

IN THE CASE OF: ██████████

BOARD DATE: 14 June 2024

DOCKET NUMBER: AR20230010776

APPLICANT REQUESTS: adjustment of his retirement points to reflect two qualifying years of service achieved from 2 December 2016 – 29 January 2018.

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 597 (Army Senior Reserve Officers' Training Corps (ROTC) Nonscholarship Cadet Contract), 24 January 2007
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 1 December 2016
- Two DA Forms 5016 (Retirement Accounting Statement), 5 August 2023 and 7 August 2023

FACTS:

1. The applicant states since joining the military, he has not had a break in service. He contests that an adjustment of his retirement points based on the date that he signed his ROTC contract (24 January 2007) has caused him to be short one point from receiving a qualifying year of service. A change of his Retirement Year Ending (RYE) date by 6 days resulted in the movement of two previously awarded retirement points to a different year causing him to be short one retirement point from receiving a qualifying year of service. Prior to the adjustment of his RYE date, he had received a qualifying year of service. During this period, he had recently transferred back into the U.S. Army Reserve (USAR). Since returning to the USAR, he has consistently obtained qualifying years of service. Had he been aware of shortage at the time, he would have done what was needed to receive a "good year." In addition, from 3 March 2006 to 23 January 2007, he was assigned to a Troop Program Unit (TPU) where he consistently received 60 points per year.

2. A review of the applicant's service records show:

- a. On 24 August 2000, the applicant enlisted in the Regular Army.

b. On 23 August 2004, the applicant was honorably released from active duty and transferred into the USAR Control Group (Reinforcement).

c. On 9 January 2007, the applicant contracted to participate in the Fayetteville State University ROTC program.

d. On 30 January 2007, the applicant enrolled in the Simultaneous Membership Program (SMP).

e. On 9 May 2009, Campbell University (ROTC) issued Orders Number 129-20 discharging the applicant from the USAR, effective 8 May 2009, to accept a commission. He subsequently was appointed as a Reserve commissioned officer and executed an oath of office.

f. On 24 May 2009, the applicant was ordered to active duty.

g. On 1 December 2016, the applicant was honorably discharged from active duty in accordance with Army Regulation 600-8-24 (Officer Transfers and Discharges) Chapter 5.

h. On 11 October 2016, the U.S. Army Human Resources Command (HRC) issued Orders Number C-10-613565 reassigning the applicant to the USAR Control Group (Reinforcement), effective 2 December 2016.

i. On 2 November 2016, HRC issued Orders Number C-11-615113 reassigning the applicant to a TPU, effective 2 December 2016. Subsequently, Orders Number C-10-613565R was issued revoking Orders Number C-10-613565.

3. The applicant provides:

a. DA Form 5016 dated 5 August 2023, reflective of the applicant's qualifying service completed between 3 March 2000 and 3 March 2023. This document further provides an established 2 March Annual Year Ending (AYE) date. During the period of 3 March 2017 to 2 March 2018, the applicant received a total of 53 retirement points (24 - Inactive Duty Training (IDT) points, 15 Membership points and 14 Active Duty Training (ADT) points). During the period of 3 March 2018 to 2 March 2019, the applicant received 70 retirement points (40 IDT points, 15 ADT points and 15 Membership points). Both periods are reflected as qualifying years of service.

b. DA Form 5016 dated 7 August 2023, reflective of the applicant's qualifying service completed between 3 March 2000 and 3 March 2023. This document further provides an established 29 January AYE date. During the period of 2 December 2016 and 29 January 2017, the applicant received a total of two membership/retirement

points. During the period of 30 January 2017 to 29 January 2018, the applicant received 49 retirement points (20 IDT points, 14 ADT points and 15 Membership points); one point short of qualifying year of service.

4. On 20 December 2023, the HRC, Chief, Personnel Services Division, provided an advisory opinion noting that a review of the applicant's DA Form 5016 was conducted on 7 August 2023 requiring an adjustment his AYE date which resulted in the loss of creditable years of service. The applicant initially entered military service on 3 March 2000 which established his AYE date. On 24 January 2007, he entered into a non-creditable status (enrollment in an ROTC program) and then reentered a creditable status (ROTC SMP) on 30 January 2007 reestablishing his AYE date as 29 January. The HRC office is precluded from adjusting retirement points without the direction of the ABCMR.

5. On 11 January 2024, the applicant was provided with the advisory opinion and afforded an opportunity to provide comments. He did not respond.

#### BOARD DISCUSSION:

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 review based on law, policy, and regulation. The Board reviewed and concurred with the U.S. Army Human Resources Command (HRC) advising official and determined the applicant entered a non-creditable status in January 2007 and returned to a creditable status in January 2007, reestablishing his anniversary year ending as 29 January. His record was reviewed and subsequently corrected causing a loss in total creditable years of service. The Board concluded that, at no fault of the applicant, his points were recalculated and disbursed to different anniversary year ending dates and therefore determined relief was appropriate in redistributing his retirement points to show he earned at least 50 retirement points per year.

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 awarding the applicant constructive credit toward a qualifying retirement for the period 20161202-20170129 by awarding 48 additional retirement points and the period 20170130-20180129 by awarding 1 additional retirement point.

7/1/2024

X [Redacted Signature]

CHAIRPERSON

[Redacted Name]

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. Army Regulation (AR) 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records), paragraph 1-8 (Establishment of Anniversary Year) provides the criteria for establishing the service requirement for a satisfactory year of service for non-regular retirement and changing the anniversary year ending date. 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 Servicemember entered active service or active status in a RC. Exceptions to calculating anniversary years are:

a. An officer with service as a cadet at a Service academy or in a Senior ROTC Program will have as an anniversary date, the date the Soldier entered active service or active status minus any service as a cadet.

b. The month and day for each successive anniversary year will not be adjusted unless the Servicemember has a break in service. A break in service occurs only when a member transfers to an inactive status list, the inactive National Guard, a temporary disability retired list, the Retired Reserve, or is discharged for longer than 24 hours. There will not be a break in service if the Servicemember transfers directly to another active component or RC. When a Servicemember with a break in service returns to an active Reserve status or to active service, the revised anniversary year start date will be the date of return or reentry.

c. 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.

2. Title 10, USC, section 1552 states the Secretary of a military department may correct any military record of the Secretary's department when the Secretary considers it necessary to correct an error or remove an injustice.

3. AR 135-180 (Qualifying Service for retired Pay Non-Regular Service) implements statutory authorities governing the granting of "retired pay" to Soldiers and former Reserve components (RC) Soldiers. Chapter 2 provides eligibility criteria and states, in pertinent part, that in order to qualify for non-regular retirement, a member must have attained age 60 and completed a minimum of 20 years of qualifying service. Paragraph 2-8 defines qualifying service and states, in pertinent part, that an RC Soldier must earn a minimum of 50 retirement points each retirement year to have that year credited as qualifying service.

//NOTHING FOLLOWS//