



**UNITED STATES AIR FORCE
BOARD FOR CORRECTION OF MILITARY RECORDS**

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2021-03756

COUNSEL:

HEARING REQUESTED: NO

APPLICANT'S REQUEST

1. He be paid for his work performed in Oct 19.
2. His two AF Forms 40A, *Record of Individual Inactive Duty Training*, be corrected to show he earned pay for the dates of 16 through 18, 24 through 25, and 28 through 30 Oct 19.

APPLICANT'S CONTENTIONS

He teleworked numerous days (8 days) in Oct 19. He was in a no points/no pay status due to his pending security clearance inquiry; however, he came to an agreement with the 944 Fighter Wing to earn pay and points towards retirement so he would still earn a good year. He performed the telework in Oct 19 and submitted the AF Forms 40A, for pay and points but was denied pay and points for this work. He was later granted points but not pay which is in violation of DoD Financial Management Regulation 7000.14-R, paragraph 58020(B). Upon reconsideration in Oct 20, he was approved for pay for his telework by his wing commander. He submitted an email to this conversation dated 22 Oct 20. Due to the approval being in the next fiscal year, his pay could not be processed and he was told to file an AFBCMR application to fix this error.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an Air Reserve major (O-4) awaiting retired pay at age 60.

Dated 25 Feb 20, AF Form 40A, provided by the applicant, indicates he was approved for training for points only via telework for the periods of 16 through 18 and 24 Oct 19. This training was in lieu of his UTAs for the months of Oct 19 and Nov 19.

Dated 25 Feb 20, AF Form 40A, provided by the applicant, indicates he was approved for training for points only via telework for the periods of 25 and 28 through 30 Oct 19. This training was in lieu of his UTAs for the months of Dec 19 and Jan 20.

Dated 22 Sep 20, Reserve Order [REDACTED] indicates the applicant was relieved from his current assignment and assigned to the retired Reserve section, effective 3 Jun 21.

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Controlled by: SAF/MRB

CUI Categories: [REDACTED]

Limited Dissemination Control: N/A

POC: SAF.MRBC.Workflow@us.af.mil

For more information, see the excerpt of the applicant's record at Exhibit B and the advisory at Exhibit C.

APPLICABLE AUTHORITY

DoDI 1215.06, *Uniform Reserve, Training, and Retirement Categories for the Reserve Components*, Enclosure 3, *Guidelines for Reserve Component (RC) Duty*, is as follows:

Paragraph 2a(1) states Inactive Duty Training (IDT) consists of attendance at regularly scheduled unit training periods (regularly scheduled drills), additional IDT periods, and voluntary IDT. IDT primarily provides individual or unit readiness training to RC Service members. IDT, or its equivalent training, may not be used for correspondence courses, to include electronic-based distributed learning, pursuant to section 101(22) of Title 37, U.S.C. Correspondence courses meeting the criteria in section 206 of Title 37 U.S.C. will be paid compensation in a non-duty status pursuant to DoDI 1215.07, *Service Credit for Non-Regular Retirement*. Units or individuals that participate in IDT may provide support to mission requirements (i.e., OS) as a result of the training. Paid IDT periods will not be less than 4 hours. No more than 2 IDT periods may be performed in any calendar day. Pursuant to section 206 of Title 37 U.S.C. and within the guidelines prescribed in this enclosure, the Secretaries of the Military Departments and the Commandant of the United States Coast Guard (USCG) may prescribe additional standards for IDT.

Paragraph 2a(2) states Regularly Scheduled Drills are IDT periods that are pre-scheduled and used primarily for individual or unit readiness training to RC Service members. The 48 annual periods of IDT are the regularly scheduled IDT as authorized for members of the Ready Reserve pursuant to requirements in section 10147 of Title 10 U.S.C. or section 502(a) of Title 32 U.S.C. A regularly scheduled drill period must be at least 4 hours in length. Equivalent training (ET) is training conducted in lieu of a missed regularly scheduled drill. There is no obligation for an RC to authorize ET periods. When an ET period is authorized, the approving official will ensure that the training is of equivalent value to the regularly scheduled of that member and available on the date(s) scheduled. An RC Service member may not be paid for more than 4 periods of ET during any fiscal year (FY) pursuant to section 206 of Title 37 U.S.C.

AIR FORCE EVALUATION

AFRC/AII recommends denying the application. From a policy and law perspective, there is no evidence of an injustice or error in favor of the applicant for this case. If the Board elects to grant, the applicant's pay must be limited to four training periods in accordance with Title 37 U.S.C. Section 206. The only reason for this would be due to the wing commander's recommendation to pay the applicant; however, even this recommendation cannot be fully supported due to restrictions imposed by law. If approved, the applicant's record should be corrected to show he is authorized pay for four training periods performed and documented on AF Form 40As in Oct 19. A full explanation is offered below.

From the start, IDT was not the correct duty status for the task. The applicant should never have been authorized IDT status for the purposes of finding a new unit or assignment. Per DoDI 1215.06, *Uniform Reserve, Training, and Retirement Categories for the Reserve Components*, paragraph 2.a.(1), IDT primarily provides individual or unit readiness training to RC Service members. Annual tour or Reserve Personnel Appropriation (RPA) could have been used for the purposes of assisting the member to find a new unit. Understandably, the applicant likely preferred IDT for the ability to collect two days of pay and points in one calendar day, but the duty performed still does not meet the intended use of this Reserve participation status.

Accepting that the IDT periods were improperly approved by the wing leadership and not the applicant, there were further policy violations with the request and processing of the IDT reschedule. Per AFMAN 36-2136, *Reserve Personnel Participation*, paragraph 4.7.1 requests to reschedule IDT must be approved in advance (i.e. not after the fact) and documented on a training flight order or AF Form 40A. The [Work...] Fighter Wing leadership allowed the applicant to reschedule periods two, three and four of the Sep 19 UTA and backdated the form to 7 Sep 19, even though the request was not submitted until 9 Sep 19 and not properly signed. The two AF Form 40As that the applicant wants pay and points for (not just points) from Oct 19 show a signature date of Feb 20. In all, the [Work...] Fighter Wing allowed the applicant to reschedule 64 hours/16 points for Oct 19 retroactively against policy.

Taking the case notes into consideration, the pledge to pay the applicant was evaluated; however, this is where the best recommendation can be partially grant should the Board wish to err on the side of the applicant. For a definition, rescheduled UTAs are considered ET. Per DoDI 1215.06, paragraph 2(c), ET is training conducted in lieu of a missed regularly scheduled drill. This policy also states there is no obligation for a RC to authorize ET periods. When an ET period is authorized, the approving official will ensure that the training is of equivalent value to the regularly scheduled of that member and available on the date(s) scheduled. A RC Service member may not be paid for more than four periods of ET during any fiscal year (FY) pursuant to section 206 of reference (j). Even though the AF Form 40As are not marked ET, the applicant's 16 points/64 hours in Oct 19 as well as the applicant's 12 hours/3 points worked and paid in Sep 19 count as ET by policy definition. Although the applicant wishes to be paid for the 16 points in Oct 19, per Title 37 U.S.C. Section 206, a member of the National Guard or of a RC of the uniformed services may not be paid under this section for more than four periods of ET, instruction, duty, or appropriate duties performed during a FY instead of the member's regular period of instruction or regular period of appropriate duty during that FY. With this being said, the applicant could only be paid for 4 of the 16 points (periods) requested in Oct 19 per Title 37 U.S.C. Section 206.

While the applicant's attorney contends it is a violation of the Financial Management Regulation to deny pay and points for duty, Title 37 U.S.C. Section 1002 states a member of the National Guard, or of a RC of a uniformed service, may, with his consent, be given additional training or other duty as provided by law, without pay, as may be authorized by the Secretary concerned. Thus, the AFBCMR Board does have the authority to also recommend to the Secretary to maintain the points only AF Form 40As for Oct 19 as the member did sign this document until 26 Feb 20.

In summary, the [Wor...] Fighter Wing Commander was well within command authority to disapprove the Sep and/or Oct 19 ET (rescheduled UTA) request as supported by AFMAN 36-2136, DoDI 1215.06 and law as shown above. Furthermore, for the more subjective elements, the overall communication between the applicant's lawyer and wing leadership/staff judge advocate suggest the commander's intent was to support the applicant with retirement (and this was the applicant's initial focus), so points in the retention/retirement (R/R) year would be the implied concern. Lastly, the applicant was undergoing some sort of Security Incident File (SIF) investigation during this time and said to be in a no pay, no points status. While this was not researched as a part of this advisory analysis, often airmen under investigation or without a clearance are placed in a duty status so they cannot participate. If the applicant was allowed to earn points, the [Wor...] Fighter Wing Commander granted some participation and flexibility to the applicant. Again, this is all within Command authority. Thus, when looking at a potential injustice to the applicant from these angles as well, it appears the wing already erred in the applicant's favor by granting IDT to find a new unit in the first place.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 31 Aug 22 for comment (Exhibit D), and the applicant replied on 27 Sep 22. In his response, the applicant's counsel contends the advisory opinion cherry picks a few documents, ignoring the totality of evidence supporting an injustice, and attempts to redefine the work that was approved, completed, and documented on the AF Form 40As. The advisory opinion notes repeatedly how the [Work-Product]/CC, not the applicant, violated regulation and rules to the applicant's detriment. The advisory opinion acknowledged that the [Work-Product]/CC agreed that the applicant should be paid due to the injustice of the circumstances. The advisory opinion ignores the memo for record submitted by the applicant stating he did not consent to a points-only status. The advisory opinion notes the [Wor...] FW/CC should not have authorized IDT status. Yet, the [Wor...] FW/CC did authorize IDT status. Based on that authorization, the applicant performed the duty to the standard required. The applicant relied on the [Wor...] FW/CC authorization to work in an IDT status. Whether the [Wor...] FW/CC had the authority to authorize the work in that status does not change the fact that the applicant relied on the commander's authorization. That is the very definition of an injustice. Additionally, the advisory opinion attempts to re-characterize the [Wor...] FW authorization for the applicant to work concluding that the work performed should be treated as "Equivalent Training (ET)" even though it is specifically authorized as not being ET type work. The "Type of Training" is listed as "Training Period" and "Telecommuting." There is a separate block for "Equivalent Training" that was left unchecked by the wing commander. Nobody ever intended the work or the authorization to be ET, so to analyze it after-the-fact as ET as a means to deny or reduce relief is wrong and an injustice. Regardless of what the commander should have done, it remains that the only fair and equitable result is to pay the applicant for that time as a Training Period that was performed by Telecommuting. That is what was authorized, that is what the applicant was told to do, that is what he did, and that is what the Air Force received the benefit of.

The applicant's complete response is at Exhibit E.

FINDINGS AND CONCLUSION

1. The application was timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is the victim of an error or injustice. While the Board notes the recommendation of AFRC/AII against correcting the record from a policy and law perspective, the Board finds a preponderance of the evidence substantiates the applicant's contentions in part. Specifically, the applicant has provided a letter from his unit authorizing pay for IDTs performed in October 2019, which is sufficient to justify granting the applicant's request to authorize pay for the period of 16 through 17 October 2019. However, for the remainder of the applicant's request, the evidence presented did not demonstrate an error or injustice, and the Board therefore finds no basis to recommend granting that portion of the applicant's request. The work performed was in lieu of his unit training assemblies (UTA) for October, November, December, and January as indicated on his AF Form 40As. Per Title 37 U.S.C. Section 206, a member of the National Guard or of a Reserve Component of the uniformed services may not be paid under this section for more than four periods of Equivalent Training, as defined as rescheduled UTAs, per fiscal year. Therefore, the Board recommends correcting the applicant's records as indicated below.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show that on 25 February 2020, his AF Form 40A, *Record of Individual Inactive Duty Training*, be amended to show he was approved for training for pay via telework for the periods of 16 and 17 October 2019. This training was in lieu of his Unit Training Assembly for the month of October 2019.

However, regarding the remainder of the applicant's request, the Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the application will only be reconsidered upon receipt of relevant evidence not already considered by the Board.

CERTIFICATION

The following quorum of the Board, as defined in Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2021-03756 in Executive Session on 16 Sep 22 and 11 Oct 22:

[REDACTED], Panel Chair
[REDACTED], Panel Member
[REDACTED], Panel Member

All members voted to correct the record. The panel considered the following:

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- Exhibit A: Application, DD Form 149, w/atchs, dated 15 Nov 21.
Exhibit B: Documentary evidence, including relevant excerpts from official records.
Exhibit C: Advisory opinion, AFRC/A1I, w/atchs, dated 30 Aug 22.
Exhibit D: Notification of advisory, SAF/MRBC to applicant, dated 31 Aug 22.
Exhibit E: Applicant's response, dated 27 Sep 22.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by AFI 36-2603, paragraph 4.11.9.

7/31/2025

Board Operations Manager, AFBCMR
Signed by: USAF

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