

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 December 2024

DOCKET NUMBER: AR20240010908

APPLICANT REQUESTS: revocation of the Release from Active Duty (REFRAD) Board's decision to involuntarily separate her from the U.S. Army Reserve (USAR) Active Guard Reserve (AGR) Program. Additionally, she requests revocation of her Separation Orders.

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

- DD Form 149 (Correction of Military Records – Online)
- Memorandum in support of application
- Enclosure 1: email – evaluation tracker from Assistant Executive Officer (AXO), sent 15 April 2024
- Enclosure 2: draft Officer Evaluation Report (OER)
- Enclosure 3: email – OER correspondence with rater, 22 April 2024
- Enclosure 4: screenshot from Evaluation Entry System (EES) database
- Enclosure 5: email – evaluation tracker from AXO, sent 17 May 2024
- Enclosure 6: email – calendar invite with Executive Officer, sent 17 May 2024
- Enclosure 7: email – evaluation tracker from AXO
- Enclosure 8: email – OER correspondence with rater, sent 24 July 2024
- Enclosure 9: memorandum – Fiscal Year 2024 AGR REFRAD Board - Selection Notice, dated 2 August 2024
- Enclosure 10: (nothing enclosed)
- Enclosure 11: OER thru 21 May 2024
- Enclosure 12: (nothing enclosed)
- Enclosure 13: email – AGR REFRAD correspondence with U.S. Army Reserve Command (USARC) G-1, sent 9 September 2024
- Additional email – OER correspondence with AXO
- Additional screenshot from EES database
- Additional OERs thru 31 July 2020, 9 July 2021, 19 July 2022, and 22 May 2023
- Letter of support for Special Selection Board (SSB) reconsideration (2)

FACTS:

1. The applicant states:

a. The AGR REFRAD Board's decision to release her from active duty was made prematurely. The Board based their decision, in part, on a board file that was missing an omitted officer evaluation, due to no fault of hers.

b. The applicant's rater had the necessary OER support form and draft OER in his possession 30 days prior to the OER thru date of 22 May 2024, with enough time to process the OER in the EES database before the REFRAD Board convened. The applicant completed her OER support form in the EES database on 20 April 2024, and both her OER support form and draft OER were accessible to her rater/supervisor before the 26 April 2024 suspense date and 30 days prior to the thru date.

c. She does not understand the rationale or reasoning for why her evaluation was not submitted in a timely manner for the Fiscal Year 2024 (FY24) AGR REFRAD Board to have a true assessment of her board file. She had verbal and email communication with her supervisor and his front office staff regarding the timeline for her evaluation and other Soldiers evaluations. Each time her evaluation was included in the communication and tracked in the category as "hot evaluations."

d. On 6 August 2024, the applicant was informed that she had been selected for REFRAD. Her OER thru 21 May 2024, was signed by her rater on 23 August 2024. She believes the fact that her file only had two evaluations, the Board could have viewed it as a lack of responsibility on the part of the Soldier not to have a third evaluation over the span of time assigned in her current position (1-year), which made the decision to REFRAD her much easier. She strongly believes if her OER had been a part of her board file identifying her strategic depth, engagement, leadership, and ability to work in complex assignments she would not have been selected for REFRAD. She believes the Board determination was based on her overall record, which did not compare with the records of her contemporaries.

2. On 10 May 1998, the applicant was appointed as Reserve Commissioned Officer of the Army National Guard (ARNG) in the rank of second lieutenant.

3. She was released from the ARNG on 14 August 1999, and transferred to the USAR.

4. On 21 April 2008, the applicant was ordered to active duty in an AGR status.

5. A memorandum from the Office of the Chief of Army Reserve (OCAR), Washington, DC, dated 2 August 2024, notified the applicant that the Chief of Army Reserve (CAR) had approved the results of the FY24 REFRAD Board conducted in July 2024.

Unfortunately, she was selected for release from active duty. The memorandum further stated, in pertinent part:

a. The applicant would receive an election of options from the U.S. Army Human Resources Command (typically within four weeks). You may request to retire (if eligible) or continue service in a non-AGR capacity. Unless continued under another provision of law, officers must be removed from active duty no later than 31 July 2025. A list of frequently asked questions was enclosed.

b. There are no appeals processes, waivers, or redress for AGR officers selected for REFRAD who were eligible for consideration. However, officers selected by the board who are later found to have been ineligible for consideration may have their REFRAD selection nullified with the approval of the CAR.

6. On 23 August 2024, the applicant's rater digitally signed her OER with thru date 21 May 2024.

7. In the processing of this case, an advisory opinion was obtained on 17 October 2024, from the Chief, Military Support OCAR G-1. The advisory official recommended no relief, and opined:

a. The USAR REFRAD Board was a force shaping tool (not a quality board) to help manage AGR grade imbalances or strength overages. Qualified officers that met Army standards may have been selected for REFRAD to meet the strength needs of the AGR program. This policy board was conducted under Assistant Secretary of the Army (Manpower and Reserve Affairs) implementation guidance. The board identified officers that were least qualified for future service in the AGR program after reviewing an officer's records and considering factors such as strategic leadership, ability to work in complex environments/assignments, advanced education, physical fitness, and Army Values.

b. The board members conducted the board under instructions approved by the CAR and under the oversight of the Department of the Army (DA) Secretariat for Selection Boards. A review of the process and Board After Action Report identified no errors or omissions. The board members noted many officers selected for REFRAD were rated as highly qualified, evaluation enumeration greatly helped assess candidates, and candidates should write letters to the board to address anomalies. The Office of the Judge Advocate General reviewed the results and found no legal objection. The CAR reviewed and approved the results 29 July 2024.

c. The board considered AGR Colonels with a date of rank 22 May 2022 or earlier and a mandatory removal date after 30 September 2025. The applicant met the eligibility criteria for consideration (date of rank 24 June 2021 and mandatory removal 30 June 2026) and ultimately was selected for release by the board when compared to the other officers eligible for the board. Only officers selected by the board who are later found to have been ineligible for consideration may have their selection nullified.

d. While the CAR had the authority to Approve/Disapprove the board results, the CAR does not have the authority to remove individual officer's names selected for REFRAD as this could bring the integrity of the board into question. The Army Reserve had no process/procedure/policy to facilitate a request by an officer that believes they should not have been selected by the board. Unlike a promotion special selection there was not an arbitrary standard to compare an officer selected for REFRAD against. It would require comparison against the same population considered by the original board effectively negating the original board results when no basis for negating the results exist. The board correctly considered the officer's total record at the time of the board.

8. On 22 October 2024, the applicant was provided a copy of the advisory opinion and afforded 15 days to provide comments. On 4 November 2024, the applicant stated:

a. The Case Management Division memorandum referenced a receipt of an advisory opinion from the Office of the Deputy Chief of Staff (G-1); however, the actual memorandum header reflects OCAR. Since the memorandum came from the same organization who provided the REFRAD instruction, the simple route would be to recommend no relief.

b. Again, she believes had her last evaluation been a part of her board file prior to the board convening, she does not believe she would have been selected for REFRAD. She questions the validity of the first statement in the advisory opinion, "The USAR REFRAD Board is a force shaping tool (not a quality board) to help manage AGR grade imbalances or strength overages," it is her belief due to an insufficient talent management program, lack of oversight or assessment of AGR positions outside of the USAR; AGR Soldiers have become foddors for Regular Army senior rater profile or receive false enumerations on evaluations with no recourse for the Soldier.

9. The portion of the applicant's request pertaining to separation orders is premature, and will not be further addressed in this record of proceedings (ROP).

10. The applicant provides:

a. Email correspondence that shows the applicant was engaged with her rating chain to complete her OER prior to the REFRAD Board's suspense date, 24 June 2024.

b. A letter of recommendation from Major General D_L_K_ offering her most sincere and strong endorsement for correction of the applicant's file to include her last annual evaluation that was absent prior to the REFRAD Board. Due to no fault of the applicant, that singularly important evaluation failed to be included and was therefore, not reviewed. The applicant is an asset to the Army Reserve and is deserving of reconsideration for inclusion of her most recent and grossly overdue evaluation. Her selection for REFRAD is a disservice to her and will negatively impact the USAR.

c. A letter of recommendation from Senior Executive Service S_K_S_ conveying his strongest professional endorsement for the correction of the applicant's personnel file to include her most recent annual evaluation that was not available for consideration by the REFRAD Board. He firmly believes that the absence of her current OER was a material error that, had it been corrected at the time of the board, would have likely precluded her selection for REFRAD. He attests to the applicant's potential to continue to serve with distinction at the highest levels of the Army. She is a phenomenal officer with the professional demeanor and skills the Army needs to address modernization and readiness challenges to be prepared for Large Scale Combat Operations. He believes that is in the best interests of the Army to reconsider her REFRAD.

11. In reaching its determination, the Board may consider the applicant's petition, service record, and statements in light of the published guidance.

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 applicant's argument stating she would not have received REFRAD orders if her last OER was in the record, and the Army senior leadership's letter of recommendations in support of the applicant, the Board concluded there was a material error in the record warranting a secondary review by the CAR, who previously reviewed and approved the board's results, to determine whether the previously issued REFRAD orders should be revoked or remain in effect.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	GRANT FULL RELIEF
			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 a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by referring the applicant's record to the Chief of the Army Review for review to determine whether revocation of the Release from Active Duty (REFRAD) Board's decision to involuntarily separate the applicant from the AGR program remains warranted.
2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to the requested relief.

X [REDACTED]

[REDACTED]

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. Military Personnel Services Number: 24-106 (FY24 USAR AGR REFRAD Board) provided the procedural guidance for the FY24 USAR AGR REFRAD Board which convened on or about 1 July 2024. The board considered all AR AGR Army Promotion List competitive category Colonels and Lieutenant Colonels who met the eligibility requirements. The REFRAD Board provided a fair and equitable force shaping process to help meet the needs of the Army, the USAR, and the AR AGR Program.
2. Army Regulation 135-18 (The AGR Program) prescribes the policy and procedures for the administration of the AGR Program. It provides Army policy for the selection, utilization, and administration of ARNG and USAR Soldiers ordered to active duty for the purpose of organizing, administering, recruiting, instructing, or training the ARNG and AR. Paragraph 5-4 states AGR Soldiers may be released involuntarily from active duty at any time. Release of officers from active duty resulting from non-selection for retention in the AGR Program by a DA continuation or selective separation board is considered to be an involuntary REFRAD, for purposes of determining eligibility for separation pay or reentry to the AGR Program.
3. Army Regulation 600-8-24 (Officer Transfers and Discharges) This regulation prescribes the officer transfers from active duty (AD) to the Reserve Component and

discharge functions for all officers on AD for 30 days or more. It provides principles of support, standards of service, and policies to support office transfers and discharges. Paragraph 2-12b states that AGR officers who are not recommended for continuation, Chief, National Guard Bureau; OCAR; and state adjutants general are authorized to order REFRAD under this paragraph.

4. Army Regulation 623-3 (Evaluation Reporting System (ERS)) prescribes the policy for completing evaluation reports and associated support forms that are the basis for the Army's ERS. Paragraph 1-8a states the ERS encompasses the means and methods needed for developing people and leaders. An effective ERS involves the execution of leadership, the establishment of a rating relationship with personal interaction, the conduct of developmental counseling and reviews, and the determination of critical assessments. The ERS identifies Soldiers who are best qualified for promotion and assignment to positions of greater responsibility. The ERS also identifies Soldiers who will be kept on active status, retained in grade, or eliminated from military service.

//NOTHING FOLLOWS//