

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 May 2024

DOCKET NUMBER: AR20230009924

APPLICANT REQUESTS: correction of his DA Form 5016 (Retirement Accounting Statement) to reflect the additional non-paid retirement points for duty performed for eight non-paid retirement points for Retirement Year Ending (RYE) 7 May 2012.

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

- DD Form 149 (Application for Correction of Military Record)
- 11st Battalion (BN), 108th Regiment (Regt) (Officer Educational System (OES)) Memorandum, Subject: Letter of Lateness for DA Form 1380 (Record of Individual Performance of Reserve Duty Training) Points Only
- DA Form 1380 for February 2012
- DA Form 1380 for April 2012
- Process DA Form 1380 for Retirement Points Only checklist

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 in effect, he requests the correction of his DA Form 5016 to reflect an additional 8 non-paid retirement points for duty he performed during his RYE 7 May 2012. Due to administrative issues caused by his unit being geographically displaced from his Headquarters (HQs) at the time he performed the duty, the DA Forms 1380 were not processed, and he was not awarded the retirement points. The DA Forms 1380 were submitted through his unit to the U.S. Army Human Resources Command (HRC) but he was advised because he had submitted them outside of the regulatory guidelines, he would have to submit his request to the ABCMR. The duty was verified by his chain of command at the time the duty was performed, and the DA Forms 1380 were endorsed by his current chain of command.
3. A review of the applicant's service record shows:

a. With prior U.S. Army Reserve (USAR) enlisted service, on 10 April 2004, Orders Number 101-021-A-1048, issued by HQs, U.S. Army Cadet Command, ordered the applicant to active duty, effective 24 May 2004, for a 4-year active duty commitment due to his acceptance of an appointment in the USAR.

b. On 8 May 2004:

(1) The applicant executed his oath of office and was appointed a Reserve commissioned officer.

(2) Orders Number 14-37, issued by the U.S. Army Reserve Officers' Training Corps (ROTC) Instructor Group, Senior Division, discharged the applicant from the USAR Control Group (ROTC), effective 7 May 2004.

c. On 12 February 2007, Orders Number 043-0636, issued by HQs, 101st Airborne Division (Air Assault) and Fort Campbell, released the applicant from active duty on 24 May 2007 and assigned to a USAR Troop Program Unit, 323rd Military Intelligence (MI) BN.

d. The applicant was honorably released from active duty on 24 May 2007 and assigned to the 323rd MI BN. DD Form 214 shows the applicant completed 2-years, 11-months, and 26-days of active service.

e. On 24 August 2007, the applicant executed his oath of office and was appointed a Reserve commissioned officer in the rank/grade of first lieutenant (1LT)/O-2.

f. On 17 September 2007, Orders Number C-09-726893, issued by HRC, the appointed and assigned applicant to the USAR Control Group (Reinforcement), effective 30 May 2007.

g. On 1 November 2007, Orders Number C-11-730248, issued by HRC, assigned the applicant to the 323rd MI BN, effective 31 October 2007.

h. On 19 August 2011, Orders Number 11-231-00038, issued by HQs, 99th Regional Support Command, assigned the applicant to the 3300th Strategic Intelligence Group, Detachment 2, effective 20 September 2011.

i. On 5 October 2021, Orders Number 21-278-00005, issued by HQs, 99th Readiness Division (USAR), assigned the applicant to the 11th BN, 108th Regiment, effective 4 November 2021.

j. DA Form 5016 dated 11 April 2024 shows the applicant earned during RYE

7 May 2012: 30 Inactive Duty Training (IDT) points, 15 membership points and zero Active Duty Training (ADT) points for a total of 45 creditable points.

4. The applicant provides:

a. 11th BN, 108th Regiment (OES) Memorandum, Subject: Letter of Lateness for DA Form 1380 Points Only, dated 21 March 2022, which stated the applicant's DA Forms 1380 for duty performed in February and April 2012 were not processed in a timely manner due to encountering administrative challenges as he was geographically displaced from his HQs and the administrative staff at the time the duty was performed.

b. DA Form 1380 dated 27 June 2022 shows the applicant performed 8-hours of duty for two non-paid retirement points each day on 11 and 12 February 2012 at Fort Belvoir, Virginia. He conducted physical training, administrative tasks, range safety training and preparation for an upcoming weapons qualification range. The DA Form 1380 was addressed to the 11th BN, 108th Regiment (OES), Concord, NC, and the applicant was assigned to the 3300th Strategic Intelligence Group, Fort Belvoir, Virginia. Lieutenant Colonel (LTC) [REDACTED] signed the DA Form 1380 on 5 July 2022 as the officer who had knowledge the applicant performed the duty.

c. DA Form 1380 dated 27 June 2022 shows the applicant performed 8-hours of duty for two non-paid retirement points each day on 14 and 15 April 2012 at Suitland, MD. He conducted physical training, classified operational support to the Defense Intelligence Agency and administrative tasks. The DA Form 1380 was addressed to the 11th BN, 108th Regiment (OES), Concord, NC, and the applicant was assigned to the 3300th Strategic Intelligence Group, Fort Belvoir. LTC [REDACTED] signed the DA Form 1380 on 5 July 2022 as the officer who had knowledge the applicant performed the duty.

d. TPU Personnel Actions Checklist showing the applicant submitted his DA Forms 1380 for processing.

5. On 12 January 2024, in the processing of this case, HQ, U.S. Army Reserve Command, provided an advisory opinion regarding the applicant's request for the correction of his DA Form 5016 to add eight non-paid retirement points. The advisory official stated upon review of the applicant's documents it was determined he should be awarded eight non-paid retirement points. The applicant submitted his DA Forms 1380 for duties performed outside of the scheduled unit training assembly. Due to the unit's administrative errors, they could not be processed in a timely manner. A favorable decision will allow the Readiness Division to process the DA Forms 1380 for retirement points.

6. On 18 January 2024, the Army Review Boards Agency, Case Management Division, provided the applicant the advisory opinion for review and comment.

7. On 31 January 2024, the applicant responded via e-mail stating he agreed with the advisory opinion.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is warranted.

2. The Board concurred with the conclusion of the advisory official that the evidence confirms the applicant should be credited with 8 additional non-paid retirement points based on the DA Forms 1380 he provided. The Board determined the record should be corrected by processing the forms and updating the applicant's retirement points.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

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 by processing the DA Forms 1380 provided in support of his application and updating his retirement points accordingly.

9/16/2024

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. Army Regulation (AR) 140-1 (Mission, Organization, and Training), provides policy guidance on the mission, organization, and training of the U.S. Army Reserve (USAR).

a. 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.

b. Paragraph 3-14.2 (Additional training assemblies (ATAs)), ATAs may be used to conduct additional wartime or assigned mission training. An ATA will be a minimum of 4-hours. No more than 12 ATAs will be performed by any one individual per year.

3. AR 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records), prescribes policy for U.S. Army Reserve (USAR) training and retirement point credit.

a. Paragraph 2-1 (Criteria for crediting retirement points), the limitations on the number of points which may be credited to a Soldier during a retirement year area. Maximum-365 (366 during leap year) points. Maximum for inactive duty training (IDT) 60 points for IDT and membership points. However, Annual or Terminal Statement of Retirement Points will report all points earned. Retirement points credited for activities other than active service or funeral honors may not exceed 130 retirement points for anniversary years closing on or after 30 October 2007. Inactive duty training (IDT) will be either 4-hours in length for one retirement point or 8-hours in length for two retirement points, with the exception of the 2 hour IDT funeral honors duty.

b. Paragraph 2-2 (Criteria for earning retirement points) states retirement points may be earned by USAR Soldiers for active duty or duty in an active status for 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 training of individual Soldier in a non-pay status.

c. Paragraph 2-4 (Criteria for awarding retirement points), personnel on AD, ADT, IADT, involuntary ADT, or AT are awarded 1 point for each calendar day they serve in one of these categories and may not be awarded additional points for other activities while in such status. Table 2-1 provides criteria for award of retirement points for IDT performed in accordance with AR 140-1 (unless another reference is cited). Most types of IDT are covered by one of the following rules on required duration of IDT and calendar day limitations on points.

- Four-hour rule; Soldiers earn one point for each scheduled 4-hour period of IDT at Battle Assembly, Rescheduled Training (RST), ET, or Additional Training Assemblies
- 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

d. Table 2-1 (Award of IDT retirement points) rule 10; performs staff and administrative duties as additional training for points only in support of Troop Program Unit activities as a Selected Reserve Soldier may be awarded points under the 4-hour/8-hour rule except for UTA/MUTA, RST, ET, make up assemblies or ATA.

e. Paragraph 3-3 (DA Form 1380), DA Form 1380 will be prepared for a unit Soldier who performs ET or additional training with their unit subsequent to the scheduled BA. TPU units will retain one copy of the DA Form 1380 to post the appropriate entry into ADARS for the month's report and then place in the appropriate Army records information management system file. Non-paid DA Forms 1380 will not be entered into ADARS and will be forwarded to HRC for award of retirement points no later than the end of each duty month.

f. 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. The code "P" indicated the Soldier is entitled to retirement point credit and pay.

4. Department of Defense Instruction (DoDI) 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//