 2021, 2022, 2023 promotion criteria.

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored letter
- Email communication
- Inspector General (IG) Assistance Request
- Email communication
- Memorandum – Subject: ETP Request to Waive Minimum Educational Requirements for the FY22 U.S. Army Reserve (USAR) General Officer Assignment Advisory Board / General Officer Vacancy Promotion Board (FY22 USAR GOAAB/GOVPB), 1 September 2021
- Memorandum – Subject: Request ETP to Compete at the FY23 USAR GOAAB and GOVPB, 16 August 2022
- Military Personnel (MILPER) Message Number 22-239 (FY23 USAR GOAAB and GOVPB, 27 June 2022
- Email communication
- Orders Number 5956388, 11 September 2023

FACTS:

1. The applicant states in pertinent part he previously requested an ETP to appear before the FY21-FY23 USAR GOAAB GOVPB based on violations of Army Regulatory guidance. She contests that she and other Soldiers of color were systematically discriminated against and not afforded opportunities for promotion progression by not selecting them for attendance at the Senior Service College. She notes that in FY21, her ETP was approved by the Secretary of the Army (SECARMY), however, her board file was not constructed at the same level as other candidates. In specific, her record did not contain a military resume. In FY22, the SECARMY approved her ETP, and her military resume was submitted. However, her board file was deleted. In FY23, she submitted a request for an ETP, but she never received a response. She notes that her

board file was not complete and denies ever receiving the board announcement unlike her peers.

2. A review of the applicant's available service records reflects the following:

a. On 21 May 1993, the applicant was appointed a Reserve commission.

b. On 30 March 2009, the applicant completed the Intermediate Level Education (ILE) Common Core course in the rank/grade of major/O-4.

c. On 13 September 2010, the applicant received her Doctoral degree from [REDACTED]

d. On or about 7 August 2012, the applicant was assigned as a Detailed Inspector General with the Army Reserve Medical Command.

e. On or about 28 August 2015, the applicant was assigned as the 3rd Medical Command, Deputy Chief of Staff, G-4.

f. On 7 October 2015, the U.S. Army Human Resources Command (AHRC) issued Orders Number B-10-504324 announcing the applicant's promotion to the rank/grade of colonel (COL)/O-6, effective 28 September 2015.

g. On or about 14 November 2019, the applicant was assigned as the Commander, South-East Medical Area Support Group.

h. On 11 September 2023, the Department of the Army issued Orders Number 5956388 mandatorily reassigning the applicant to the USAR Retired Reserve, effective 13 October 2023.

i. The applicant's records are void of a DA Form 1059-2 (Senior Service Academic Evaluation Report) showing she completed the Command and General Staff Officer Course or Senior Service College. Likewise, her Officer Record Brief shows her highest level of officer education was ILE Common Core.

3. The applicant provides the following a:

a. Email communication, reflective of the applicant being advised by the AHRC, IG of the procedures to request relief through the ABCMR.

b. IG Assistance Request reflective of the applicant's submitted request for IG assistance with obtaining an ETP for promotion reconsideration based in the FY21-FY23 promotion criteria. The applicant notes various discrepancies regarding her

military records, specifically with her military education level wherein it was changed from Senior Service College "graduated" to "enrolled", her board file being deleted and the lack of a military resume.

c. Email communication, reflective of the applicant being advised that her request for an ETP for promotion reconsideration by the FY21 GOAAB and GOVPB was approved. The applicant was advised that the board would be conducted on 27 October 2020 and her board file would be presented exactly like the other officers going before the board.

d. Memorandum – Subject: ETP Request to Waive Minimum Educational Requirements for the FY22 USAR GOAAB/GOVPB), dated 1 September 2021, reflective of the applicant being advised that her submitted request for an ETP pertaining to military education level 1 requirements for the FY22 USAR GOAAB/GOVPB was approved.

e. Memorandum – Subject: Request ETP to Compete at the FY23 USAR GOAAB and GOVPB, dated 16 August 2022, reflective of the applicant's submitted request for an ETP based on prior established precedence to compete at the FY21 and FY22 boards. The applicant notes her lack of selection to attend the Senior Service College is evidence of systematic discrimination. She contests that she was not ensured fair treatment afforded to all Soldiers based solely on merit, performance, and potential for continued service. In absence of attending the Senior Service College, the applicant requested to attend the U.S. Army War College (Distance Learning) for which she completed. This document is further provided in its entirety for the Board members review within the supporting documents.

f. MILPER Message Number 22-239 (FY23 USAR GOAAB and GOVPB, dated 27 June 2022, reflective of the eligibility criteria for the FY23 USAR GOAAB and the FY23 USAR GOVPB scheduled to convene on or about 1 November 2022. This message further establishes procedures for applicants, to include file preparation formats and suspense dates for submission of required documents. This board convenes annually to consider eligible COLs and Brigadier Generals for assignment to general officer positions of the next higher grade. Eligible service members were advised that the deadline for submission of their military resume is 22 July 2022. Eligible COLs must have successfully completed one of the U.S. Army approved Senior Service College (SSC) venues listed in Army Regulation (AR) 350-1 (Army Training and Leader Development), paragraph 3-12d, and be granted Military Education Level (MEL) 1 credit. Pursuant to Department of the Army Pamphlet 600-3 (Commissioned Officer Professional Development), only the resident SSC venues and the Army War College Distance Education Program (AWCDEP) award MEL 1.

g. Email communication, reflective of the applicant being advised that her submitted request for an ETP was approved and therefore she would be eligible to compete for promotion consideration by the FY22 GOAAB/GOVPB. This communication is further provided in its entirety for the Board members review within the supporting documents.

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. Based upon the previous email correspondence showing the applicant had her ETPs approved and her records were previously sent before an SSB for promotion consideration and the lack of any evidence showing an error or injustice occurred in the performance of those SSB appearances, the Board concluded there was insufficient evidence of an error or injustice warranting a correction to the applicant's record.

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

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. AR 600-8-29 (Officer Promotions) prescribes policies, operating rules, and steps governing promotion of Army commissioned and warrant officers on the active-duty list. Chapter 2 (Selection Boards) provides that whenever the needs of the Service require, the SECARMY will convene selection boards to recommend officers for promotion to the next higher grade according to Title 10, United States Code (USC) 573 or Title 10, USC, 611. The boards will select commissioned officers for promotion to CPT, MAJ, LTC, COL, BG, and MG.

a. Paragraph 2-7 (Promotion Eligibility) provides that to be considered for promotion by a selection board, an officer must be on the Active-Duty List (ADL) on the day the board convenes. Promotion eligibility is determined by the Deputy Chief of Staff (DCS), G-1 and approved by the SECARMY. For centralized promotions, eligibility is based on an officer's ADOR and time in grade (TIG). For promotion to BG, Officers must serve 1 year of TIG to be considered for promotion. If selected, they may be promoted without regard to any additional TIG requirements.

b. Chapter 6 (Special Selection Boards (SSB)) provides that SSBs are governed by the same instructions provided to the boards that considered or should have considered an officer for promotion. Officers inadvertently omitted from consideration by a promotion board will be given the opportunity to correspond with the SSB; however, such correspondence is not required. SSBs may be convened under Title 10, USC, 628 to consider, or reconsider commissioned or warrant officers for promotion when Headquarters Department of the Army (HQDA) determines that one or more of the following circumstances exist:

- 1) Administrative error.
- 2) Material unfairness.

c. An officer will not be considered or reconsidered for promotion by an SSB when the following occurs:

- 1) An administrative error was immaterial, or the officer, in exercising reasonable diligence, could have discovered and corrected the error.
- 2) The Promotion Selection Board (PSB) did not consider correspondence to the board president that was delivered to the Commanding General, AHRC.
- 3) Letters of appreciation, commendation, or other commendatory data for awards below the Silver Star are missing from the service record.

d. An SSB will consider the record of the officer as it should have been considered by the original board. The record will be compared with a sampling of those officers of the same competitive category, who were recommended and not recommended for promotion by the original selection board.

e. Paragraph 6-4 (Notification) provides that AHRC will send written notification to an officer slated for consideration by a SSB at least 30 days before the board convenes. Notification will be sent to the officer's official military email account. Officers considered or reconsidered by an SSB are informed of the results, in writing, through their official military email account. Notice will be sent upon approval of the board report by the appropriate authority. HRC may elect to notify the officer of the board's recommendation after the transmittal of the report to the approval authority.

2. AR 15-185 (ABCMR) paragraph 2-9 states the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

//NOTHING FOLLOWS//