

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 24 May 2024

DOCKET NUMBER: AR20230011960

APPLICANT REQUESTS: payment and retirement points for duty performed

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 4856 (Developmental Counseling Form), 10 June 2018
- Memorandum Phase 2 Enrollment for Command and General Staff (CGSC), 27 January 2020
- DA Form 4856, 8 June 2020
- DA Form 1059-2 (Senior Service CGSC Academic Evaluation Report, 31 December 2020
- Naval War College Transcript, 11 June 2022
- Naval War College Diploma, 10 June 2022
- Memorandum Request for Intermediate Level Education
- DA Forms 1380 (Record of Individual Performance of Reserve Training)

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, he is trying to earn DA Form 1380 payment and retirement points for Joint Professional Military Education (JPME)/Professional Military Education (PME) that he completed in fiscal years (FY) 2019 through 2022 as a Department of Defense civilian. According to U.S. Army Human Resources Command (AHRC) Electronic Based Distributed Learning (EBDL) policy, he is entitled to request and earn retirement points and pay for completing PME/JPME. He has been trying to go through his chain of command to process his request for retirement points and pay; however, he was told he did not have the required documents to submit his request.
3. The applicant provides the following documents:

- a. DA Form 4856, dated 10 June 2018, which is initial counseling to establish expectations. The applicant agreed with the counseling and signed the form.
- b. Memorandum Phase 2 Enrollment for the CGSC Officer Course, dated 27 January 2020 states the applicant had been identified as having a reservation for the CGSC Officer Course. The enrollment date was 20 February 2020.
- c. DA Form 4856, dated 8 June 2020 was counseling to follow up on Active Duty Operational Support responsibilities and support to the Joint Reserve Intelligence Support Element. The applicant agreed with the counseling and signed the form.
- d. CGSC diploma showing the applicant successfully fulfilled the requirement of instruction for the CGSC Officer Course on 31 December 2020.
- e. Naval War College Transcript and Naval War College Diploma in recognition of fulfillment of the requirements for the degree with all the honors, rights, and privileges pertaining thereto, dated 10 June 2022.
- f. Memorandum, Subject: Request Intermediate Level Education - Advanced Operations Course Constructive Credit, signed by the Director of Training of the Office of the Deputy Chief of Staff, G-3/5/7, undated, states the applicant's request for constructive credit for Intermediate Level Education (ILE) Advanced Operations Course was approved. The applicant successfully completed both ILE Common Core and received constructive credit for a Masters of Arts in Defense and Strategic Studies from the Naval War College. The entire memorandum is available for the Board's review.
- g. DA Forms 1380, which are unsigned, show the applicant performed duty on:
 - 4 October 2018, 4 hours (1 retirement point)
 - 11 October 2018, 4 hours (1 retirement point)
 - 18 October 2018, 4 hours (1 retirement point)
 - 25 October 2018, 4 hours (1 retirement point)
 - 1 November 2018, 4 hours (1 retirement point)
 - 8 November 2018, 4 hours (1 retirement point)
 - 15 November 2018, 4 hours (1 retirement point)
 - 22 November 2018, 4 hours (1 retirement point)
 - 2 December 2019 through 3 December 2019, 4 hours each day (2 total retirement points)
 - 6 December 2019, 4 hours (1 retirement point)
 - 9 December 2019, 4 hours (1 retirement point)
 - 11 December 2019 through 12 December 2109, 4 hours each day (2 total retirement points)
 - 14 December 2019, 8 hours (2 retirement points)

- 7 March 2019, 4 hours (1 retirement point)
- 14 March 2019, 4 hours (1 retirement point)
- 21 March 2019, 4 hours (1 retirement point)
- 28 March 2019, 4 hours (1 retirement point)
- 4 April 2019, 4 hours (1 retirement point)
- 11 April 2019, 4 hours (1 retirement point)
- 18 April 2019, 4 hours (1 retirement point)
- 25 April 2019, 4 hours (1 retirement point)
- 3 October 2019, 4 hours (1 retirement point)
- 7 October 2019, 4 hours (1 retirement point)
- 10 October 2019, 4 hours (1 retirement point)
- 14 October 2019, 4 hours (1 retirement point)
- 17 October 2019, 4 hours (1 retirement point)
- 21 October 2019, 4 hours (1 retirement point)
- 24 October 2019, 4 hours (1 retirement point)
- 28 October 2019, 4 hours (1 retirement point)
- 1 November 2019, 4 hours (1 retirement point)
- 4 November 2019, 4 hours (1 retirement point)
- 7 November 2019, 4 hours (1 retirement point)
- 11 November 2019, 4 hours (1 retirement point)
- 14 November 2019, 4 hours (1 retirement point)
- 18 November 2019, 4 hours (1 retirement point)
- 21 November 2019, 4 hours (1 retirement point)
- 25 November 2019, 4 hours (1 retirement point)
- 4 October 2021, 4 hours (1 retirement point)
- 6 October 2021, 4 hours (1 retirement point)
- 11 October 2021, 4 hours (1 retirement point)
- 13 October 2021, 4 hours (1 retirement point)
- 18 October 2021, 4 hours (1 retirement point)
- 20 October 2021, 4 hours (1 retirement point)
- 25 December [sic] 2021, 4 hours (1 retirement point)
- 27 October 2021, 4 hours (1 retirement point)
- 1 November 2021, 4 hours (1 retirement point)
- 3 November 2021, 4 hours (1 retirement point)
- 8 November 2021, 4 hours (1 retirement point)
- 10 November 2021, 4 hours (1 retirement point)
- 15 November 2021, 4 hours (1 retirement point)
- 17 November 2021, 4 hours (1 retirement point)
- 22 November 2021, 4 hours (1 retirement point)
- 24 November 2021, 4 hours (1 retirement point)
- 1 December 2021, 4 hours (1 retirement point)

- 6 December 2021, 4 hours (1 retirement point)
- 8 December 2021, 4 hours (1 retirement point)
- 13 December 2021, 4 hours (1 retirement point)
- 15 December 2021, 4 hours (1 retirement point)
- 20 December 2021, 4 hours (1 retirement point)
- 22 December 2021, 4 hours (1 retirement point)
- 27 December 2021, 4 hours (1 retirement point)

4. The applicant's service record contains the following document:

a. NGB Form 22 (Report of Separation and Record of Service) shows the applicant was honorably transferred from the Army National Guard (ARNG) to U.S. Army Reserve (USAR) Control Group (Reinforcement) on 1 August 2011.

b. NGB Form 337 (Oaths of Office) shows the applicant took the oath of office as a in the Maryland ARNG on 2 August 2011.

c. DA Form 1059-2, shows the applicant served at CGSC from 12 November 2020 through 31 December 2020.

d. Memorandum Completion of Naval War College Fleet Seminar Course Joint Maritime Operations, dated 11 June 2021 states the applicant successfully completed the Naval War College Fleet Seminar course in Joint Maritime Operations on 11 June 2021.

e. Memorandum Notification of Eligibility for Retired Pay at Non-Regular Retirement (20 Year Letter), dated 5 October 2021 informed the applicant he had completed the required years of qualifying Reserve serve and was eligible for retired pay upon reaching age 60.

f. DA Form 5016 (Chronological Statement of Retirement Points), dated 24 May 2024, shows the applicant has 20 years, 1 month, and 8 days of qualifying service for retirement. He received the following points:

- 24 August 2018 through 23 August 2019, 49 inactive duty points, 15 membership points, and 14 active duty points
- 24 August 2019 through 23 August 2020, 15 inactive duty points, 15 membership points and 267 active duty points
- 24 August 2020 through 23 August 2021, 15 membership points and 350 active duty points
- 24 August 2021 through 30 September 2021 2 membership points and 34 active duty points

g. The applicant's service record was void of, and the applicant did not provide, documentation showing his commander directed him to take the courses he seeking pay and retirement points for. His service record is void of information pertaining to whether the applicant was in a Federal Government pay status when taking the courses.

5. On 21 December 2023, the Chief, Soldier Programs Branch, U.S. Army Reserve Command (USARC) provided an advisory opinion, which states:

a. USARC reviewed the applicant's documents and determined he should not be awarded any points based off Army Regulation (AR) 140-185 Training and Retirement Point Credits and Unit Level Strength Accounting Records). The regulation does not award points for EBDL after April 2016. Rule 5 in the regulation is a pay rule and not applicable for retirement points only.

b. The applicant's unit must submit the proper documentation to USAR Pay Center at Fort McCoy, Wisconsin to receive pay for his duties performed. The applicant submitted incomplete DA Forms 1380 for duties performed outside of the scheduled battle assembly. USAR EBDL policy dated 1 December 2022 provides clear guidance on what documentation is needed and it is subject to the availability of funds. No administrative relief granted.

6. On 30 December 2023, the advisory opinion was provided to the applicant to allow him the opportunity to respond. The applicant provided the following:

a. Emails, which state:

(1) From Soldier Support Branch Service and Support Division, G1, USARC, dated 3 August 2023, which states, after reviewing the applicant's documents, he was beyond the 12 month window the points could be awarded under AR 140-185. AHRC would not update them without documentation from the Board.

(2) From W- K-, dated 15 February 2023, which states W- K- was waiting to hear back from the ARE [sic] regarding funding. Per the 1 December 2022 policy the applicant would also need "Commander's memorandum, dated prior to enrollment into the course, directing the Soldier to enroll in the training and citing that compensation is subject to the availability of funds" except for any PME or military occupational specialty qualification EBDL courses. Points should be possible per this policy but W- K- has had the 99th turn him away before stating EBDLs are for paid duties only; however, that was a couple prior to the December 2022 policy. Either for pay or for points only, W- K- need all the items on page two of the 1 December 2022 EBDL policy corresponding to each course/DA Form 1380. Additionally a Soldier is limited to 12 additional trainings per FY. EBDL compensation, one additional training requires completion of eight course hours. The maximum number of EBDL course hours authorized for compensation is 96. As

well the applicant could not exceed the max allowed points in his anniversary year of 130.

(3) From W- K-, dated 15 February 2023, states W- K- would have to talk with ARE about getting funding as some of the dates go back to FY 19 and those pay accounts were probably gone/empty. He would also need a list of the EBDL courses during those FYs to ensure the classes were available for pay. If funding did become available, K- W- would also need verification the applicant was not in another pay status when the applicant took the courses. It seemed unlikely that anything prior to FY 22 would be paid out.

b. He provides a copy of Army Regulation 140-185, which is available for the Board's review.

c. Memorandum USAR Electronic-Based Distributed Learning (EBDL) Policy, dated 1 December 2022, which states, in pertinent part:

(1) Soldiers may complete approved EBDL coursework using Reserve Centers, Digital Training Facilities or other public computer domains. Soldiers may use personal computers; however, the USAR does not provide any reimbursement to Soldiers for personal financial obligations incurred if resources other than those provided at the Reserve Center are used to complete EBDL training.

(2) Requirements to receive paid compensation and/or retirement points necessitates that the Soldier is directed to take the course. Only courses on the approved EBDL list at the time the Soldier takes the course are authorized. Only course work conducted while a Soldier is not on any paid Federal Government duty status (military, federal civilian, or contractor) is authorized any portion taken while in a paid duty status is not eligible.

(3) Compensation occurs in eight course hour increments. For courses with fewer than eight course hours, combining courses is authorized to achieve a cumulative number of eight-hour increment.

(4) The same applies for awarding retirement points. Eight hours of completed course work is required for an award of one retirement point, and combining multiple courses is authorized to achieve a cumulative number of hours in eight-hour increments.

(5) Paid compensation is authorized when a Soldier's commander directs the Soldier in a memorandum to enroll in and complete the course. Only memorandums with the commander's signature are acceptable, the commander may not delegate signature authority for compensation and/or retirement points. The memorandum must

cite that compensation is subject to the availability of funds. Approved PME does not require a commander's memorandum, but the commander must still counsel the Soldier that compensation is subject to the availability of funds. Required document for receiving paid compensation are:

- Commander's memorandum, dated prior to enrollment into course, directing the Soldier to enroll in training and citing that compensation is subject to the availability of funds
- Completed and Signed DA Form 1380
- DA Form 87 (Certificate of Training) validating successful course completion of directed training or proof of course completion
- EBDL checklist signed by Soldier, commander, and pay administrator

(6) Retirement points are awarded upon successful completion of approved courses.

(7) Payment is authorized once a Soldier satisfactorily completes a command directed EBDL course.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The applicant provides DA Forms 10 from October 2016 to December 2021 and requests payment for what he contends as duties performed. The Board reviewed and disagreed with the USARC advisory officials determination that the applicant should not be awarded any points based off Army Regulation (AR) 140-185 Training and Retirement Point Credits and Unit Level Strength Accounting Records). The regulation does not award points for EBDL after April 2016. Rule 5 in the regulation is a pay rule and not applicable for retirement points only. Additionally, the applicant's unit must submit the proper documentation to USAR Pay Center at Fort McCoy to receive pay for his duties performed. The applicant submitted incomplete DA Forms 1380 for duties performed outside of the scheduled battle assembly. USAR EBDL policy dated 1 December 2022 provides clear guidance on what documentation is needed and it is subject to the availability of funds. The Board agreed that while the applicant failed to account for his points for several years, the fact remains that if he completed the duties, he should receive credit for point only, provided these points have not already been credited. relief is not warranted. Despite the absence of any error or injustice, and contrary to the advisory opinion, the Board determined as a matter of equity, the applicant should receive administrative relief, provided all other criteria is met.

BOARD VOTE:

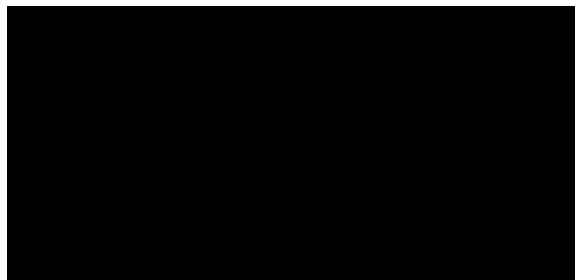
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■	■	■	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

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 records of the individual concerned be corrected by:

- Showing the applicant timely submitted the referenced DA Form 1380 (for points only) through and/or to the appropriate office for processing
- Showing the appropriate office timely received and processed the submitted DA Form 1380 (for points only), provided all other criteria is met, and provided these retirement points have not already been credited



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. AR 140-1 (Mission, Organization, and Training) provides policy guidance on the mission, organization, and training of the U.S. Army Reserve (USAR). Paragraph 3-26 (Training of individual Soldiers in a non-pay status) states, Soldiers in an active status may take part in individual inactive duty training (IDT) in a non-pay training status when authorized by the appropriate commander. In pertinent part, individual training opportunities with retirement point credit are shown below:

- attachment to appropriate Reserve Component Troop Program Units (TPU)
- attachment to Active Army units
- attachment to reinforcement training units as appropriate
- attachment to Reserve Component Training Institutions as students or as augmentation staff or faculty
- attendance at Army service or Army area school training
- participation in approved training projects or using administrative skills in support of TPU and USAR activities
- enrollment in appropriate extension courses
- attendance at authorized conventions, professional conferences, or appropriate trade association meetings related to the individual's mobilization specialty
- conducting or reviewing medical examinations, and related medical duties
- recruiting duties as described in AR 140–185

3. AR 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records) contains Army policy for U.S. Army Reserve training and retirement point credit. It also prescribes guidance for USAR unit level strength accounting.

a. Paragraph 1-7 (Service requirement for a satisfactory year of service for non-regular retirement) states, a qualifying year of service for non-regular retired pay is a full year during which a Reserve Component member is credited with a minimum of 50 retirement points. Except as otherwise provided by law, an accumulation of 20 such years is one requirement necessary to qualify for non-regular retired pay.

b. Paragraph 2-1 (Criteria for crediting retirement points) states, IDT will be either 4 hours in length for one (1) retirement point or 8 hours in length for two (2) retirement points.

c. Paragraph 2-4b(5) (Criteria for awarding retirement points) states, in accordance with the eight-hour rule, approved EBDL courses will be awarded to members of the Selected Reserve (TPU). Subject to available funding, and as pre-approved, Soldiers may earn one (1) retirement point and be paid for one (1) IDT for every 8 hours of distance learning completed.

d. Paragraph 3-3 (DA Form 1380) states, the purpose of this form is to record IDT by —

(1) TPU Soldiers performing IDT assemblies when pay is authorized, and the Soldier is not present to sign the IDT attendance roster.

(2) TPU Soldiers attached to another USAR unit for 89 or fewer days. In such cases the unit of attachment will prepare DA Form 1380 and forward to unit of assignment for recording attendance.

(3) Non-unit Soldiers under the jurisdiction of the U.S. Army Human Resources Command who are attached for retirement points only to USAR TPUs, Army National Guard units, or to another Service or component for training per AR 140–10. Only attached Soldiers are authorized to perform IDT with the exception of one annual physical health assessment each for medical and dental readiness when authorized by the command prior to the event. Note: Non-unit Soldiers attached for retirement point credit to IMA detachments are reported on DA Form 1379 for those units.

(4) Non-unit Soldiers performing other inactive duty training for retirement point credit as outlined in Table 2–3 (Award of inactive duty training retirement points).

e. Paragraph 3-3b states, DA Form 1380 will be prepared for a unit Soldier who performs equivalent training or additional training with their unit subsequent to the scheduled Battle Assembly. TPU units will retain one copy of the DA Form 1380 to post the appropriate entry into Automated Drill Attendance Reporting Software (ADARS) for the month's report and then place in the appropriate Army records information management system file. Nonpaid DA Forms 1380 will not be entered into ADARS and will be forwarded to HRC for award of retirement points no later than the end of each duty month. DA Form 1380 will be scanned into the Soldier's integrated Personnel Electronic Records Management System by the unit of assignment per AR 600-8-104 (Army Military Human Resource Records Management).

f. Paragraph 3-4 (Electronic-based distance learning) states, the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107, section 603), authorized

compensation to certain members of the Selected Reserve. Pursuant to Title 37, USC, section 206(d), a member of the Selected Reserve of the Ready Reserve may be paid compensation at a rate and under terms determined by the Secretary of Defense upon the member's successful completion of a course of instruction undertaken by the member using electronic-based distributed learning methodologies to accomplish training requirements related to unit readiness or mobilization, as directed for the member by the Secretary concerned. This regulation provides discretionary payments only for members of the Selected Reserve not in active service or on active duty who are directed by their commanders to complete training requirements related to unit readiness or mobilization, by means of electronic-based distributed learning.

(1) All electronic-based distributed learning courses approved either for payment with Reserve compensation or for completion by Soldiers for Reserve retirement points only, will be listed in the Army Training Requirements and Resources System (ATRRS). Courses designated as eligible for Reserve compensation under the electronic-based distributed learning policy will be appropriately annotated within the ATRRS.

(2) Additional training periods for distributed learning for Reserve compensation are authorized only for Soldiers in the paid drill strength of the Army National Guard and USAR, including drilling individual mobilization augmentees.

(3) Commanders may direct Soldiers to enroll in and complete electronic-based distributed learning courses that are eligible for Reserve compensation. Commanders will provide this direction in writing, citing the availability of funds in advance of a Soldier's enrollment.

(4) When scheduling lengthy electronic-based distributed learning courses of instruction, commanders should avoid crossing fiscal years whenever possible.

(5) Commanders will ensure that coursework authorized for additional training periods for distributed learning is not completed during any other type of training or duty periods.

(6) Per AR 135-180 (Retirement for Regular and Non-Regular Service), the maximum number of inactive duty training periods performed by type (except for equivalent training) and retirement points that may be awarded in one day, do not apply to additional training periods for distributed learning, nor do they prevent the performance of other types of inactive duty training periods on the same date. However, retirement points shall not be credited in excess of the maximum number creditable in an anniversary year for inactive duty training.

(7) Initiate payment only when a Soldier satisfactorily completes directed electronic-based distributed learning phases or courses. Commanders must validate the

required training was completed and is updated in a formal Army record of training, for example, ATRRS, Learning Management System within 365 days of course completion. Each 4 hours of successfully completed qualifying electronics-based distributed learning coursework will earn a Soldier credit for completion of one additional training period, whether paid or unpaid, and one (1) Reserve retirement point. These are categorized as inactive duty training points and are subject to the annual limit on Reserve retirement points that may be credited in an anniversary year toward retired pay by Title 10, USC, section 12733(3).

(8) For phases or courses that total fewer than 4 hours, aggregate the time for directed courses in multiples of 4 hours to establish inactive duty periods and determine eligibility for Reserve compensation and Reserve retirement points, or Reserve retirement points only.

(9) To qualify for Reserve compensation, the electronic-based distributed learning work must have been directed and completed on or after 2 June 2010.

(10) Members of the Selected Reserve who completed electronic-based distributed learning coursework between 28 December 2001 and 2 June 2010 may be awarded Reserve retirement points at the rate of one point per each 4 hours of distributed learning coursework, unless previously awarded retirement points.

g. The regulation defines Electronic-based distributed learning (EBDL) as a training medium for use collectively or individually, with or without the control of an instructor or leader. Soldiers in an inactive duty training status directed or authorized to take EBDL coursework outside of duty or training periods are not required to be present at a government facility, to be in a duty or training status, to report time or attendance or to wear a uniform. EBDL does not include traditional correspondence courses.

4. Memorandum USAR EBDL Policy, dated 1 December 2022, which states, in pertinent part:

a. Soldiers may complete approved EBDL coursework using Reserve Centers, Digital Training Facilities or other public computer domains. Soldiers may use personal computers; however, the USAR does not provide any reimbursement to Soldiers for personal financial obligations incurred if resources other than those provided at the Reserve Center are used to complete EBDL training.

b. Requirements to receive paid compensation and/or retirement points necessitates that the Soldier is directed to take the course. Only courses on the approved EBDL list at the time the Soldier takes the course are authorized. Only course work conducted while a Soldier is not on any paid Federal Government duty status

(military, federal civilian, or contractor) is authorized an any portion taken while in a paid duty status is not eligible.

c. Compensation occurs in eight course hour increments. For courses with fewer than eight course hours, combining courses is authorized to achieve a cumulative number of eight hour increment.

d. The same applies for awarding retirement points. Eight hours of completed course work is required for an award of one retirement point, and combining multiple courses is authorized to achieve a cumulative number of hours in eight-hour increments.

e. Paid compensation is authorized when a Soldier's commander directs the Soldier in a memorandum to enroll in and complete the course. Only memorandums with the commander's signature are acceptable, the commander may not delegate signature authority for compensation and/or retirement points. The memorandum must cite that compensation is subject to the availability of funds. Approved PME does not require a commander's memorandum, but the commander must still counsel the Soldier that compensation is subject to the availability of funds. Required document for receiving paid compensation are:

- Commander's memorandum, dated prior to enrollment into course, directing the Soldier to enroll in training and citing that compensation is subject to the availability of funds
- Completed and Signed DA Form 1380
- DA Form 87 (Certificate of Training) validating successful course completion of directed training or proof of course completion
- EBDL checklist signed by Soldier, commander, and pay administrator

f. Retirement points are awarded upon successful completion of approved courses.

g. Payment is authorized once a Soldier satisfactorily completes a command directed EBDL course.

//NOTHING FOLLOWS//