

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 September 2025

DOCKET NUMBER: AR20240008615

APPLICANT REQUESTS: in effect,

- Promotion to the rank/grade of colonel (COL)/O-6 with authorized differential payment of active duty pay for service period covering 1 June 2020 thru 31 May 2024 due to erroneous release from active duty (REFRAD)
- Computation of a new active duty separation date of 31 May 2024
- Authorize active duty retirement pay from corrected retirement date of 1 June 2024 to present at the pay grade rate of COL/O-6 (retired)
- Retroactive pay and allowances

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

- DD Forms 149 (Application for Correction of Military Record)
- Applicant's Info Memo - Subject: Notification of Army Force Structure Adjustment, dated 25 May 2017, informing the Secretary of Defense of opportunity to improve and enhance overall readiness by re-investing in critical capability shortages
- Orders Number 016-68 dated 16 January 2020, ordering the applicant to active duty in Active Guard Reserve (AGR) status from 24 June 2020 to 31 August 2023 (3 years, 2 months, and 8 days)
- Joint Forces Headquarters - Alaska, Officer Personnel Manager Memorandum - Subject: Notification of Selection and Resulting Actions Fiscal Year 2020 (FY20) Colonel (COL) Army Promotion List (APL), dated 19 May 2020, wherein, the Officer Personnel Manager notified the applicant that:
 - As of the notification, he was now eligible for promotion provided he was in a vacant and valid position of higher grade and recommended for promotion by his commander
 - Under the provisions of Title 10, U.S. Code (USC), section 14311(e), AGR officers automatically receive an indefinite delay of promotion until they are promoted or decline the selection
 - The applicant had been on continuous AGR status since 26 September 2001
 - If he was released or removed from AGR status and had not been previously promoted, he must, (a) be promoted in a position vacancy or; (b) transferred to the USAR to accept promotion or; (c) decline the promotion at which time

he would be considered either a non-selection for promotion or a failure of selection

- FY20 Reserve Component (RC) APL Promotion Selection Board (PSB) Results, 19 May 2020, which lists the applicant's name
- Officer Evaluation Report period covered 17 July 2019 - 23 June 2020, which shows the applicant received favorable ratings as a commander
- National Guard Bureau (NGB) Memorandum - Subject: Calendar Year 2020 (CY20) Army National Guard (ARNG) Title 10 (T10) Active Guard Reserve (AGR) REFRAD Board Non-Retention Notification dated 20 November 2020, which notified the applicant:
 - The T10 AGR REFRAD board convened in August 2020; his records were reviewed; unfortunately, he was selected for release from the T10 AGR program
 - Under provisions of the T10 AGR REFRAD board, a Soldier who is selected for release will be released from the T10 AGR program on 31 August 2021, or
 - He would be released from the T10 AGR program on the last day of the month and year in which he achieved 20 years of active service if he was in or qualified for sanctuary
 - If not in sanctuary he would be released from the T10 AGR program on 31 August 2021, or if his mandatory retirement date (MRD) was prior to 31 August 2021, he would be released on his MRD
 - He may request a release date earlier than specified above
 - The following were his separation options: (1) Return to Traditional Drilling Status; (2) Apply for Retirement; and (3) Transfer to the Army Reserve
 - The entire memorandum can be reviewed and considered within the supporting documents
- Headquarters, U.S. European Command Memorandum - Subject: Letter of Recommendation for [Applicant], dated 25 January 2021, recommending the applicant serve in an organization based on being an inspiring and talented leader dedicated to mission and team
- Officer Record Brief dated 5 February 2021, showing the applicant's assignment information, service data, assignment history, civilian and military education, and awards and decorations
- DA Form 638 (Recommendation for Award) dated 2 June 2021, which shows the applicant was awarded the Legion of Merit for retirement
- DD Form 214 (Certificate of Release or Discharge from Active Duty) period ending 31 August 2021, showing the applicant entered active duty (AGR) on 26 September 2001 and was retired by reason of sufficient service in the rank of lieutenant colonel (LTC) on 31 August 2021

- he completed 19 years, 11 months, and 5 days net active service this period with 2 years, 3 months, and 9 days total prior active service; his effective date of pay grade shows 13 August 2016
- Orders Number 1362087 dated 1 September 2021, which transferred the applicant to the Retired Reserve, effective 1 September 2021
- NGB Deputy Director, ARNG letter to Applicant, dated 13 May 2024, stating:
 - The ARNG conducted the CY20 REFRAD board in August 2020 based on guidance published by the Assistant Secretary of the Army (Manpower and Reserve Affairs)
 - A subsequent inspector general investigation revealed that scoring inaccuracies were present within the scoresheets used to produce Order of Merit Lists (OMLs) for the board
 - Incorrect total scores were used to generate official OMLs which led to enactment of incorrect REFRAD board results; as a result, the applicant was erroneously released from Active Duty
 - We sincerely apologize for this error and the impact to his military career; the applicant was encouraged to seek reconciliation by submitting a request to the Army Review Boards Agency

FACTS:

1. The applicant states:

- Correction of his records to reflect the retirement rank and grade of COL/O-6; and authorize a differential payment of active duty pay for service period covering 1 June 2020 to new separation date of 31 May 2024
- Authorize active-duty retirement pay from corrected retirement date of 1 June 2024 to Present at the pay grade rate of COL/O-6 (retired), based on 26 years and 8 months total Active Federal Service with 'high 3' retirement pay calculation factoring corrected O-6 pay rate
- Computation of a new active-duty separation date of 31 May 2024
- He was incorrectly separated from active duty on 31 August 2021, following an erroneous NGB CY20, T10 AGR REFRAD (Release from Active Duty) Board mandate issued to him on 20 November 2020
- At separation his MRD [Mandatory Retirement Date] was "2025053" [3 May 2025], with a potential of over five years time in grade (TIG) at O-6 remaining to mandatory removal
- His erroneous selection for REFRAD on 20 November 2020, denied his selection for promotion to COL on the FY21, T10 AGR promotion 'PRR' [promotion recommended roster] board

- He would have been promoted to COL not later than Spring of 2021, but he was removed for promotion consideration following an erroneous REFRAD board selection for involuntary removal from T10 AGR service
- He was Department of the Army-select for promotion to COL/O-6 on 19 May 2020 by the Army FY20 Reserve Component (RC) COL APL Promotion Board, six months before this erroneous separation mandate on 20 November 2020, that required separation from active duty by 31 August 2021
- He also completed successful battalion command of the Army Operational Support Airlift Agency (fixed-wing VIP transport organization), in the Military District of Washington on 24 June 2020 and was reassigned from the National Capital Region to Fort Novosel, AL on 29 June 2024, to serve as the Aviation Branch Proponency Officer despite awaiting the pending decision of an erroneous REFRAD elimination action
- Compounding a potential risk of removal from AGR service with a short notice Permanent Change of Station to fill the vacancy needs of the Army NGB AGR Program
- Further example that this REFRAD board action was poorly planned and executed failing to consider the impact to those officers wrongfully affected by this board
- Before this board action, he had not only met every professional career requirement to be promoted to COL and was ranked and assigned for COL promotion within the AGR program before this erroneous REFRAD action, but he had also been selected for COL/O-6 by a Headquarters Department of the Army promotion board
- Immediately after his removal from the T10 AGR program, two officers junior to him and without battalion command were promoted to COL, because his removal allowed a vacancy promotion for lessor qualified officers within the NGB T10 AGR program
- Recently, Major General B_, Deputy Director ARNG, NGB phoned a personal apology to him on 12 May 2024, and mailed a notification letter on 13 May 2024 stating that he was "erroneously released" from active duty due to enactment of incorrectly tabulated NGB CY20, T10 AGR REFRAD Board results
- Major General B_ encouraged him to seek reconciliation through the ABCMR board process and that the ARNG was resourced and stood ready to correct this career altering injustice

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

- With enlisted service in the ARNG and Reserve Officers' Training Corps Cadet service, the applicant was appointed as a Reserve commissioned officer and executed his oath office on 5 May 1995
- On 26 September 2001, Orders Number 269-029, issued by the State of Alaska Office of the Adjutant General, ordered the applicant to full-time National Guard

duty (FTNGD) in an AGR status for initial AGR Tour with a report date on 26 September 2001

- On 7 April 2006, he completed the Aviation Captains Career Course
- On 2 March 2011, he completed the Intermediate Level Education (ILE) Course
- On 22 January 2014, he completed the ILE Advanced Operations Course
- On 12 December 2014, he completed the Functional Area 50 Qualification Course
- On 13 July 2016, Special Orders Number 137 extended Federal Recognition to the applicant for promotion to LTC, effective 5 July 2016 with a date of rank (DOR) of 17 September 2015; on 25 July 2016, the DOR was amended to 1 May 2014
- On 4 May 2018, the applicant completed the UC-35B Aircraft Qualification Course
- On 16 January 2020, Order Number 016-68, issued by NGB, ordered the applicant to active duty in an AGR status from 24 June 2020 to 31 August 2023 (voluntary duty for 3 years, 2 months, and 8 days) to serve in Aviation COE as an Aviation Proponency Officer; report date shows 29 June 2020
- FY20 RC COL APL PSB Results released on 19 May 2020 lists the applicant's name under the ARNG Competitive Categories
- On 10 June 2020, Order Number 162-26 amended Orders Number 016-68 by changing:
 - Reporting date to 6 July 2020; and
 - Assigned from to 30 June 2020 to 31 August 2023 (3 years, 2 months, and 1 day)
- On 20 November 2020, NGB Memorandum - Subject: CY20 ARNG T10 AGR REFRAD Board Non-Retention Notification notified the applicant:
 - The T10 AGR REFRAD board convened in August 2020; his records were reviewed; unfortunately, he was selected for release from the T10 AGR program
 - Under provisions of the T10 AGR REFRAD board, a Soldier who is selected for release will be released from the T10 AGR program on 31 August 2021, or
 - He would be released from the T10 AGR program on the last day of the month and year in which he achieved 20 years of active service if he was in or qualified for sanctuary
 - If not in sanctuary he would be released from the T10 AGR program on 31 August 2021, or if his mandatory removal date (MRD) was prior to 31 August 2021, he would be released on his MRD
 - He may request a release date earlier than specified above

- The following were his separation options: (1) Return to Traditional Drilling Status; (2) Apply for Retirement; and (3) Transfer to the Army Reserve
- On 31 August 2021, DD Form 214 shows the applicant was retired by reason of sufficient service in the rank of LTC; he completed 19 years, 11 months, and 5 days net active service this period with 2 years, 3 months, and 9 days prior active service; item 12i (Effective Date of Pay Grade) reflects 13 August 2016

3. On 16 May 2025, the NGB, Chief, Personnel Policy Division provided an advisory opinion for this case and recommended partial approval. The NGB advisory official stated:

a. The applicant was selected for promotion to the rank of COL on the FY20 RC Colonel APL promotion board. The Secretary of the Army approved the board results on 14 May 2020, and the results were released on 19 May 2020. On 20 November 2020, the applicant was informed that he had been selected for release from the T10 AGR program by the T10 AGR REFRAD board. The applicant was separated from active duty on 31 August 2021.

b. A letter sent to the applicant by the Deputy Director, Army National Guard on 13 May 2024 stated that the ARNG Inspector General office had investigated the CY 2020 REFRAD board, and that the investigation revealed that scoring inaccuracies were present within the scoresheet used to produce the order of merit lists (OMLs) for the board, which led to his erroneous REFRAD. The letter concluded that the applicant should seek out reconciliation through the Army Board for Correction of Military Records (ABCMR) process.

c. The applicant claims he should be promoted to the rank of COL because he was erroneously released from active duty. The applicant states that due to his erroneous REFRAD he was denied his selection for promotion to COL on the FY21, T10 AGR promotion recommended roster (PRR).

d. Title 10 ARNG Active Reserve Life Cycle Management Strategy and Plan (PPOM 23-020), Annex D T10 AGR promotion process states that the PRR will rank Officers on an OML from the best qualified to least qualified. The OML created because of the PRR is not a promotion list; it is a rank order result of the PRR process. The PRR OML, controlled grade resource availability, and the needs of the organization are key considerations for the DARNG to determine promotion recommendation.

e. A review of the applicant's ABCMR claim by the Human Capital Management, Life Cycle Management Team, concluded that the applicant competed for the FY20 OML and therefore the promotion recommendation year would have been for FY21. A review of the OML showed that the applicant was number three on the list, however,

only the first person on the OML was promoted in FY21. The applicant's statement that he was denied the opportunity for promotion selection on the FY21, T10 AGR PRR is not valid. He did compete but was not selected for promotion due to lack of control grade availability. Additionally, of the several Soldiers listed behind the applicant on the OML, only one has been promoted since FY21, but he would have competed on another OML on a different Fiscal Year.

f. The Calendar Year 2020 ARNG T10 AGR REFRAD board provides the applicant with different separation options, which one was to separate and transfer to the Army Reserve. This option would have given the applicant the ability to get promoted to the next higher rank of COL in a non-AGR status.

g. It is the recommendation of this office that the applicant's claim be partially approved due to the following:

(1) The applicant's claim that his erroneous REFRAD denied him the ability to get promoted to COL on the FY21, T10 AGR promotion board. The review by the Life Cycle Management Team showed that the applicant competed for the FY20 OML, and therefore the promotion recommendation year would have been FY21. The FY21 OML revealed that no one after the first person on the OML was promoted in FY21, and therefore the Soldier would not have been promoted during FY21 as he claimed he could have been promoted. Human Capital Management cannot determine whether the Soldier would be promoted by any future PRR boards, as he would still have to compete with other Soldiers being added and therefore cannot determine where on the OML he would fall in the following years.

(2) The REFRAD memorandum provided the applicant with the option to transfer to the USAR giving the applicant the ability to get promoted to the next higher rank of COL.

(3) This office recommends that the applicant's separation date be extended to his mandatory retirement date (MRD) of 3 May 2025 with pay and allowances in an active duty status in the rank of LTC. Though this office does not recommend that the applicant be promoted to the rank of COL, we find that it in fairness to the applicant's erroneous REFRAD that he be allowed to remain in service until his MRD.

h. The Life Cycle Management Team, Human Capital Management, the Army National Guard Federal Recognition office, and the National Guard Office of General Counsel were consulted in the recommendation of this ABCMR.

4. On 4 June 2025, by email, the applicant responded to the NGB advisory opinion and stated:

a. Following careful review of the provided recommendation, internal NGB communication, and analysis leading to this 'partial approval' recommendation he acknowledges and agrees with the recommendation regarding separation date extension to MRD, 3 May 2025 and entitlement to pay and allowances from 1 September 2021 (separation following erroneous REFRAD selection) to 03 May 2025. However, he does not agree with the NGB recommendation not to promote to Colonel and also strongly does not agree with an 'NGB-internal' 1 April 2025, email comment by the NGB Life Cycle Management Team Lead that he was ever offered an opportunity to come back on AGR following a 2020, erroneous board selection for elimination from the NGB T10 AGR and REFRAD in FY21.

b. Regarding the second matter of being offered an opportunity to come back on the AGR program, it is his hope that this erroneous claim in an internal NGB Staff email on 1 April 2025, did not influence the Chief Personnel Policy Division, NGB decision to recommend partial approval for his case. The following explanation will support his original Army Review Boards Agency (ARBA) claim for promotion and correct the notion that he was ever offered to 'come-back' on the AGR program.

c. NGB states in their enclosed staff analysis that in FY21, he was the number 3 LTC selected for promotion to Colonel in the ARNG T10 promotion recommendation roster. He was never provided this information before this email, as the REFRAD board decision superseded any promotion consideration or notification of board results in the T10 AGR program.

d. His promotion board cohort group was known in the T10 AGR program as the 'Operations' Career Field. The Operations cohort was specifically for the promotion and career management of officers who held either the Functional Area 59 (Operations), Branch 15 (Aviation), or Functional Area 50 (Force Management) designations. In his case, he held both Aviation Branch and FA50 designation.

e. During his Active Service in the T10 Program my Branch was Aviation (15B) and FA50 (Force Management) after completing the Army FA50 qualification course. As both a primary Aviation Branch and FA50 qualified officer, with over 3-years of experience as NGB's Aviation Force Organizational Integrator (OI) followed by over 2-years of experience serving in HQDA DCS 3/5/7 Force Management, managing the Total Army Analysis (TAA) process, DA-Select to Colonel, and PME complete, he was qualified and experienced to serve in either Aviation or Force Management. Being number 3 on the NGB promotion list in FY21 for Colonel, would have allowed for sufficient vacancies for his promotion to Colonel.

f. Regarding being offered to "come back on the AGR program". He was never offered this. He received notification for removal from the NGB T10 AGR program in 2020 only four months after the T10 AGR had ordered his permanent change of station

from the NCR after 7 years to Fort Novosel (then Rucker), Alabama to fill a critical vacancy at the Army Safety Center, as the senior NGB Liaison, along with his wife and four sons.

g. Following a REFRAD notification he had a suspense of a few weeks to select retirement, if eligible or to REFRAD back to his ARNG State of Alaska to be a part time, weekend Soldier with no Civilian full-time job prospect in Alaska, since it had been over 20-years since he had lived there. At the time his best option was to request retirement and immediately find work in our local area of Alabama in order to provide for our Family. Going back to AGR was never offered in this deliberate AGR force reduction. The intent to reduce the NGB AGR force is expressed by the Director ARNG in the board notification memo. Offering Personnel to come back AGR would have [been] contrary to the rationale to reduce the force by REFRAD board.

h. The next time he had ever received official correspondence from NGB was on Mother's Day, 2024 from Major General R_B_ informing him telephonically, that he was erroneously selected for REFRAD in 2020. Within a day or two of this phone call he received written notification of this error, to which he submitted an ARBA case request.

BOARD DISCUSSION:

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.

a. Promotion to the rank/grade of colonel (COL)/O-6 with authorized differential payment of active duty pay for service period covering 1 June 2020 thru 31 May 2024 due to erroneous REFRAD; The Board reviewed and concurred with the NGB advisory noting the review by the Life Cycle Management Team showed that the applicant competed for the FY20 OML, and therefore the promotion recommendation year would have been FY21. The FY21 OML revealed that no one after the first person on the OML was promoted in FY21, and therefore the applicant would not have been promoted during FY21 as he claimed he could have been promoted. Therefore, the Board denied relief.

b. Computation of a new active duty separation date of 31 May 2024; The Board reviewed and concurred with the NGB advisory noting the applicant's separation date should be extended to his MRD of 3 May 2025 with pay and allowances in an active duty status in the rank of LTC. The Board noted the REFRAD Memorandum should be voided. Therefore, the Board granted relief.

c. Authorize active duty retirement pay from corrected retirement date of 1 June 2024 to present at the pay grade rate of COL/O-6 (retired); The Board reviewed and concurred with the NGB advisory noting the applicant would not have been promoted to COL because he competed on the FY20 OML and the promotion recommendation year would have been FY21. Only one person was promoted from the FY21 OML. The Board noted in accordance with Title 10, USC, section 14104 the applicant would not have been privileged to this information. Therefore, the Board denied relief.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
XXX	XXX	XX	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 it pertains to the applicant's REFRAD. As a result, the Board recommends that all Department of Army and Army National Guard records of the individual concerned be corrected by:

- Voiding the REFRAD Memorandum, dated 20 November 2020
- Reinstating the applicant in the AGR program effective 1 September 2021
- Voiding and removing the applicant's DD Form 214 for the period ending 31 August 2021
- Awarding constructive service credit for the period 1 September 2021 through 3 May 2025, without a break in service
- Restoring all entitlements, pay, allowances, and benefits in the rank of LTC for the period 1 September 2021 through 3 May 2025

2. The evidence presented does not demonstrate the existence of a probable error or injustice as it pertains to the applicant's request for promotion to the rank of COL and to authorize active duty retirement pay from corrected retirement date of 1 June 2024 to present at the pay grade rate of COL. Therefore, the Board determined the overall merits of this portion of the case are insufficient as a basis for correction of the records of the individual concerned.

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 (AR) 15–185 (Army Board for Correction of Military Records) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the Army Board for Correction of Military Records (ABCMR). In pertinent part, it states that 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. The ABCMR will decide cases based on the evidence of record. It is not an investigative agency.
2. The ABCMR may not appoint an officer to a higher grade. That authority is reserved for the President and has not been delegated below the Secretary of Defense.
3. The ABCMR may correct an officer's date of rank/effective date of rank when a proper appointment has already occurred. Title 10, USC, sections 624 and 741 provide for situations in which properly appointed officers are provided "backdated" dates of rank and effective dates to remedy errors or inequities affecting their promotion. The authority to remedy these errors or inequities is given to the Service Secretaries.
4. Title 10, USC, Section 14308 - Promotions: how made; provides that when the report of a selection board convened under section 14101(a) or 14502 of this title is approved by the President, the Secretary of the military department concerned shall place the names of all officers selected for promotion within a competitive category on a single list for that competitive category, to be known as a promotion list, in the order of seniority of those officers on the reserve active-status list or based on particular merit, as determined by the promotion board. A promotion list is considered to be established under this section as of the date of the approval of the report of the selection board under the preceding sentence.
 - a. Officers on a promotion list for a competitive category shall be promoted in the manner specified in section 12203 of this title.
 - b. Officers on a promotion list for a competitive category shall be promoted to the next higher grade in accordance with regulations prescribed by the Secretary of the military department concerned. Except as provided in section 14311, 14312, or 14502(e) of this title or in subsection (d) or (e), promotions shall be made in the order in which the names of officers appear on the promotion list and after officers previously selected for promotion in that competitive category have been promoted.
 - c. The date of rank of an officer appointed to a higher grade under this section may be adjusted in the same manner as an adjustment may be made under section 741(d)(4) of this title in the date of rank of an officer appointed to a higher grade under section 624(a) of this title. In any use of the authority under the preceding sentence,

subparagraph (C)(ii) of such section shall be applied by substituting “reserve active-status list” for “active-duty list”.

d. Subsection (e) - Army Reserve Promotions To Fill Vacancies states, subject to this section and to section 14311(e) of this title, and under regulations prescribed by the Secretary of the military department concerned:

(1) an officer in the Army Reserve or the Air Force Reserve who is on a promotion list as a result of selection for promotion by a mandatory promotion board convened under section 14101(a) of this title or a board convened under section 14502 or chapter 36 of this title may be promoted at any time to fill a vacancy in a position to which the officer is assigned; and

(2) an officer in a grade below colonel in the Army Reserve or the Air Force Reserve who is on a promotion list as a result of selection for promotion by a vacancy promotion board convened under section 14101(a) of this title may be promoted at any time to fill the vacancy for which the officer was selected.

5. Title 10, USC, section 14311 - Delay of promotion: involuntary; subsection (e), Delay Because of Limitations on Officer Strength in Grade or Duties to Which Assigned, states:

a. Under regulations prescribed by the Secretary of Defense, the promotion of a reserve officer on the reserve active-status list who is serving on active duty, or who is on full-time National Guard duty for administration of the reserves or the National Guard, to a grade to which the strength limitations of section 12011 of this title apply shall be delayed if necessary to ensure compliance with those strength limitations. The delay shall expire when the Secretary determines that the delay is no longer required to ensure such compliance.

b. The promotion of an officer described in paragraph (1) shall also be delayed while the officer is on duty described in that paragraph unless the Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense, determines that the duty assignment of the officer requires a higher grade than the grade currently held by the officer.

c. The date of rank and position on the reserve active-status list of a reserve officer whose promotion to or Federal recognition in the next higher grade was delayed under paragraph (1) or (2) solely as the result of the limitations imposed under the regulations prescribed by the Secretary of Defense or contained in section 12011 of this title shall be the date on which the officer would have been promoted to or recognized in the higher grade had such limitations not existed.

d. If an officer whose promotion is delayed under paragraph (1) or (2) completes the period of active duty or full-time National Guard duty that the officer is required by law or regulation to perform as a member of a reserve component, the officer may request release from active duty or full-time National Guard duty. If the request is granted, the officer's promotion shall be effective upon the officer's release from such duty. The date of rank and position on the reserve active-status list of the officer shall be the date the officer would have been promoted to or recognized in the higher grade had the limitations imposed under regulations prescribed by the Secretary of Defense contained in section 12011 of this title not existed. If an officer whose promotion is delayed under paragraph (1) or (2) has not completed the period of active duty or full-time National Guard duty that the officer is required by law or regulation to perform as a member of a reserve component, the officer may be retained on active duty or on full-time National Guard duty in the grade in which the officer was serving before the officer's being found qualified for Federal recognition or the officer's selection for the promotion until the officer completes that required period of duty.

6. Title 10, USC, section 12011 - Authorized strengths: reserve officers on active duty or on full-time National Guard duty for administration of the reserves or the National Guard, provides that, of the total number of members of a reserve component who are serving on full-time reserve component duty at the end of any fiscal year, the number of those members who may be serving in each of the grades of major, lieutenant colonel, and colonel may not, as of the end of that fiscal year, exceed the number determined in accordance with the appropriate statutory table.

7. AR 135-155 (Promotion of Commissioned Officers and Warrant Officers) prescribes the officer promotion function of the military human resource support operations for officers on the Reserve active status list (RASL) and U.S. Army Reserve (USAR) warrant officers. In pertinent part:

a. Paragraph 3-2 (Promotion of USAR AGR officers) states, USAR AGR commissioned officers who are on the RASL are promoted from promotion lists in order of seniority (shown by the promotion sequence number), or based on a particular merit (as determined by the promotion board), as additional officers are needed within each competitive category.

b. Officers selected for promotion will be promoted in the following sequence: above the zone (AZ), primary zone (PZ), below the zone (BZ) populations. A USAR AGR officer considered and selected by a mandatory promotion board, but who cannot be promoted due to strength limitations of Title 10, USC, section 12011, will be forwarded a memorandum from U.S. Army Human Resources Command (HRC) that will give the officer two options. The officer can either: voluntarily leave the AGR Program and accept promotion in the higher grade (refer to paragraph 3-3) as a non-AGR USAR officer; or the officer can remain in the current grade in the AGR Program. Officers who

remain in the USAR AGR Program will be considered to be in an indefinite involuntary delay status per Title 10, USC, section 14311(e) and will remain on the promotion list. When the strength limitation no longer exists, the date of rank (DOR) and position on the RASL of an AGR officer whose promotion to or Federal recognition in the next higher grade was delayed solely of the strength limitations of 10 USC 12011 will be the date on which the officer would have been promoted to or recognized in the higher grade had such limitations not existed.

c. If more than one promotion list exists for a grade and competitive category, promotions from the most recent list may not begin until promotions from the older list are exhausted (except for officers from the older list whose promotion are delayed).

d. Selection after first non-selection. The promotion of an officer selected after not being selected on a first mandatory consideration cannot be earlier than the approval date of the second mandatory board by which the officer is considered.

e. Commissioned officers selected for promotion on boards that utilized merit-based sequencing, pursuant to Title 10, USC, 14108 and 14308, will be placed higher on the promotion list, in their order of merit as determined by the board's vote, for each competitive category. The remainder of the selectees on each recommended list will be placed on the promotion list immediately below those officers reordered and inserted at the top of the promotion list, in order of their seniority on the RASL, pursuant to Title 10, USC, section 14308.

(1) Officers selected for particular merit and placed higher on the order of merit list will be promoted following all officers on the previous promotion list and before all officers on their promotion list who have been sequenced solely by order of seniority on the RASL.

(2) Officers selected for promotion from within the AZ, IZ, or BZ populations not among those of particular merit will be promoted in order of seniority (shown by the promotion sequence number) as additional officers are needed within each competitive category.

f. Paragraph 3-3 (Effective date) states, an officer is promoted after selection if all qualifications for promotion are met (chapter 2). 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.

g. ARNGUS commissioned officers (other than commissioned WOs) who are on a promotion list resulting from a mandatory promotion board will be extended Federal recognition in the higher grade. This will be without examination by a Federal

recognition board when the officer is appointed in the State in that higher grade to fill a vacancy in the Army National Guard.

h. Promotions to fill position vacancies at the higher grade require a DA Form 7774 (Promotion Qualification and Verification Statement), signed by the unit commander, LTC or higher, forwarded to HRC officer promotions orders team. Double slotting or overlapping of multiple officers for a single, higher-rated position, while allowed for manning purposes, is not authorized for promotion purposes. Officers will not be temporarily assigned to, or rotated through, a position solely for the advantage of being promoted to the higher grade. The DA Form 7774 will be returned without action if found to be incomplete or to contain position information that cannot be verified as a valid vacancy.

8. Title 10, USC, section 1552 states, the Secretary concerned may pay, from applicable current appropriations, a claim for the loss of pay, allowances, compensation, emoluments, or other pecuniary benefits, or for the repayment of a fine or forfeiture, if, as a result of correcting a record under this section, the amount is found to be due the claimant on account of his or another's service in the Army.

//NOTHING FOLLOWS//