

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 17 July 2024

DOCKET NUMBER: AR20230013502

APPLICANT REQUESTS: in effect, correction of her DA Form 5016 (Retirement Accounting Statement) to reflect:

- additional non-paid retirement points for Retirement Year Ending (RYE): 1 June 2022 – 6 non-paid retirement points and RYE 1 June 2023 – 7 non-paid retirement points
- active duty service for the period of 1 July 1996 through 24 August 1998

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

- DD Form 149 (Application for Correction of Military Record) x 2
- DD Form 214 (Certificate of Release or Discharge from Active Duty) for service ending 24 August 1998
- DA Form 1380 (Record of Individual Performance of Reserve Duty Training), 2 May 2022
- DA Form 1380, 30 June 2022

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, 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, she requests the correction of her DA Form 5016 to add the additional non-paid retirement points for duty which she performed during the months of April and June 2022. She submitted the DA Forms 1380 for each of these months within 30-days of performing the duty; however, due to the transition to the Integrated Personnel and Pay System - Army (IPPS-A) and the new policy that the Readiness Divisions process non-paid retirement points they were not properly processed. By the time the documents were reviewed by the Readiness Division, it was over a year since the duty was performed and she was informed that she had to apply to the Board for resolution. Additionally, the time she served on active duty (1 July 1996 through 24 August 1998) is not reflected on her DA Form 5016.

3. A review of the applicant's service records shows:

a. The applicant's DD Form 214 shows the applicant was ordered to active duty to attend the U.S. Military Academy, West Point, NY, as a cadet effective 1 July 1996. It also shows the applicant was honorably discharged from active duty, effective 24 August 1998 due to resignation. It also shows she completed 2-years, 1-month, and 24-days of active service.

b. On 2 June 2001, the applicant executed her oath of office and was appointed as a Reserve commissioned officer.

c. On 6 August 2001, the applicant changed her name from D- S- to A- D- due to a marriage, effective 9 June 2001.

d. The applicant's DD Form 214 shows she was ordered to active duty on 2 June 2001. She was honorably released from active duty on 1 June 2006 and assigned to the U.S. Army Reserve (USAR) Control Group (Reinforcement). She completed 5-years of active service.

e. On 18 July 2006, Orders Number C-07-623908, issued by the U.S. Army Human Resources Command (HRC), the applicant was assigned to a USAR Troop Program Unit (TPU), effective 18 July 2006.

f. On 20 April 2007, Orders Number A-04-710441, issued by HRC, the applicant was ordered to active duty for Contingency Operation for Active Duty Operational Support (CO-ADOS), effective 23 April 2007.

g. The applicant was honorably released from active duty on 18 October 2007. DD Form 214 shows the applicant completed 5-months and 26-days of active service.

h. On 19 December 2007, Orders Number C-12-733040, issued by HRC, the applicant was assigned to the USAR Control Group (Reinforcement), effective 14 November 2007.

i. On 3 January 2008, Orders Number C-01-800097, issued by HRC, the applicant was assigned to the USAR Control Group (Individual Mobilization Augmentee), effective 3 January 2008.

j. On 18 June 2008, the applicant changed her name from A- D- to A- M- due to a marriage.

k. On 4 September 2009, Orders Number A-09-924766, issued by HRC, the applicant was ordered to active duty for CO-ADOS, effective 21 September 2009.

l. The applicant was honorably released from active duty on 20 September 2010. DD Form 214 shows the applicant completed 1-year of active service.

m. On 26 February 2013, Orders Number C-02-303226, issued by HRC, the applicant was assigned to a USAR TPU, effective 26 February 2013.

n. The applicant's DA Form 5016 dated 2 July 2024 shows she earned in the RYE:

- 1 June 2022 – 124 Inactive Duty Training (IDT) points, 15 membership points, and 76 Active Duty Training (ADT) points for a total of 215 points earned and a total of 206 creditable points for retirement due to exceeding the inactive duty training limit
- 1 June 2023 – 95 IDT points, 15 membership points, and 63 ADT points for a total of 173 creditable points for retirement

4. The applicant provides:

a. DA Form 1380 dated 2 May 2022 shows the applicant performed battalion command duties on:

- 19 April 2022 – performed 8-hours of duty for two non-paid retirement points
- 21 April 2022 – performed 8-hours of duty for two non-paid retirement points
- 22 April 2022 – performed 4-hours of duty for one non-paid retirement point
- 28 April 2022 – performed 4-hours of duty for one non-paid retirement point

The DA Form 1380 was digitally signed on 2 May 2022 by Lieutenant Colonel (LTC) A-H-, as the officer who had knowledge of the duties performed.

b. DA Form 1380 dated 30 June 2022 shows the applicant performed battalion command duties on:

- 2 June 2022 – performed 8-hours of duty for two non-paid retirement points
- 23 June 2022 – performed 8-hours of duty for two non-paid retirement points
- 24 June 2022 – performed 4-hours of duty for one non-paid retirement point
- 28 June 2022 – performed 4-hours of duty for one non-paid retirement point
- 29 June 2022 – performed 4-hours of duty for one non-paid retirement point

The DA Form 1380 was digitally signed on 6 August 2022 by LTC A- H-, as the officer who had knowledge of the duties performed.

5. On 5 February 2024, in the processing of this case Headquarters, U.S. Army Reserve Command, provided an advisory opinion regarding the applicant's request for the correction of her DA Form 5016 for non-paid retirement points. The advisory official

stated upon review of the applicant's documents it was determined she should be awarded 13 non-paid retirement points. The applicant completed the duty but the delays in the processing of the DA Forms 1380 exceeded the regulatory timeframe allowed. A favorable decision will allow the Readiness Division to update her retirement point statement.

6. On 9 February 2024, the Army Review Boards Agency, Case Management Division, provided the advisory opinion for review and comment. The applicant 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 and standard review based on law, policy and regulation. Upon review of the applicant's petition, available military records and Headquarters, United States Army Reserve Command- Soldiers Programs Branch advisory opinion, the Board concurred with the advising official recommendation that the applicant should be awarded 13 points based on regulatory guidance AR 140-185. As noted by the opine, the applicant completed the duty, but evidence shows there was a delay in processing exceeded the allotted timeframe in accordance with regulation guidance. As such, the Board granted relief to award 13 retirement points.

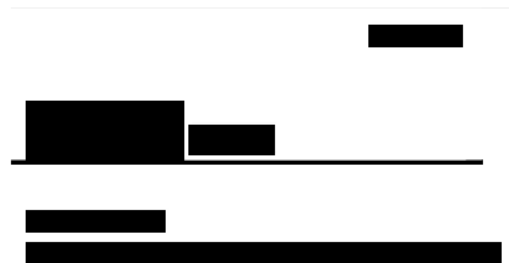
BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	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 to show the applicant should be awarded 13 retirement points in accordance with Army Regulation (AR) 140-185 as reflected on her DA Form 5016 for points for duties performed outside of the scheduled Battle Assembly (BA).



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. Maximum-365 (366 during leap year) 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. 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.

e. 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.

5. Department of Defense Financial Management Regulation 7000.14-R, Volume 7b (Military Pay Policy - Retired Pay), chapter 1 (Initial Entitlements – Retirements),

010208 (Service Creditable for Age and Service Retirement – Non-Regular Member), Creditable service for retirement includes:

- Each 1-year period after 1 July 1949 in which the member earned at least 50 points on the following basis:
 - One point for each day of active service, service as a cadet or midshipman at a Service academy is active service for non-Regular enlisted members only;
 - One point for each day of full-time service while performing annual training or attending a prescribed course of instruction at a school designated as a Service school by law or by the Secretary concerned;
 - One point for each attendance at a drill or period of equivalent instruction prescribed for that year by the Secretary concerned;
 - Points at the rate of 15 per year for membership in a Reserve Component of the Armed Forces, in the Army or Air Force without component, or in any other category covered by Title 10 USC, section 12732(a)(1), except a Regular Component; and
 - Points credited as service in the Health Professions Scholarship and Financial Assistance Program

//NOTHING FOLLOWS//