

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 20 September 2024

DOCKET NUMBER: AR20230011054

APPLICANT REQUESTS:

- reenrollment in Phase 3 of the U.S. Army Sergeants Major Academy (SGM-A) Sergeants Major Course-Distance Learning (SMC-DL)
- a video/telephonic appearance before the Board

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

- two DD Forms 149 (Application for Correction of Military Record under the Provisions of Title 10, U.S. Code, Section 1552)
- Timeline of Events with Appendices –
  - Appendix A –
    - SGM-A Memorandum (Class 46 Welcome Letter), 12 July 2019
    - SGM-A Email (Welcome to SMC-DL Class 46), 13 July 2019
  - Appendix B –
    - Office of the Adjutant General, Guam National Guard, Memorandum (Nonselection for Continued Unit Participation Army Regulation 135-178 (Army National Guard and Reserve – Enlisted Administrative Separations)), 15 April 2020
    - DA Form 4856 (Developmental Counseling Form), 14 April 2020
  - Appendix C – Guam National Guard Memorandum (Letter of Intent to Transfer into the Individual Ready Reserve (IRR)), 18 April 2020
  - Appendix D – Email (DA Form 1559 (IG Action Request) (Applicant)), 2 June 2020, with Attachments –
    - DA Form 1559, 2 June 2020
    - Army Regulation 135-178 Extract
    - Guam Army National Guard (GUARNG) Email (Qualitative Retention Board (QRB) Documents), 20 April 2020

- Appendix E – GUARNG Army Element Joint Force Headquarters, Orders 0000450011.00, 11 June 2020
- Appendix F – U.S. Army Human Resources Command Orders C-07-008763, 7 July 2020
- Appendix G – SGM-A Academic Evaluation Report Screenshot, 31 July 2020
- Appendix H –
  - DA Form 4187 (Personnel Action), 23 July 2020
  - National Guard Bureau (NGB) Memorandum (SMC Disenrollment for (Applicant)), 13 August 2020
  - DA Form 1059 (Service School Academic Evaluation Report), 11 January 2021
  - SGM-A Email (SMC-DL Class 46 Phase 3 Enrollment (Applicant)), 4 March 2021
  - Department of the Army Office of the Inspector General (DAIG) Letter, 4 April 2022
  - Congressional Liaison Privacy Release Form, 22 March 2023
  - Joint Force Headquarters, Guam National Guard, Memorandum (Request for Correction to Erroneous Disenrollment from SGM-A and DA Form 1059 for (Applicant)), 17 May 2023
  - Congressional Representative Email (Congressional Inquiry: (Applicant)), 9-10 April 2024

### FACTS:

1. The applicant states he was erroneously disenrolled from SMC-DL Class 46. His only remaining requirement for Phase 3 was a 10-minute briefing on the capstone project submitted during Phase 2. According to Army Regulation 135-178, paragraph 16-4a, he should not have been considered by the QRB or removed from the SMC-DL because he was actively enrolled in the SGM-A prior to convening the QRB. The GUARNG did not adhere to the regulatory guidance. He notes that his request is related to the Military Whistleblower Protection Act, but he does not elaborate.

2. Following prior enlisted service in the U.S. Army Reserve (USAR), he enlisted in the ARNG on 29 September 2007. He was promoted to the rank/grade of master sergeant/E-8 and concurrently laterally appointed to the rank/grade of first sergeant/E-8 effective 2 December 2014.

3. The SGM-A memorandum (Class 46 Welcome Letter), 12 July 2019, announced his selection to attend SMC-DL Class 46. This was a 24-month curriculum delivered in one 12-month phase, one 6-month phase, and a 1-week resident phase offered over a 6-month period. Phase 1 consisted of a 4-week foundations module and three 15-week

terms, Phase 2 consisted of two 12-week terms, and Phase 3 consisted of a 1-week resident session completed between 1 February and 30 June 2021.

4. The SGM-A email (Welcome to SMC-DL Class 46), 13 July 2019, congratulated him on his selection to attend SMC-DL Class 46. His enrollment started on 1 August 2019.

5. The DA Form 4856, 14 April 2020, informed him that the QRB did not select him for retention.

6. The Office of the Adjutant General, Guam National Guard, memorandum (Nonselection for Continued Unit Participation Army Regulation 135-178), 15 April 2020, states that while he was a fully qualified Soldier of the ARNG, Army Regulation 135-178 provided that only the best qualified Soldiers would be retained in units. The best qualified Soldiers were selected by a QRB. Soldiers not selected for retention would be removed from unit participation. He was considered for qualitative retention and was not selected. He had 30 days from the date of the notice to elect one of the following options:

(1) discharge from the GUARNG and transfer as a Reserve of the Army to the USAR Control Group (Reinforcement (IRR)) or

(2) transfer to the USAR Control Group (Retired Reserve) with an effective date of 31 January 2021.

7. His memorandum (Letter of Intent to Transfer into the IRR), 18 April 2020, requested transfer to the IRR.

8. The Joint Force Headquarters-Guam, Guam National Guard, memorandum (Notification of Eligibility for Retired Pay for Non-Regular Service (20 Years)), 24 April 2020, notified him that he completed the required years of qualifying service and was eligible for retired pay upon application at age 60.

9. He submitted a DA Form 1559 to the DAIG on 2 June 2020 with supporting documents wherein he requested:

- investigation into wrongdoing based on Army Regulation 135-178
- reversal of the 2019 QRB decision for non-selection for retention
- re-validation of QRB results

10. GUARNG Army Element Joint Force Headquarters Orders 0000450011.00, 11 June 2020, discharged him from the GUARNG and reassigned him to the USAR IRR. His NGB Form 22 (National Guard Report of Separation and Record of Service) shows he completed 21 years, 11 months, and 25 days of service for retired pay.

11. U.S. Army Human Resources Command Orders C-07-008763, 7 July 2020, voluntarily reassigned him from the USAR IRR to the 3303rd Mobilization Support Battalion, USAR, effective 7 July 2020.

12. The DA Form 4187, 23 July 2020, states his disenrollment from SMC-DL Class 46 was based on his non-selection for retention by the 2019 QRB and notes he elected voluntary retirement and declined counseling about the ramifications of voluntary retirement while enrolled in the SMC-DL Phase 1. The SGM-A disenrollment request was approved by Joint Force Headquarters, Guam National Guard. (Note: The applicant states this document was completed without his knowledge and after he transferred to the USAR.)

13. The SGM-A Academic Evaluation Report screenshot, 31 July 2020, shows he was enrolled from 5 August 2019 through 31 July 2022 and completed Phase 1.

14. The NGB memorandum (SMC Disenrollment for (Applicant)), 13 August 2020, approved the request for the applicant's disenrollment due to voluntary retirement. The applicant would be removed from SMC-DL Class 46 and would not be able to reenroll in the course.

15. His DA Form 1059, 11 January 2021, shows he was released early from the SGM-A due to no fault of his own. The comments section states:

- he completed assignments and assessments for Phase 1 SMC-DL Class 46
- he was disenrolled from the course due to his approved retirement in accordance with Army Regulation 350-1 (Army Training and Leader Development), paragraph 3-15f(4)(b)
- he would not be eligible to re-enter the course due to his retirement

16. The SGM-A email from the ARNG Advisor/Liaison Officer (LNO) (SMC-DL Class 46 Phase 3 Enrollment (Applicant)), 4 March 2021, responded to the applicant's request for a DA Form 1059 for SGM-A SMC-DL Class 46 Phase 2 to enroll in Phase 3. The ARNG Advisor/LNO noted the following:

BLUF [Bottom Line Up Front]- It's been determined that you have been disenrolled from the SGM-A and are not eligible to re-enroll. The below details and attached documents explain the specifics:

Facts as we understand them: In 2019, you were boarded for the Guam Army National Guard Qualitative Review Board (QRB) and as a result you elected to voluntarily retire. At the time, you were enrolled in the SGM-DL [SMC-DL] CL [Class] 46 PH [Phase] 1, you voluntarily retired and was [sic] transferred into the Individual Ready Reserve (IRR) with an effective date of 12 Jun[e] 2020.

Afterwards, on or about 7 July 2020 you joined the Army Reserves [sic]. Despite having a reservation for PH [Phase] 2 you were never enrolled. Somehow your Blackboard account was not disabled and you continued with the PH [Phase] 2 coursework. Now having completed PH [Phase] 2, you wish to enroll into PH [Phase] 3 however, the Army Reserves [sic] requires a PH [Phase] 2 completion DA [Form] 1059 for enrollment into PH [Phase] 3. While you were continuing with the course work in PH [Phases] 1 and 2 your retirement and disenrollment packet was being processed.

The attached DA [Form] 4187 states that you declined to be counseled about the ramifications of voluntary retirement while enrolled in the SMC DL PH [Phase] 1.

The attached DA [Form] 1059 was completed on 11 Jan[uary] 2021. As your retirement date was 12 June 2020, you were believed to be unavailable for signature so your DA [Form] 1059 was completed in this manner. Your ATRRS [Army Training Requirements and Resources System] account has been coded appropriately according to the retirement documents, regulations, and policies. Your DA [Form] 1059 was uploaded into iPERMS [Interactive Personnel Electronic Records Management System] and EES [Evaluation Entry System] shows the status for this DA [Form] 1059 as "accepted."

The disenrollment memorandum from ARNG Training Branch, specifically states IAW [In accordance with] the referenced regulations (AR [Army Regulation] 350-1 [Army Training and Leader Development] and AR [Army Regulation] 600-8-19 [Enlisted Promotions and Demotions]) that you are not eligible to reenroll in the SGM-A.

AR [Army Regulation] 350-1 CH [chapter] 15 clearly outlines the ramifications of dismissal from a course.

I hope that this answers your question, clears up any misunderstanding about your DA [Form] 1059, and/or your ability to enroll into SGM-A-DL CL [Class] 46 PH [Phase] 3. I will attempt to contact you by telephone to discuss this situation with you (Thursday afternoon TX [Texas])/Friday morning Guam). Should you have any further questions into this situation I recommend that you contact your Chain of Command.

17. The DAIG letter, 4 April 2022, states the National Guard IG confirmed, with assistance from the GUARNG, the applicant would be reenrolled in the SMC-DL.

18. On 22 March 2023, the applicant requested assistance from his congressional representative.

19. The Joint Force Headquarters, Guam National Guard, memorandum from the Chief of Joint Staff for the ARNG Training Division (Request for Correction to Erroneous Disenrollment from SGM-A and DA Form 1059 for (Applicant)) and DA Form 1059 for (Applicant)), 17 May 2023, states:

I am requesting corrective action for erroneous disenrollment from the USASMA [U.S. Army Sergeants Major Academy, now abbreviated as SGM-A], production of DA Form 1059 for completion of Phase 2, USASMA [SGM-A] and consider re-enrollment to Phase 3, USASMA [SGM-A], for [Applicant].

[Applicant] was boarded on the Guam CY19 [Calendar Year 2019] Qualitative Retention Board, and after receiving his notification of non-retain, he elected to be transferred to the Individual Ready Reserve (IRR) for continued service in the US Army Reserves [sic]. The applicant was unaware of the DA [Form] 4187 in July 2020, disenrolling him from SMA [SGM-A] since it was initiated at the (former) State CSM [Command Sergeant Major] level. Neither he nor his chain of command knew therefore, he was never provided a counseling regarding his disenrollment. Between 2019 and 2021, [Applicant] completed phase 1 and phase 2 of the Sergeants Major Academy, however, he only received a phase 1 completion DA Form 1059.

The USAR will be [responsible to] allocate their SMA [SGM-A] school slot [seat] for the applicant, not the Guam Army National Guard.

20. The NGB advisory opinion, 1 March 2024, recommends approval of the applicant's request. The Special Actions Branch Chief opined:

a. The applicant was enrolled in the SGM-A in 2019 when he was not selected to continue service by a QRB. He was subsequently transferred to the IRR and disenrolled from the course. The applicant requests to be reinstated in the SMC-DL.

b. The applicant enrolled in the SMC-DL and received his welcome letter on 12 July 2019. He started Phase 1 of the course on 1 August 2019. During this time, the applicant was considered for retention by a QRB and was not selected for continued service. The applicant was notified and counseled on the QRB results on 15 April 2020. He had the choice to either be discharged from the GUARNG and transfer to the USAR Control Group (Reinforcement) (IRR) or be transferred to the USAR Control Group (Retired Reserve). The applicant chose to transfer to the USAR IRR and received his transfer orders on 11 June 2020. The applicant filed a DAIG complaint during this time on 2 June 2020 due to the discrepancies in the QRB process. On 7 July 2020, the applicant received assignment orders to the 3303rd Mobilization Support Battalion, USAR. During this time, the applicant continued to make progress in the SMC-DL. He received his DA Form 1059 for completion of Phase 1. In March 2021, the applicant

received a DA Form 4187 dated 23 July 2020 that shows he was disenrolled from the SGM-A. The applicant was disenrolled without any knowledge and was later notified by the ARNG LNO to the SGM-A. He then received a disenrollment memorandum from NGB dated 13 August 2020. He finally received a DA Form 1059 from the SMC-DL dated 11 January 2021, indicating he had been disenrolled.

c. According to Army Regulation 135-178, paragraph 16-4a, the QRB will not consider a Soldier who was promoted to his or her current grade less than 4 years USAR/2 years ARNG prior to the convening date of the board or is enrolled and making satisfactory progress in the SGM-A.

d. According to this regulation, the GUARNG should have screened all identified service members before the QRB convened. If the correct procedures occurred, the applicant would have been identified as not being eligible for QRB consideration. According to NGB records, the GUARNG Calendar Year 2019 QRB did not convene until 14 November 2019. At this time, the applicant was fully enrolled in the SGM-A and making satisfactory progress as the regulation states. Therefore, he should not have been considered by the QRB. According to COL R\_\_\_\_\_'s response to the congressional inquiry, he recommends the applicant's reenrollment in the SGM-A. The GUARNG Joint Staff Chief also recommends the applicant's reenrollment in the SGM-A.

e. The applicant's request should be approved based on his claims and the documents he provided in support of his request. He was satisfactorily enrolled and making progress in the SGM-A when he was incorrectly considered by the QRB and not selected for continued service. The regulation clearly identifies service members enrolled and making satisfactory progress in the SGM-A as those who should not be considered by a QRB. The applicant is currently assigned to a USAR troop program unit position and is eligible for reenrollment in the SGM-A. This office recommends approval of the applicant's request to correct the injustice that resulted in the applicant's disenrollment from the SGM-A.

21. On 1 March 2024, the applicant was provided a copy of the advisory opinion from the National Guard Bureau. He responded on 6 April 2024 requesting information on the outcome of his case based on the advisory.

#### BOARD DISCUSSION:

1. 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 review based on law, policy, and regulation. The Board reviewed and concurred with the National Guard Bureau's advisory finding the applicant satisfactorily enrolled and made progress in the Sergeants Major Academy

when he was incorrectly seen by the Qualitative Retention Board and was selected for non-continuation of service; therefore, the Board concluded, he should be re-enrolled in Phase 3 of the U.S. Army Sergeants Major Academy (SGM-A) Sergeants Major Course-Distance Learning (SMC-DL).

2. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

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 and Army National Guard records of the individual concerned be corrected by showing enrollment in Phase 3 of the U.S. Army Sergeants Major Academy (SGM-A) Sergeants Major Course-Distance Learning (SMC-DL), provided all other criteria is met.

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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 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). The ABCMR considers individual applications that are properly brought before it. The ABCMR will decide cases on the evidence of record; it is not an investigative body. The Board 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 members will direct or recommend changes in military records to correct the error or injustice, if persuaded that material error or injustice exists and that sufficient evidence exists in the record. The ABCMR may, in its discretion, hold a hearing. 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.

2. Army Regulation 135-178 (Army National Guard and Reserve – Enlisted Administrative Separations) prescribes policies, standards, and procedures to ensure the readiness and competency of the U.S. Army while providing for the orderly administrative separation of ARNG of the United States and USAR enlisted Soldiers. Chapter 16 (Qualitative Retention Program), paragraph 16-4a, provides that the QRB will not consider a Soldier who was promoted to his or her current grade less than 4 years USAR/2 years ARNG prior to the convening date of the board or is enrolled and making satisfactory progress in the SGM-A.

//NOTHING FOLLOWS//