

IN THE CASE OF: [REDACTED]

BOARD DATE: 15 August 2024

DOCKET NUMBER: AR20230014045

APPLICANT REQUESTS: removal of a DA Form 1059 (Service School Academic Evaluation Report) for the period ending on 28 March 2019 from his Official Military Personnel File (OMPF).

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

DD Form 149 (Application for Correction of Military Record)

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code (USC), 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 has repeatedly made attempts to have the DA Form 1059 for the period ending on 28 March 2019 removed from his records. He was advised that the DA Form 1059 for the period ending on 14 June 2019, pertaining to the same course, would replace the referred DA Form 1059 for the period ending on 28 March 2019. He contests that the referred DA Form 1059 also does not reflect the comments submitted which justified his emergency early release from the course. He further notes that he was permitted to attend the next scheduled course, which he completed. The original DA Form 1059 provides that he was supposed to be removed from training and ineligible to enroll for the next 6 months.
3. A review of the applicant's available service records reflects the following:
 - a. After serving as an enlisted Soldier in [REDACTED] Army National Guard ([REDACTED] ARNG), on 19 October 1999, the National Guard Bureau (NGB) issued Special Orders Number 193 AR announcing Federal recognition of the applicant's initial appointment as a commissioned officer, within the Ordnance Corps of the [REDACTED] ARNG, effective 21 August 1999.

b. On 19 September 2001, the NGB issued Special Orders Number 251 AR announcing Federal recognition of the applicant's promotion to the rank/grade of first lieutenant (1LT)/O-2, effective 21 August 2001.

c. On 3 June 2004, the NGB issued Special Orders Number 137 AR announcing Federal recognition of the applicant's promotion to the rank/grade of captain (CPT)/O-3, effective 3 June 2004.

d. On 7 May 2008, the applicant was issued a Notification of Eligibility for Retired Pay at Age 60 (20-year letter).

e. On 17 June 2008, the NGB issued Special Orders Number 151 AR announcing Federal recognition of the applicant's branch transfer from the Ordinance Corps to the Logistics Corps, effective 11 June 2008.

f. On 22 August 2008, the NGB issued Special Orders Number 218 AR announcing Federal recognition of the applicant's promotion to the rank/grade of major (MAJ)/O-4, effective 20 August 2008.

g. On 16 October 2017, the NGB issued Special Orders Number 212 announcing Federal recognition of the applicant's promotion to the rank/grade of lieutenant colonel (LTC)/O-5, effective 20 September 2017.

h. From 16-28 March 2019, the applicant attended the Military Police Captain's Career Course (CCC). The associated DA Form 1059 provides that the applicant failed to achieve the course standards, specifically the Operations Order Exam. During the first examination, the applicant failed to meet the minimum 70 percent. He was re-tested and again failed to meet the minimum 70 percent score required. In accordance with Army Directive 2012-20, the applicant was removed from training, and ineligible to enroll in any professional military education for a period of 6-months.

i. From 1-14 June 2019, the applicant attended and completed the Military Police CCC. DA Form 1059 for this period provides that the applicant achieved the course standards and was now considered a graduate having completed all four phases of the course.

j. On 16 May 2024, the NGB issued Special Orders Number 189 AR announcing Federal recognition of the applicant's promotion to the rank/grade of colonel (COL)/O-6, effective 4 May 2024.

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 available evidence showing that during the applicant's first attendance at the CCC, he failed to retain course standards and guidance that the official military record of service members capture the totality of their service, the Board concluded that the fact he attended the course a second time and completed the course is not justification for the initial attendance's 1059. Therefore, the Board found a lack of justification for the requested removal.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

2/5/2025

X

CHAIRPERSON

I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Title 10, USC, 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. Army Regulation (AR) 600-8-104 (Army Military Human Resource Records Management (AMHRR)) provides the policies governing the AMHRR Management Program. Chapter 3 (AMHRRMP) provides that the AMHRR Management Program is an essential military personnel information management program. The program outlines responsibilities for the archiving of information required for filing in the AMHRR. Personnel information and documents that comprise the AMHRR are processed into the Interactive Personnel Electronic Records Management System (IPERMS) for storage and future use.

a. Paragraph 3-3 (Documents Required for Filing in the AMHRR or IPERMS) provides that documents required for filing will be periodically reviewed to identify documents no longer required for filing in the AMHRR. Documents are removed from the required document list when they become obsolete or are no longer required for filing in the AMHRR (deprecated). A document properly filed in the AMHRR based on previous requirements is considered to be permanently filed and cannot be removed unless it meets the criteria listed in paragraph 3-7.

b. Paragraph 3-7 (Authority for Filing or Removing Documents in the AMHRR Folders) provides that only documents pertaining to a Soldier's military career per paragraph 3-3 will be filed in the AMHRR. No more than one copy of a document will be uploaded into the AMHRR. Once properly filed in the AMHRR the document will not be removed from the record unless directed to by an authorized agency (ARBA).

3. AR 600-37 (Unfavorable Information) provides policies regarding unfavorable information considered for inclusion in official personnel files. Chapter 7 (Appeals) provides that the Department of the Army Suitability Evaluation Board (DASEB) is the initial appeal authority and makes recommendations for removal, alteration, or transfer of unfavorable information entered in the AMHRR. This chapter sets forth the policies and procedures whereby a person may seek removal of unfavorable information from his or her AMHRR, or transfer of unfavorable information from the performance file to the restricted file of his or her AMHRR. Once an official document has been properly filed in the AMHRR, it is presumed to be administratively correct, and to have been filed pursuant to an objective decision by a competent authority. There is no time restriction for submitting an appeal for removal of unfavorable information from the AMHRR.

The recipient has the burden of proof to show, by clear and convincing evidence, to support assertion that the document is either untrue or unjust, in whole or in part. The DASEB will not consider appeals that merely allege an injustice or error without supporting evidence or a compelling argument. Appeals such as these will be returned without action. The DASA is the final decision authority for removal of unfavorable information from the AMHRR. This authority will not be further delegated.

The recipient must indicate how the transfer of the unfavorable information would be in the best interest of the Army, thereby warranting transfer of the document to the restricted file of the AMHRR.

//NOTHING FOLLOWS//