

IN THE CASE OF: ██████████

BOARD DATE: 13 March 2024

DOCKET NUMBER: AR20230006486

APPLICANT REQUESTS: in effect, correction his DA Form 5016 (Retirement Accounting Statement) to change his anniversary year ending from 17 May to 1 September.

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 5016 (Chronological Statement of Retirement Points) with Anniversary Year Ending (AYE) 1 September
- DA Form 5016 (Retirement Accounting Statement) with AYE 17 May
- E-mail from U.S. Army Human Resources Command (HRC), Reserve Personnel Actions Branch

FACTS:

1. The applicant states in effect, he requests the correction his DA Form 5016 (Retirement Accounting Statement) to change his AYE from 17 May to 1 September. He enlisted in the U.S. Army Reserve (USAR) on 1 September 2004 and entered into a Reserve Officers' Training Corps (ROTC) scholarship. Upon graduation he completed his oath of office on 18 May 2007 and was ordered to active duty on 21 May 2007. He served on active duty until 28 February 2015, when he joined the Army National Guard (ARNG). A short time later, he joined the USAR, and he planned his service requirements based on his AYE date of 1 September. However, when he was assigned to the USAR Control Group (Individual Mobilization Augmentee (IMA)) on 1 September 2022, he was informed his anniversary year ending date change to 17 May which caused him to lose 3-years towards his retirement. Due to no fault of his own, he requests constructive credit for these years of service which he earned before his AYE date was changed. If the Board grants him constructive credit, it will effectively give him 14 eligible retirement years versus the 11-years he had once his record was changed. He should not be penalized for 3-years of service for an error that should have been caught by someone else when he first joined the military.

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

a. On 2 September 2004, the applicant enlisted in the USAR. The applicant completed a DA Form 597-3 (Army Senior ROTC Scholarship Cadet Contract on the same date. The Army agreed to pay for three academic years of scholarship benefits. In paragraph 2 (General Cadet Agreement), the applicant agreed as a condition for membership in the Army ROTC Program, he would enlist in the Reserve component of the United States with an assignment to the USAR Control Group (ROTC) for the period prescribed by the Secretary of the Army.

b. On 13 March 2007, Orders Number 72-123-A-1307, issued by Headquarters (HQs), U.S. Army Cadet Command, the applicant was ordered to active duty for completion of his 4-year commitment, effective 21 May 2007.

c. On 4 May 2007, Orders Number 124-1, issued by the Military Science Department of the University [REDACTED] the applicant was discharged from the USAR Control Group (ROTC), effective 18 May 2007.

d. On 18 May 2007, the applicant executed his oath of office and was appointed a Reserve commissioned officer in the rank of second lieutenant.

e. On 31 December 2014, Orders Number 365-0263, issued by HQs, U.S. Army Garrison, Fort Bragg, the applicant was released from active duty and assigned to the Special Operation Detachment ARNG, effective 28 February 2015.

f. On 28 February 2015, the applicant was honorably released from active duty and assigned to the ARNG. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows the applicant completed 7-years, 9-months, and 10-days of active service.

g. On 1 March 2015, the applicant executed his oath of office and was granted a temporary Federal recognition in the [REDACTED] ARNG in the rank of captain.

h. On 20 March 2015, Orders Number 079-023, the applicant was appointed in the ARNG, effective 1 March 2015. The order shows the applicant's retirement year ending as 1 September.

i. On 26 March 2015, Special Orders Number 64, issued by the National Guard Bureau (NGB) the applicant was extended a Federal recognition in the ARNG, effective 1 March 2015 for initial appointment.

j. On 7 December 2015, the applicant was honorably release from the ARNG and assigned to the USAR Control Group (Individual Ready Reserve). NGB Form 22 (Report of Separation and Record of Service) shows the applicant completed 9-months and 11-days of service.

k. On 22 March 2016, Special Orders Number 53, issued by the NGB, the applicant's Federal recognition was withdrawn for transfer to the USAR, effective 7 December 2015.

l. On 7 April 2016, Orders Number C-04-604516, issued by HRC, the applicant was assigned to a USAR Troop Program Unit, effective 6 April 2016. It also shows in the additional instructions the applicant's Pay Entry Basic Date (PEBD) is 2 September 2004.

m. On 29 August 2022, Orders Number C-08-210778, issued by HRC, the applicant was assigned to the USAR Control Group (IMA), effective 1 September 2022. It also shows in the additional instructions the applicant's PEBD is 2 September 2004.

n. The applicant's NGB Form 23B (ARNG Retirement Points History Statement) dated 24 May 2023, shows the applicant's AYE as 1 September. It also shows the applicant served:

- during the period of 2 through 5 September 2004 in the USAR Control Group (Reinforcement)
- 6 September 2004 through 20 May 2007 in the ARNG ROTC/Simultaneous Membership Program (SMP)
- 0 inactive duty points, -- membership points and 0 active duty points for a total of -- points for retired pay and -- creditable years of service for retired pay for retirement year ending 5 September 2004
- 0 inactive duty points, 15 membership points and 0 active duty points for a total of 15 points for retired pay and 0 years of service for retired pay for retirement year ending 1 September 2005
- 0 inactive duty points, 15 membership points and 0 active duty points for a total of 15 points for retired pay and 0 years of service for retired pay for retirement year ending 1 September 2006
- 0 inactive duty points, -- membership points and 0 active duty points for a total of -- points for retired pay and 0 years of service for retired pay for retirement year ending 20 May 2007

o. The applicant's DA Form 5016 dated 16 June 2023, shows the applicant's AYE as 17 May. It also shows the applicant served in the ROTC during the period of 2 September 2004 through 17 May 2007 and obtained 0 inactive duty points, 0 membership points and 0 active-duty points for a total of 0 creditable points and 0 qualifying years for retirement.

3. The applicant provides:

a. DA Form 5016 (Chronological Statement of Retirement Points) shows the applicant's AYE on 1 September. It also shows the applicant served during the period of:

- 2 through 5 September 2004 in the USAR
- 6 September 2004 through 20 May 2007 in the ROTC
- 0 inactive duty points, 0 membership points and 0 active-duty points for 0 total creditable points and 0 qualifying years for retirement for retirement year ending 5 September 2004
- 0 inactive duty points, 0 membership points and 0 active-duty points for 0 total creditable points and 0 qualifying years for retirement for retirement year ending 1 September 2005
- 0 inactive duty points, 0 membership points and 0 active-duty points for 0 total creditable points and 0 qualifying years for retirement for retirement year ending 1 September 2006
- 0 inactive duty points, 0 membership points and 0 active-duty points for 0 total creditable points and 0 qualifying years for retirement for retirement year ending 20 May 2007
- commissioned in the Regular Army on 21 May 2007

b. DA Form 5016 (Retirement Accounting Statement) shows the applicant's anniversary year ending on 17 May. It also shows the applicant served during the period of:

- 2 September 2004 through 17 May 2007 in the ROTC
- 18 through 20 May 2007 in the TPU
- 21 May 2007 commissioned in the U.S. Army
- 0 inactive duty points, 0 membership points and 0 active-duty points for 0 total creditable points and 0 qualifying years for retirement for retirement year 2 September 2004 through 17 May 2007
- 0 inactive duty points, 0 membership points and 0 active-duty points for 0 total creditable points and 0 qualifying years for retirement for retirement year ending 20 May 2007

c. E-mail from HRC, Reserve Personnel Actions Branch, dated 24 May 2023, which stated his record prior to the update reflected he served as a ROTC SMP cadet during the period of 2 September 2004 through 20 May 2007 which had established his retirement year ending as 1 September. However, from the documents in his service record shows he was not a SMP cadet and therefore he did not earn any retirement points. His AYE was established from his initial DA Form 71 (Oath of Office). As this error should have been identified in 2018, it was suggested that he apply to the Army Board for Corrections of Military Records (ABCMR) to request constructive credit.

4. On 5 December 2023, in the processing of this case, HRC, provided an advisory opinion regarding the applicant's request for constructive credit for retirement years lost due the correction of his AYE. The advisory official stated the regulatory guidance states the AYE is the date a service member entered into active service or active status in a Reserve component. The applicant's DA Form 5016 was reviewed and corrected in accordance with the regulation as he entered an active status on 18 May 2007 which established his AYE as 17 May. However, correcting his AYE shifted his retirement points which resulted in a loss of total credible years of service. His retirement points cannot be adjusted without the direction of the ABCMR.

5. On 11 December 2023, the Army Review Boards Agency, 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 that relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition, available military records and United States Army Human Resources Command -Personnel Services Division advisory opinion, the Board concurred with the advising official finding the applicant's DA Form 5016 was corrected in accordance with regulatory guidance AR140*185. Evidence shows the correction of the applicant's anniversary year ending (AYE) created a shift in his retirement points, resulting in a loss of the applicant's total credible years of service. The Board determined there is sufficient evidence based on the advisory opine to change the applicant's anniversary year ending from 17 May 2007 to 1 September 2022. As such, the Board granted relief.

2. Prior to closing the case, the Board did note the analyst of record administrative notes below, and recommended the correction is completed to more accurately depict the military service of the applicant.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

In addition to the administrative notes annotated by the Analyst of Record (below the signature), 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 showing the applicant's anniversary year ending (AYE) changed from 17 May 2007 to 1 September 2022 on his DA Form 5016 (Retirement Accounting Statement).

3/19/2024

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.

ADMINISTRATIVE NOTE(S):

1. Reference the enclosed request for correction of military records from the subject individual to correct his DD Form 214 (Certificate of Release or Discharge from Active Duty) for the period ending February 28, 2015, by :

a. Delete:

- Item 9 (Command to Which Transferred): U.S. Army Reserve Control Group (Reinforcement), 1600 Spearhead Division Avenue, Fort Knox, KY 40122

- Item 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized): Army Commendation Medal

b. Add:

- Item 9: Special Operations Detachment (SOD) (Airborne) (W92WAA, 408 St. Stephens School Road South, Austin, TX 78746
- Item 13: Army Commendation Medal (2nd Award)

2. A review of the records listed below (enclosed) is sufficient to substantiate correction of the DD Form 214 without action by the Board.

- DD Form 214 service ending February 28, 2015
- DA Form 4980-14 (The Army Commendation Medal Certificate) Permanent Orders Number 228-048
- Headquarters (HQs), U.S. Army Garrison, Fort Bragg Orders Number 365-0263
- HQs, U.S. Army Garrison, Fort Bragg Orders Number 063-0279
- DA Form 4980-14 Permanent Orders Number 037-02

REFERENCES:

1. Army Regulation (AR) 140-185 (Training and Retirement Points Credit and Unit Level Strength Accounting Records) pertains to Army policy for U.S. Army Reserve (USAR) training and retirement point credit.

a. Paragraph 1-6, retirement point credit is authorized for Reserve Officer Training Corps (ROTC)/Simultaneous Membership Program (SMP), DEP Soldiers, RR Soldiers in an active status and active Standby Reserve Soldiers.

b. Paragraph 1-8 (Establishment of anniversary year), the criteria for establishing the service requirement for a satisfactory year of service for non-regular retirement per DODI 1215.07 and changing the anniversary year ending date are as follows: the full-year periods used for the crediting of qualifying years for non-regular retirement must be based on the anniversary years. Anniversary year periods are calculated from an anniversary date. The anniversary date is the date the service member entered into active service or active status in a RC. Exceptions to calculating anniversary years are an officer with service as a cadet at a Service academy per Title 10 United States Code (USC), section 403, or in a Senior ROTC Program in accordance with Title 10 USC, section 2104 and Title 10 USC, section 2107, will have, as an anniversary date, the date the Soldier entered into active service or active status minus any service as a cadet. When the anniversary date shown on any authorized DA Form 5016 is incorrect

the Soldier's unit of assignment should submit a request for action to HRC via encrypted email for processing.

2. Title 10 USC, section 2106 (Advanced training; commission on completion), (c) In computing length of service for any purpose, an officer appointed under this section may not be credited with enlisted service for the period covered by his advanced training, other than any period of enlisted service performed on or after 1 August 1979, as a member of the Selected Reserve.

3. Title 10 USC, section 2107 (Financial assistance program for specially selected members), (g) In computing length of service for any purpose, an officer appointed under this section may not be credited with service either as a cadet or midshipman or concurrent enlisted service, other than concurrent enlisted service performed on or after 1 August 1979, as a member of the Selected Reserve.

4. Department of Defense Instruction (DoDI 1215.07 (Service Credit for Non-Regular Retirement), establishes policy, assigns responsibilities, prescribes procedures, and establishes requirements for crediting active and reserve service for non-regular retirement.

a. Paragraph 2.3 (Secretaries of the Military Departments And Commandant, United States Coast Guard), the Secretaries of the Military Departments and the Commandant, United States Coast Guard: Issue regulations and guidance governing the administration, crediting, and management of non-regular retirement consistent with this issuance. Record, maintain, and report the information necessary for the accurate, effective, and timely management of service credit for non-regular retirement. Make information available to estimate the retired pay for non-regular retirement by eligible individuals.

b. Paragraph 3.1 (Criteria for Establishing the Service Requirement for a Satisfactory Year of Service for Non-Regular Retirement), b. Establishing an Anniversary Year. (1) Base the full-year periods used to determine a creditable year of qualifying service toward a non-regular retirement on anniversary dates as set out in this issuance. (2) Except as noted in Paragraph 3.1.d., calculate anniversary year periods from an anniversary date. The date the Service member entered into active service or active status in an RC establishes the anniversary year. d. Exceptions to calculating anniversary years. (1) In the case of an officer with service as a cadet or midshipman at a Service academy or in a Senior Reserve Officers' Training Corps program, the date for the start of a Service member's initial anniversary year will be established by the date the Service member entered into active service or active status minus any service as a cadet or midshipman.

//NOTHING FOLLOWS//