

IN THE CASE OF: [REDACTED]

BOARD DATE: 25 January 2024

DOCKET NUMBER: AR20230003751

APPLICANT REQUESTS: correction of his DA Form 5016 (Retirement Accounting Statement) to reflect duty that he performed for points only on:

- 5 February 2017
- 11 and 12 February 2017
- 16 February 2017
- 5 November 2017
- 10 through 12 November 2017
- 18 and 19 November 2017
- 28 and 29 November 2017
- 30 July 2018
- 22 and 24 August 2018

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 1380 (Record of Individual Performance of Reserve Duty Training), 16 February 2017
- DA Form 1380, 30 November 2017
- DA Form 1380, 1 August 2018
- DA Form 1380, 24 August 2018
- Retirement Points Record for 2017 through 2018

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 his DA Forms 1380 were signed by his supervisor and were submitted to his unit along with all supporting documentation promptly after the duty was performed; however, the documents were not processed by the U.S. Army Human Resources Command (HRC) because of the approximate 6-month backlog. HRC refers

all Soldiers to the Army Review Boards Agency (ARBA) if they were submitted outside of their processing window.

3. A review of the applicant's service record shows:

a. With prior enlisted U.S. Army Reserve (USAR) service as a cadet, on 6 November 2006, Orders Number 310-118-A-2525, issued by Headquarters (HQs), U.S. Army Cadet Command (USACC), ordered the applicant to active duty for a 7-year active duty commitment, effective 2 January 2007.

b. On 14 December 2006, Orders Number 348-1, issued by HQs, Tenth Brigade, Western Region, USACC, discharged the applicant from the USAR, effective 14 December 2006.

c. On 15 December 2006, the applicant executed his oath of office and was appointed as a Reserve commissioned officer.

d. The applicant was honorably released from active duty on 5 January 2015. A DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant completed 8-years and 4-days of active service.

e. On 6 February 2015, Orders Number HR-0375-00017, issued by HRC, the ordered the applicant to Active Duty for Operational Support (ADOS) effective 2 March 2015.

f. On 22 September 2015, Orders Number HR-5265-00002, issued by HRC, ordered the applicant to ADOS effective 1 October 2015.

g. The applicant was honorably released from active duty on 30 September 2016. A DD Form 214 shows the applicant completed 1-year, 6-months and 29-days of active service.

h. The applicant's DA Form 5016 shows the applicant completed for the period:

- 15 December 2016 through 14 December 2017 – 110 Inactive Duty Training (IDT) points, 15 membership points, 11 active duty points for a total of 136 creditable points
- 15 December 2017 through 14 December 2018 – 42 IDT points, 15 membership points, 14 active duty points for a total of 71 creditable points

4. The applicant provides:

a. DA Form 1380 dated 16 February 2017 showing the applicant performed 8-hours of duty for points only when he conducted:

- Science, Technology, Engineering, and Mathematics (STEM) mentorship and laboratory planning on 5 February 2017
- STEM mentorship and administrative on 11 February 2017
- STEM mentorship and USAR recruiting on 12 February 2017
- STEM mentorship and laboratory support on 16 February 2017

b. DA Form 1380 dated 30 November 2017 showing the applicant performed 8 hours of duty for points only when he conducted:

- STEM mentorship on 5, 10 and 11 November 2017
- Special project on 12 November 2017
- STEM mentorship on 18 and 19 November 2017
- Special project on 28 and 29 November 2017

c. DA Form 1380 dated 1 August 2018 showing the applicant performed 8-hours of duty for points only when he conducted a detachment event on 30 July 2018.

d. DA Form 1380 dated 24 August 2018 showing the applicant performed 8-hours of administrative support for training on 22 August 2018 and 4-hours of a detachment event on 24 August 2018.

e. Retirement point record for 2017 through 2018 showing the applicant had not been accredited retirement points for the dates which he has requested.

5. On 6 September 2023, in the processing of this case, HRC provided an advisory opinion regarding the applicant's request to credit him with non-paid retirement points for duty performed in February and November 2017 and July and August 2018. The advisory official stated after review of the applicant's application it was determined there is no record of the DA Forms 1380 for November 2017, July and August 2018 ever being submitted to HRC. The DA Form 1380 for February 2017 was received by HRC in April 2017; however, it was not prepared or submitted in accordance with Army Regulation (AR) 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records) and was returned without action. HRC cannot award the non-paid retirement points without direction from the Army Review Boards Agency. AR 140-185, paragraph 3-3, requires that non-paid DA Forms 1380 be forwarded to HRC for the award of retirement points no later than the end of each duty month.

6. On 13 September 2023, the ARBA Case Management Division provided the applicant the advisory opinion for review and comment. He did not respond.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is not warranted.

2. After reviewing the advisory opinion in this case, the Board found the evidence does not show why the applicant's DA Forms 1380 were not submitted in a timely manner. The Board determined that, without additional evidence, such as a memorandum for record from his commanding officer explaining the reason(s) DA Forms 1380 for the periods in question were not submitted in accordance with regulatory guidelines, the requested relief should be denied.

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.

4/24/2024

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. AR 140-1 (Mission, Organization, and Training), in effect at the time, provides policy guidance on the mission, organization, and training of the U.S. Army Reserve (USAR). It does not contain guidance on preparation for order to active duty under a mobilization situation. Paragraph 3-11 (Equivalent training (ET)), ET is performed in lieu of scheduled training (either RST or, UTA or MUTA). Pay or retirement point credit or both is authorized. ET must be accomplished within 60-days after the training for which it is substituted, or by the end of the training year (fiscal year) if within 60-days of that date. An explanation of the circumstances will be included, with a statement that the ET, if granted, will not cause the Soldier to exceed the 48 paid unit assemblies for the fiscal year. a. ET is limited to Soldiers who have missed a UTA, MUTA, or RST due to unforeseen personal emergencies and desire to make it up. No more than 4 UTAs may be made up during a fiscal year. b. ET given will be the same type and quality as the training missed. It will be appropriate to, and enhance the ability of, Soldiers to carry out their assigned duties. For staff or support personnel, this may include duty which enhances unit training, management, or readiness. c. ET must be at least as long as the training missed. d. ET will not be granted for assemblies missed due to ADT.

3. AR 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records):
 - a. Paragraph 2-2 (Criteria for earning retirement points) states retirement points may be earned by U.S. Army Reserve Soldiers for active duty or duty in an active status for active duty for training (ADT), initial active duty for training (IADT), involuntary active duty for training (involuntary ADT), voluntary IDT, annual training (AT), IDT, membership points, and for other activities specified in this regulation.
 - Four-hour rule; Soldiers earn one point for each scheduled 4-hour period of IDT at Battle Assembly, Rescheduled Training (RST), Equivalent Training, or Additional Training Assemblies
 - Two-hour rule; Soldiers earn one point for each IDT period per day for funeral honors duty with a maximum of one point per calendar day
 - Four/eight-hour rule; Soldiers earn one point for each 4 hour or greater period, award of a second point in the same day requires additional hours to bring the

day's total to a minimum of 8 hours for a maximum of two points in 1 calendar day

- Eight-hour rule; approved electronic-based distributed learning (EBDL) courses will be awarded to members of the Selected Reserve (TPU), subject to available funding, and as pre-approved, Soldiers may earn one retirement point and be paid for one IDT for every 8 hours of distance learning completed

b. Paragraph 3-3 (DA Form 1380) states nonpaid DA Forms 1380 will not be entered into Automated Drill Attendance Reporting Software (ADARS) and will be forwarded to HRC for award of retirement points no later than the end of each duty month.

c. Table 3-1 provides that the code "N" will be entered for RST. The code "N" indicates the Soldier is entitled to retirement point credit only.

4. Department of Defense Instructions 1215.07 (Service Credit for Non-Regular Retirement) states inactive duty may be credited for each attendance at an inactive duty training period. A maximum of 2 retirement points for attendance at inactive duty training periods or equivalent training, in any 1 calendar day. The Service member's participation is without payment other than the pay to which the Service member is entitled as a Reserve Component member. Credit no more than one retirement point for fewer than 8 hours.

//NOTHING FOLLOWS//