

**DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2020-065



FINAL DECISION

This proceeding was conducted according to the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 2507. The Chair docketed the case after receiving the completed application on January 13, 2020, and assigned the case to a staff attorney to prepare the decision pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated January 27, 2023, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

APPLICANT’S REQUEST AND ALLEGATIONS

The applicant, a retired Commander (O-5), who was honorably discharged on September 30, 2018, asked the Board to correct block 12c, “Net Active Service this Period,” of his discharge form DD-214 to reflect the time he spent as a cadet at the Coast Guard Academy. According to the applicant, he technically entered the service on July 11, 1994, the day he started the Academy and as such, his DD-214 should reflect the additional time he spent in uniform.

SUMMARY OF THE RECORD

The applicant entered the Coast Guard Academy on July 11, 1994. He graduated and was commissioned an ensign on May 20, 1998. The applicant continued to serve on active duty and was promoted to Commander (O-5). He retired from active duty on September 30, 2018. His DD-214 reflects his date of entry on active duty as May 20, 1998, and his time on active duty as the 20 years, 4 months, and 10 days from May 20, 1998, to September 30, 2018.

VIEWS OF THE COAST GUARD

On August 21, 2020, a Judge Advocate (JAG) for the Coast Guard submitted an advisory opinion in which she recommended that the Board grant alternate relief in this case and adopted the findings and analysis provided in a memorandum prepared by the PSC.

The JAG argued that the applicant's request to have his DD-214 updated to reflect the time he spent in the Coast Guard academy is contrary to Coast Guard Certificate of Release or Discharge from Active Duty, DD-214, Manual, PSCINST M1900.1B. According to the JAG, policy specifically states that time spent in as a cadet at a military academy is not credible as active duty to commissioned officers. For commissioned officers with no prior service, the date of entry will be the date the member signed their official oath of office upon graduation from the Coast Guard Academy.

The JAG explained that according to the applicant's DD-214, he retired from the Coast Guard on September 30, 2018, but the DD-214 makes no mention of the time the applicant spent in the Coast Guard Academy. The JAG recommended that the Board grant alternate relief and update block 18 of the applicant's DD-214 to reflect the following comment: "MEMBER ATTENDED THE COAST GUARD ACADEMY FROM JULY 11, 1994, TO MAY 20, 1998."

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On May 7, 2020, the Chair sent the applicant a copy of the Coast Guard's views and invited him to respond within thirty days. As of the date of this decision, no response has been received.

APPLICABLE LAW AND POLICY

Title 10 U.S.C. § 971 states the following in pertinent part:

(b) Prohibition on counting service as a cadet or midshipman.--In computing length of service for any purpose, service as a cadet or midshipman may not be credited to any of the following officers:

- (1) An officer of the Navy or Marine Corps.
- (2) A commissioned officer of the Army, Air Force, or Space Force.
- (3) An officer of the Coast Guard.
- (4) An officer in the Commissioned Corps of the Public Health Service.

(c) Service as a cadet or midshipman defined.--In this section, the term "service as a cadet or midshipman" means--

- (1) service as a cadet at the United States Military Academy, United States Air Force Academy, or United States Coast Guard Academy; or
- (2) service as a midshipman at the United States Naval Academy.

The Certificate of Release or Discharge from Active Duty, DD-214, Manual, PSCINST M1900.1B, provides the following relevant guidance on how time spent in the Coast Guard Academy should be reflected on a DD-214:

2. Block by Block Completion of the DD-214.

...

n. Block 12a. Date Entered Active Duty this Period. In accordance with reference (a), the date of **shall** be the date the member entered active duty for the earliest period of continuous active service for which a DD-214 was not issued. ...

Note: In accordance with reference (h), service while attending a service academy as a cadet is credible for enlisted members being reverted back to enlisted status, but in **no case is it creditable for a member commissioned as an officer. For commissioned officers with no prior service, the date

will be the date the member signed their initial oath of office upon graduation from the Coast Guard Academy.

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions based on the applicant's military record and submissions, the Coast Guard's submission and applicable law:

1. The Board has jurisdiction over this matter under 10 U.S.C. § 1552(a) because the applicant is requesting correction of an alleged error or injustice in his Coast Guard military record. The Board finds that the applicant has exhausted his administrative remedies, as required by 33 C.F.R. § 52.13(b), because there is no other currently available forum or procedure provided by the Coast Guard for correcting the alleged error or injustice that the applicant has not already pursued.

2. The application was timely because it was filed within three years of the applicant's discovery of the alleged error or injustice in the record, as required by 10 U.S.C. § 1552(b).

3. The applicant alleged that his DD-214 is erroneous because it does not reflect the time he spent as a cadet attending the Coast Guard Academy. When considering allegations of error and injustice, the Board begins its analysis by presuming that the disputed information in the applicant's military record is correct as it appears in the military record, and the applicant bears the burden of proving, by a preponderance of the evidence, that the disputed information is erroneous or unjust.¹ Absent evidence to the contrary, the Board presumes that Coast Guard officials and other Government employees have carried out their duties "correctly, lawfully, and in good faith."²

4. According to the applicant, because he was serving on active duty during his four years as a cadet at the Academy, his DD-214 should show in block 12a that he entered on active duty on July 11, 1994, the date he entered the Academy, instead of May 20, 1998, the date he received his commission, and the Net Active Service shown in block 12c should include the time he spent as a cadet. The applicant alleged that his DD-214 should reflect the total amount of time he spent in uniform. However, 10 U.S.C. § 971(b) specifically prohibits a cadet's time at the Coast Guard Academy from being counted as creditable service for any purpose for a commissioned officer. Time as a cadet only counts as active duty for an enlisted member. In addition, Article 2.n. of the Certificate of Release or Discharge from Active Duty, DD-214, Manual, PSCINST M1900.1B, states that the only time service while attending the academy is credible is when an enlisted member is reverted back to enlisted status. This article specifically states that in *no way* is it credible for a member commissioned as an officer. The manual also states, "For commissioned officers with no prior service, the date [in block 12a] will be the date the member signed their initial oath of office upon graduation from the Coast Guard Academy." Here, the record shows that the applicant signed his official oath of office on May 20, 1998, which is the date in block 12a on his DD-214. Therefore, the Board finds that the applicant has failed to prove, by a

¹ 33 C.F.R. § 52.24(b).

² *Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992); *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979).

preponderance of the evidence, that the Coast Guard erred when entering the date May 20, 1998, in block 12a as the date his continuous active duty service began. Nor has he shown that his time as a cadet should be counted as active duty and added to his Net Active Service in block 12c. As such, the applicant's request to have his DD-214 changed to reflect his time as a cadet at the Coast Guard Academy should be denied.

5. Although the applicant's specific request for relief should be denied, as argued by the Coast Guard, his DD-214 is missing a necessary comment regarding the applicant's time spent as a cadet at the Coast Guard Academy. As such, the Board finds that alternate relief should be granted, as recommended by the Coast Guard, and that block 18 of the applicant's DD-214 should be corrected to include this remark regarding his time spent in the Coast Guard Academy: "MEMBER ATTENDED THE COAST GUARD ACADEMY FROM JULY 11, 1994, TO MAY 20, 1998."

ORDER

The application of [REDACTED] ([REDACTED]) for the correction of his military record is denied, but alternate relief is granted. The Coast Guard will correct block 18 of his DD-214 to include the following comment:

“MEMBER ATTENDED THE COAST GUARD ACADEMY FROM JULY 11, 1994, TO MAY 20, 1998.”

January 27, 2023

[REDACTED] [REDACTED]
[REDACTED]

[REDACTED] [REDACTED]
[REDACTED]

[REDACTED] [REDACTED]
[REDACTED]