

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 June 2024

DOCKET NUMBER: AR20230011696

APPLICANT REQUESTS:

- correction of retirement points to reflect award of qualifying service credit for attendance at the Command and Staff College (CGSC) from 2015-2016
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Memorandum – Subject: Request for Immediate Level Education (ILE) Equivalent Credit, 31 January 2017
- DA Form 1380 (Record of Individual Performance of Reserve Duty Training)
- Email communication
- Memorandum – Subject: DA Form 1380, Returned Without Action, 28 January 2019

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 that his service records are incorrect because they fail to reflect award of qualifying service credit (retirement points) for his attendance and completion of CGSC despite receiving constructive service credit for attending the resident U.S. Marine Corps (USMC) CGSC in 2017. He submitted his request multiple times through multiple channels at the guidance of the U.S. Army Human Resources Command (AHRC) and his home unit administrative personnel only to have the request rejected due to either clerical errors, change in process, and/or inaccurate information provided by said individuals.

3. A review of the applicant's available service records reflects the following:

a. After serving as a Reserve Officers' Training Corps cadet, on 14 May 1999, the applicant was appointed as a Reserve commissioned officer and executed an oath of office.

b. On 11 October 2001, the National Guard Bureau (NGB) issued Special Orders Number 286 AR announcing Federal recognition of the applicant's initial appointment in the Army National Guard (ARNG), effective 2 September 2001.

c. On 24 April 2013, the MDARNG issued Orders Number 114-067 announcing the applicant's separation from the ARNG and transfer into the U.S. Army Reserve (USAR), effective 18 April 2013.

d. On 15 January 2014, AHRC issued Orders Number C-01-400572 reassigning the applicant to an Individual Mobilization Augmentee (IMA) position, effective 15 January 2014.

e. On 31 January 2017, the applicant was awarded ILE equivalent credit for successfully completing the USMC CGSC (in-resident) course and the Army CGSC Preparatory Course as a Department of the Army Civilian.

f. On 28 February 2019, AHRC issued Orders Number C-02-902660 reassigning the applicant to a Troop Program Unit, effective 15 March 2019.

g. A review of the applicant's most recent DA Form 5016 (Retirement Accounting Statement) dated 14 February 2014 provides the following:

(1) Retirement Year Ending (RYE) 2015 (14 May 2014 – 13 May 2015) the applicant was awarded 47 points; comprised of 20 Inactive Duty Training (IDT), 12 Active Duty Training (ADT) and 15 Membership points).

(2) RYE 2016 (14 May 2015 – 13 May 2016) the applicant was awarded 27 points; comprised of 12 ADT and 15 Membership points.

(3) RYE 2017 (14 May 2016 – 13 May 2017) the applicant was awarded 57 points; comprised of 42 IDT and 15 Membership points.

4. The applicant provides the following DA Forms 1380 dated 27 July 2022:

a. DA Form 1380 reflective of the applicant's attendance at the resident USMC CGSC on 1-4 and 7-10 December 2015 (8-hours per day for a total of 16 points).

b. DA Form 1380, reflective of the applicant's attendance at the resident USMC CGSC on 1, 2, 5-9 and 13 October 2015 (8-hours per day for a total of 16 points).

- c. DA Form 1380, reflective of the applicant's attendance at the resident USMC CGSC on 3, 6-8 June 2016 (8-hours per day for a total of 8 points).
- d. DA Form 1380, reflective of the applicant's attendance at the resident USMC CGSC on 4, 7-11 and 14-15 March 2016 (8-hours per day for a total of 16 points).
- e. DA Form 1380, reflective of the applicant's attendance at the resident USMC CGSC on 5-7 and 10-14 August 2015 (8-hours per day for a total of 16 points).
- f. DA Form 1380, reflective of the applicant's attendance at the resident USMC CGSC on 5-6, 9-10, 12-13 and 16-17 November 2015 (8-hours per day for a total of 16 points).
- g. DA Form 1380, reflective of the applicant's attendance at the resident USMC CGSC on 6-8, 11-15 January 2016 (8-hours per day for a total of 16 points).
- h. DA Form 1380, reflective of the applicant's attendance at the resident USMC CGSC on 7-8, 11-15 and 18 April 2016 (8-hours per day for a total of 16 points).
- i. DA Form 1380, reflective of the applicant's attendance at the resident USMC CGSC on 9-11 and 14-18 September 2015 (8-hours per day for a total of 16 points).
- j. DA Form 1380, reflective of the applicant's attendance at the resident USMC CGSC on 10-12, 16-19 and 22 February 2016 (8-hours per day for a total of 16 points).
- k. DA Form 1380, reflective of the applicant's attendance at the resident USMC CGSC on 11,14-18 December 2015 and 4-5 January 2016 (8-hours per day for a total of 16 points).
- l. DA Form 1380, reflective of the applicant's attendance at the resident USMC CGSC on 11-13 and 16-20 May 2016 (8-hours per day for a total of 16 points).
- m. DA Form 1380, reflective of the applicant's attendance at the resident USMC CGSC on 14-16 and 19-23 October 2015 (8-hours per day for a total of 16 points).
- n. DA Form 1380, reflective of the applicant's attendance at the resident USMC CGSC on 16-18 and 21-25 March 2016 (8-hours per day for a total of 16 points).
- o. DA Form 1380, reflective of the applicant's attendance at the resident USMC CGSC on 17-21 and 24-26 August 2015 (8-hours per day for a total of 16 points).

p. DA Form 1380, reflective of the applicant's attendance at the resident USMC CGSC on 18-20, 23-25, 27 and 30 November 2015 (8-hours per day for a total of 16 points).

q. DA Form 1380, reflective of the applicant's attendance at the resident USMC CGSC on 19-22 and 25-28 April 2016 (8-hours per day for a total of 16 points).

r. DA Form 1380, reflective of the applicant's attendance at the resident USMC CGSC on 19-22 and 25-28 January 2016 (8-hours per day for a total of 16 points).

s. DA Form 1380, reflective of the applicant's attendance at the resident USMC CGSC on 21-25 and 28-30 September 2015 (8-hours per day for a total of 16 points).

t. DA Form 1380, reflective of the applicant's attendance at the resident USMC CGSC on 23-26, 29 February 2016 and 1-3 March 2016 (8-hours per day for a total of 16 points).

u. DA Form 1380, reflective of the applicant's attendance at the resident USMC CGSC on 23-27 and 31 May 2016 and 1-2 June 2016 (8-hours per day for a total of 16 points).

v. DA Form 1380, reflective of the applicant's attendance at the resident USMC CGSC on 26-30 October 2015 and 2-4 November 2015 (8-hours per day for a total of 16 points).

w. DA Form 1380, reflective of the applicant's attendance at the resident USMC CGSC on 28-31 March 2016 and 1, 4-6 April 2016 (8-hours per day for a total of 16 points).

x. DA Form 1380, reflective of the applicant's attendance at the resident USMC CGSC on 27-28 and 31 August 2015 and 1-4, 8 September 2015 (8-hours per day for a total of 16 points).

y. DA Form 1380, reflective of the applicant's attendance at the resident USMC CGSC on 29 January 2016, and 1-5, 8-9 February 2016 (8-hours per day for a total of 16 points).

z. DA Form 1380, reflective of the applicant's attendance at the resident USMC CGSC on 29 April 2016 and 2-6, 9-10 May 2016 (8-hours per day for a total of 16 points).

aa. Email communication reflective of communication from AHRC regarding the applicant's submitted request for qualifying service credit for his attendance at the

resident USMC CGSC. The applicant's request was Returned Without Action (RWOA) and redirected to seek relief through this Board.

bb. Memorandum – Subject: DA Form 1380, RWOA dated 28 January 2019, reflective of the applicant's submitted request for qualifying service credit being RWOA because it was not submitted prior to the end of each duty month or within 30 days following completion of the duty performed.

5. On 4 March 2024, Headquarters, U.S. Army Reserve Command, Chief, Special Actions Branch provided an advisory opinion recommending partial approval of the applicant's request noting that Electronic Based Distance Learning (EBDL) course work is eight hours for 1 retirement point. On the DA Form 1380, Column 9c. (Retirement Points) should be coded as "N1" rather than "N2" if applicable indicating that 1 point per day is to be awarded.

6. On 8 March 2024, the applicant was provided with a copy of the advisory opinion and afforded 14 days to provide comments. The applicant responded offering no objections to the advisory opinion in that he would be awarded 1 point per 8-hour day.

7. On 7 June 2024, Headquarters, U.S. Army Reserve Command, Chief, Special Actions Branch rescinded their previous advisory opinion noting that in accordance with AR 140-185 "Soldiers attending training in a DoD Civilian capacity are not entitled to retirement point credit." Therefore, it is their recommendation that the applicant's requested relief be denied.

8. The applicant was provided with the updated advisory opinion to give him an opportunity to submit a rebuttal. 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 not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The applicant contends he did not receive retirement point credit for attendance and completion of CGSC despite receiving constructive service credit for attending the resident U.S. Marine Corps (USMC) CGSC in 2017. The Board reviewed and agreed with the USARC advisory official's determination that he should not be awarded points in accordance with AR 140-185. Soldier attending training in a DoD Civilian capacity are not entitled to retirement point credit. Therefore, the Board determined no administrative relief warranted.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	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.

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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 140-185 (Training and Retirement Point Credits and Unit Level Strength and Accounting Records), prescribes the types of training and activities for which retirement points are authorized and the procedures for recording retirement point credits and training for U.S. Army Reserve (USAR) Soldiers. A qualifying year of service

for non-regular retired pay is a full year during which a Reserve Component member is credited with a minimum of 50 retirement points.

a. Paragraph 2–2, (Criteria for Earning Retirement Points) states retirement points may be earned by USAR Soldiers for active duty (AD), or while in an active Reserve status, for ADT, initial active duty for training (IADT), involuntary active duty for training (involuntary ADT), AT, and IDT. Types of IDT are:

- regularly scheduled unit training includes UTA, and MUTA
- Regularly Scheduled Training (RST) other than UTA/MUTA
- make up assemblies for missed UTA/MUTA due to AT
- Equivalent Training (ET) in lieu of scheduled UTA/MUTA or RST
- additional training assemblies (ATA)
- two-hour unit training assemblies
- training of individual Soldiers in non-pay status.

b. Paragraph 2-3 (Qualification and Eligibility for Earning Retirement Points) provides that all USAR Soldiers are classified into alphabetic training/pay categories (T/PC) for determination of individual requirements for paid IDT and AT (see AR 140-1). These categories determine individual status in the RR (Selected Reserve (SELRES), IRR, and the Standby Reserve (active and inactive)). Soldiers attending training or distance learning/distributed learning training in a DOD Civilian capacity are not entitled to retirement point credit.

c. Paragraph 2–4 (Criteria for Awarding Retirement Points) states, 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. Most types of IDT are covered by one of the following rules on required duration of IDT and calendar day limitations on points:

- one point for each scheduled 4-hour period of IDT at UTA, RST, ET, ATA, or make up assembly maximum of 2 points in 1 calendar day
- one point for each 2 hour or greater period
- two-hour aggregates of shorter periods may be used, except in the case of 2-hour unit training assembly's maximum of 1 point in 1 calendar day
- one point for each 2 hour or greater period
- eight-hour rule approved EBDL courses will be awarded to members of the Selected Reserve (TPU); Subject to available funding, and as preapproved, Soldiers may earn one retirement point and be paid for one IDT for every 8 hours of distance learning completed
- award of a second point in the same day requires additional hours to bring the day's total to a minimum of 8, maximum of 2 points in 1 calendar day

- points may not be awarded under more than one of the rules above during any single calendar day
- Soldiers may not perform more than 48 BAs per fiscal year. Soldiers must perform RST within 60 days of the missed BA.

d. Paragraph 3-3 (DA Form 1380) provides that DA Form 1380 will be prepared for a unit Soldier who performs equivalent training or additional training with their unit after the scheduled Battle Assembly. TPU units will retain one copy of the DA Form 1380 to post the appropriate entry into ADARS for the months report. Nonpaid 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.

e. Paragraph 3-3b, states a DA Form 1380 will be prepared for a unit Soldier who performs equivalent training or additional training. The code "P" or "N" will be entered in item 9c before the retirement point credit. The code "P" indicates the Soldier is entitled to inactive duty pay for the duties performed; the code "N" indicates the Soldier is entitled to retirement point credit only.

3. AR 15-185 (ABCMR) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicant's do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//