

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: ██████████

BOARD DATE: 9 July 2024

DOCKET NUMBER: AR20230012101

APPLICANT REQUESTS: in effect, correction of his record to show the submitted DA Forms 1380 (Record of Individual Performance of Reserve Duty Training) dated 19 June, 30 July, 12 August, and 28 October 2021, were accepted, and added to his record for the anniversary year of 12 January 2021 to 11 January 2022.

APPLICANTS SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- Email communication, September – December 2021
- Email communication December 2021 – January 2022
- Email communication, December 2022 – March 2023
- DA Form 1380, 19 June 2021
- DA Form 1380, 30 July 2021
- DA Form 1380, 12 August 2021
- DA Form 1380, 28 October 2021
- DA Form 5016 (Draft Only - Retirement Accounting Statement - Draft Only), 10 September 2023

FACTS:

1. The applicant states:

a. He is an Army Reservist serving in United States Special Operations Command (USSOCOM) Army Reserve Element (ARE). He is requesting a correction to an error in his retirement points, for which he timely submitted DA Forms 1380 but for which he was never credited. The DA Forms 1380 are attached and labeled as Exhibits 1-4. Once processed, he believes a total of 24 retirement points should be added to his total for the year beginning on 12 January 2021 and ending on 11 January 2022. A copy of his Retirement Accounting Statement is attached as Exhibit 5.

b. The reason for the error in his military records is because his unit did not process his DA Forms 1380. For several years, he has submitted DA Forms 1380 for retirement points at the end of each month during which he performed duties that qualify for

retirement points. This worked well in his previous unit, 368th Military Intelligence Battalion, but has not worked well in USSOCOM ARE because of frequent staff turnover and unresponsiveness.

c. In 2020, 2021, and 2022, he completed Intermediate Level Education (ILE) online, for which he was paid through the Army's Electronic Based Distributed Learning (EBDL) Policy. In 2021, his unit disputed that ILE is eligible for EBDL pay; he was finally paid after a long back and forth in which he pointed out that ILE is in fact eligible for pay under the relevant regulations (part of the relevant exchange is in Exhibit 7). This took several months. While this conversation was happening, his S1 (Master Sergeant (MSG) S_ M_) and Staff Sergeant (SSG) A_ D_) asked him to wait to submit his DA Forms 1380 for retirement points until after the EBDL issue had been resolved (references to this are also in Exhibit 7). As the date approached 11 January 2022, he became nervous that his DA Forms 1380 would not be timely submitted, so he submitted them for signature in December, and never heard back, before sending them again for signature and processing on 10 January 2022 (Exhibit 6).

d. To his knowledge, his unit never processed the DA Forms 1380. He has since asked them to process those DA Forms 1380, but they have not done so. Most recently (Exhibit 8), they asked him to submit his request through the Army Review Boards Agency (ARBA). To the extent it is relevant, the dates captured by these DA Forms 1380 do not overlap with dates he was previously paid for through EBDL. EBDL caps payment for ILE at a much smaller number of hours than required to complete the course, and these DA Forms 1380 account for both the additional time he spent completing ILE, as well as time during which he completed administrative tasks.

e. Finally, there is no policy stating that Soldiers cannot receive retirement points for ILE when they have received pay for other hours spent completing ILE. Last, he would like to say that he spent 2021 working a very demanding civilian job, raising two children (with a third on the way), and spending countless hours completing ILE at night. He loves the Army and has stayed in the Reserves for that reason. He is not an Adjutant, and it has been extremely frustrating to navigate this process alone. He would just like to receive credit for his work in 2021. He is happy to provide additional documentation upon request.

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

a. Having prior Regular Army enlisted service, DA Form 71 (Oath of Office - Military Personnel) shows he was appointed as a Regular Army Military Intelligence officer and executed his oath of office on 6 August 2009.

b. On 9 November 2022, DA Form 1059-2 (Senior Service and Command and General Staff College Academic Evaluation Report) shows he completed the ILE

Common Core course. The duration of the course was from 12 July to 9 November 2022.

c. His record contains:

(1) DA Form 5016 (Retirement Accounting Statement) dated 10 February 2024, which shows his total career retirement points earned as – 323 Inactive Duty Training (IDT), 131 membership, 2411 Active Duty Training (ADT), 13 years qualifying for retirement, 2865 points earned, and 2865 points creditable. In relevant part, the form also shows for the completed anniversary year of 12 January 2021 to 11 January 2022, he earned the following retirement points:

- 11 IDT
- 15 membership
- 14 ADT
- 40 points earned
- 40 points creditable

(2) DA Form 5016 (Chronological Statement of Retirement Points) dated 27 June 2024, which shows a total of – 271 IDT points, 101 membership points, 2397 ADT points, 12 years and 2 days qualifying for retirement, and 2769 points creditable. The form also shows for the completed anniversary year of 12 January 2021 to 11 January 2022, he earned:

- 11 IDT points
- 15 membership points
- 14 ADT points
- 40 total points creditable

3. In support of his case the applicant provides:

a. Email communication during the period of September 2021 through December 2021, between the applicant, S1 office, and Detachment 3 Officer In-Charge, which shows they discussed submitting his DA Forms 1380 for ILE Distance Learning for pay and points-only, and the Fiscal Year 2022 EBDL Policy and Published List.

b. Email communication during the period of December 2021 through January 2022, between the applicant, Division Chief, and S1 office, which shows they discussed submitting his DA Forms 1380 for ILE (points only), and the delays he experienced.

c. Email communication during the period of December 2022 through March 2023, between the applicant, S1 office, and his chain of command, which shows they discussed the submission of his DA Forms 1380 for ILE (points-only and pay),

administrative work in 2021, and the delay in processing the DA Forms 1380 for points-only. He was referred to ARBA for processing of his points-only requests.

d. DA Forms 1380 showing various dates from June to October 2021, submitted for points only for the completed anniversary year of 12 January 2021 to 11 January 2022. The forms were signed on 19 May 2023, by Lieutenant Colonel J_ M_, U.S. Army Reserve LNO, and show the applicants dates, hours, retirement points, location of duties, nature of duties, training, or instruction, as follows:

- 7, 8, 12, 14, 17 and 18 June 2021 – for 4 hours each day, N1 (nonpaid), he performed administrative duties; Totaling: 6 points
- 16, 17, 22, 24, 27 and 29 July 2021 – for 4 hours each day, N1 (nonpaid), he performed administrative duties; Totaling: 6 points
- 6, 8, 9, 10 and 11 August 2021 – for 4 hours each day, N1 (nonpaid), he performed administrative duties; Totaling: 5 points
- 4, 6, 14, 15, 24, 25 and 27 October 2021 – for 4 hours each day, N1 (nonpaid), he performed administrative duties; Totaling: 7 points

4. On 27 February 2024, the U.S. Army Reserve Command (USARC), Chief, Soldier Programs Branch, provided an advisory opinion for this case and stated, USARC reviewed the applicants documents and determined he should not be awarded points based off Army Regulation (AR) 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records). The regulation does not allow for EBDL points after 2016, but that the Soldier received pay for compensation. The Soldier was paid. "No administrative relief granted."

5. On 15 March 2024, the applicant responded to the USARC advisory opinion and stated he respectfully disagrees with the advisory opinion from USARC and its denial of administrative relief. He further commented:

a. He encourages the Army Board for Correction of Military Records (ABCMR) to read his submitted statement in its entirety. USARCs advisory opinion is not responsive to that statement and appears to misunderstand the facts in this case.

b. As his statement describes, none of the paperwork at issue "overlap[s] with dates he was previously paid for through [Electronic Based Distributed Learning (EDBL)]." The advisory opinions statement that "the Soldier was paid" for those dates is irrelevant. He is seeking credit for points-only DA Forms 1380 that were never processed, none of which have anything to do with pay previously received for EBDL. This case is fundamentally about DA Forms 1380 that were not processed in time. Prior to the advisory opinion, USARC has never expressed the opinion that the DA Forms 1380 in question are not eligible for retirement points.

c. Even on its own terms, the advisory opinion is difficult to square with the applicable regulations. It contains only the short, cryptic statement that AR 140-185 "does not allow for EBDL points after 2016, but that the Soldier received pay for compensation." There is no citation provided and the phrase "EBDL points" is not defined (although it is misspelled; the proper acronym is EDBL). This sentence is unclear, but the most charitable read is that USARC is of the opinion that retirement points cannot be earned for distance learning without pay. This is a surprising conclusion considering that distance-learning courses like ILE require hundreds of hours to complete. But even if that is what the advisory opinion is trying to express, it is still not relevant. As his initial statement says, the paperwork in question represents "both the additional time I spent completing ILE, as well as time during which I completed administrative tasks." The time spent completing administrative tasks required by USARC is unquestionably eligible for retirement points. That is not addressed by the advisory opinion at all. If it would make a difference, he is happy to provide a full accounting of that time separated from the time spent completing distance learning. He is happy to discuss further by phone or email and anticipates the ABCMR's decision.

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 should receive retirement points for Electronic Based Distributed Learning (EBDL).

a. A majority of the Board was not convinced by the applicant's argument because since 2016, retirement points for EBDL are no longer authorized. The majority also reviewed and agreed with the USARC advisory officials' determination that he should not be awarded points based off Army Regulation (AR) 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records). The regulation does not allow for EBDL points after 2016.

b. The member in the minority determined that the applicant should receive credit for the administrative work he did separate from his time spent completing ILE. The member in the minority also believed the applicant utilized his unit administrator or the Readiness Division to address retirement point issues before seeking assistance through the ABCMR.

c. Therefore, the Board determined no administrative relief is warranted.

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.

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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. AR 140-1 (Mission, Organization, and Training) provides policy guidance on the mission, organization, and training of the U.S. Army Reserve (USAR). Paragraph 3-26 (Training of individual Soldiers in a non-pay status) states, Soldiers in an active status may take part in individual inactive duty training (IDT) in a non-pay training status when authorized by the appropriate commander. In pertinent part, individual training opportunities with retirement point credit are shown below:

- attachment to appropriate Reserve Component Troop Program Units (TPU)
- attachment to Active Army units
- attachment to reinforcement training units as appropriate
- attachment to Reserve Component Training Institutions as students or as augmentation staff or faculty
- attendance at Army service or Army area school training
- participation in approved training projects or using administrative skills in support of TPU and USAR activities
- enrollment in appropriate extension courses
- attendance at authorized conventions, professional conferences, or appropriate trade association meetings related to the individuals mobilization specialty
- conducting or reviewing medical examinations, and related medical duties
- recruiting duties as described in AR 140–185

2. AR 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records) contains Army policy for U.S. Army Reserve training and retirement point credit. It also prescribes guidance for USAR unit level strength accounting.

a. Paragraph 1-7 (Service requirement for a satisfactory year of service for non-regular retirement) states, 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. Except as otherwise provided by law, an accumulation of 20 such years is one requirement necessary to qualify for non-regular retired pay.

b. Paragraph 2-1 (Criteria for crediting retirement points) states, IDT will be either 4 hours in length for one (1) retirement point or 8 hours in length for two (2) retirement points.

c. Paragraph 2-4b(5) (Criteria for awarding retirement points) states, in accordance with the eight-hour rule, approved EBDL courses will be awarded to members of the Selected Reserve (TPU). Subject to available funding, and as pre-approved, Soldiers may earn one (1) retirement point and be paid for one (1) IDT for every 8 hours of distance learning completed.

d. Paragraph 3-3 (DA Form 1380) states, the purpose of this form is to record IDT by —

(1) TPU Soldiers performing IDT assemblies when pay is authorized, and the Soldier is not present to sign the IDT attendance roster.

(2) TPU Soldiers attached to another USAR unit for 89 or fewer days. In such cases the unit of attachment will prepare DA Form 1380 and forward to unit of assignment for recording attendance.

(3) Non-unit Soldiers under the jurisdiction of the U.S. Army Human Resources Command who are attached for retirement points only to USAR TPUs, Army National Guard units, or to another Service or component for training per AR 140–10. Only attached Soldiers are authorized to perform IDT with the exception of one annual physical health assessment each for medical and dental readiness when authorized by the command prior to the event. Note: Non-unit Soldiers attached for retirement point credit to IMA detachments are reported on DA Form 1379 for those units.

(4) Non-unit Soldiers performing other inactive duty training for retirement point credit as outlined in Table 2–3 (Award of inactive duty training retirement points).

e. Paragraph 3-3b states, DA Form 1380 will be prepared for a unit Soldier who performs equivalent training or additional training with their unit subsequent to the scheduled Battle Assembly. TPU units will retain one copy of the DA Form 1380 to post the appropriate entry into Automated Drill Attendance Reporting Software (ADARS) for the months report and then place in the appropriate Army records information management system file. 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. DA Form 1380 will be scanned into the Soldiers integrated Personnel Electronic Records Management System by the unit of assignment per AR 600-8-104 (Army Military Human Resource Records Management).

f. Paragraph 3-4 (Electronic-Based Distance Learning (EBDL)) states, the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107, section 603), authorized compensation to certain members of the Selected Reserve. Pursuant to Title 37, U.S. Code, section 206(d), a member of the Selected Reserve of the Ready Reserve may be paid compensation at a rate and under terms determined by the Secretary of Defense upon the members successful completion of a course of instruction undertaken by the member using EBDL methodologies to accomplish training requirements related to unit readiness or mobilization, as directed for the member by the Secretary concerned. This regulation provides discretionary payments only for members of the Selected Reserve not in active service or on active duty who are directed by their commanders to complete training requirements related to unit readiness or mobilization, by means of EBDL.

(1) All EBDL courses approved either for payment with Reserve compensation or for completion by Soldiers for Reserve retirement points only, will be listed in the Army Training Requirements and Resources System (ATRRS). Courses designated as eligible for Reserve compensation under the electronic-based distributed learning policy will be appropriately annotated within the ATRRS.

(2) Additional training periods for distributed learning for Reserve compensation are authorized only for Soldiers in the paid drill strength of the Army National Guard and USAR, including drilling individual mobilization aughtmentees.

(3) Commanders may direct Soldiers to enroll in and complete EBDL courses that are eligible for Reserve compensation. Commanders will provide this direction in writing, citing the availability of funds in advance of a Soldiers enrollment.

(4) When scheduling lengthy EBDL courses of instruction, commanders should avoid crossing fiscal years whenever possible.

(5) Commanders will ensure that coursework authorized for additional training periods for distributed learning is not completed during any other type of training or duty periods.

(6) Per AR 135-180 (Retirement for Regular and Non-Regular Service), the maximum number of inactive duty training periods performed by type (except for equivalent training) and retirement points that may be awarded in one day, do not apply to additional training periods for distributed learning, nor do they prevent the performance of other types of inactive duty training periods on the same date. However, retirement points shall not be credited in excess of the maximum number creditable in an anniversary year for inactive duty training.

(7) Initiate payment only when a Soldier satisfactorily completes directed EBDL phases or courses. Commanders must validate the required training was completed and is updated in a formal Army record of training, for example, ATRRS, Learning Management System within 365 days of course completion. Each 4 hours of successfully completed qualifying EBDL coursework will earn a Soldier credit for completion of one additional training period, whether paid or unpaid, and one (1) Reserve retirement point. These are categorized as inactive duty training points and are subject to the annual limit on Reserve retirement points that may be credited in an anniversary year toward retired pay by Title 10, USC, section 12733(3).

(8) For phases or courses that total fewer than 4 hours, aggregate the time for directed courses in multiples of 4 hours to establish inactive duty periods and determine eligibility for Reserve compensation and Reserve retirement points, or Reserve retirement points only.

(9) To qualify for Reserve compensation, the EBDL work must have been directed and completed on or after 2 June 2010.

(10) Members of the Selected Reserve who completed EBDL coursework between 28 December 2001 and 2 June 2010 may be awarded Reserve retirement points at the rate of one point per each 4 hours of distributed learning coursework, unless previously awarded retirement points.

g. The regulation defines EBDL as a training medium for use collectively or individually, with or without the control of an instructor or leader. Soldiers in an inactive duty training status directed or authorized to take EBDL coursework outside of duty or training periods are not required to be present at a government facility, to be in a duty or training status, to report time or attendance or to wear a uniform. EBDL does not include traditional correspondence courses.

//NOTHING FOLLOWS//