

IN THE CASE OF: [REDACTED]

BOARD DATE: 15 August 2024

DOCKET NUMBER: AR20230014057

APPLICANT REQUESTS: correction of his DA Form 5016 (Chronological Statement of Retirement Points) to reflect the addition of 8 retirement points earned between September and December 2022.

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 330 (Language Proficiency Questionnaire)
- Memorandum – Subject: Foreign Language Proficiency Test Results

FACTS:

1. The applicant states in pertinent part that he is a 38B (Civil Affairs Specialist). As a 38B, he is required to take a Language Proficiency test annually. Recently, he was advised that his Brigade would not provide payment for the time that he spent at the testing location because they lack sufficient Readiness Management Assembly funds. He contests that despite completing the requirements, he was neither paid nor awarded points for the time spent testing on the following dates: 12-13 and 15 September 2022 and 1 December 2022.

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

a. On 12 January 2016, the applicant enlisted in the U.S. Army Reserve (USAR) to serve as an 88M (Motor Transport Operator) for 8 years.

b. On 27 June 2016, the U.S. Army Maneuver Support Center of Excellence issued Orders Number 179-2609 announcing award of the 88M Military Occupational Specialty (MOS), effective 13 July 2016.

c. On 10 December 2018, Headquarters, 99th Readiness Division issued Orders Number 18-334-00008 awarding Foreign Language Proficiency Pay to the applicant, effective 12 September 2018 for Russian (List A, Level 3/2+), with the requirement to be retested annually. The applicant was also proficient in the Ukrainian language.

d. On 21 March 2020, the applicant completed the academic requirements to be awarded the 38B MOS.

e. On 17 August 2020, Headquarters, 88th Readiness Division issued Orders Number 20-230-00027 announcing the applicant's promotion to the rank/grade of sergeant (SGT)/E-5 and award of the 38M MOS, effective 1 August 2020.

f. On or about 2 April 2021, the applicant was authorized pay and 3 points for Language Proficiency testing conducted between September – October 2020.

g. On 21 January 2021, the applicant reenlisted for 3 years.

h. On 14 April 2022, Headquarters, 353rd Civil Affairs (CA) Command issued Orders Number 22-104-00001 reassigning the applicant to the 353rd CA Command, effective 14 April 2022.

i. On 19 May 2023, the applicant elected to extend his enlistment by 6 months.

j. On 30 April 2024, the applicant elected to extend his enlistment by 1 year.

3. The applicant provides the following a:

a. DA Form 330 dated 14 December 2022 reflective of the applicant's completion of the Russian and Ukrainian Language Proficiency (Oral Proficiency Interview/Speech) testing on 1 December 2022.

b. DA Form 330 dated 13 September 2022 reflective of the applicant's completion of the Russian and Ukrainian Language Proficiency (Listening/Reading) testing on 12-13 September 2022.

c. DA Form 330 dated 15 September 2022 reflective of the applicant's completion of the Polish Language Proficiency (Listening/Reading) testing on 15 September 2022.

d. Memorandum – Subject: Foreign Language Proficiency (FLP) Test Results, reflective of the applicant's FLP testing results for the Russian language administered on 1 December 2022.

e. Memorandum – Subject: Foreign Language Proficiency (FLP) Test Results dated 1 December 2022, reflective of the applicant's FLP testing results for Ukrainian language administered on 1 December 2022.

f. The applicant's available service records are void of evidence of retirement points previously being awarded during the period of this request.

4. On 30 May 2024, the Chief, Military Services Office, U.S. Army Reserve Command, provided an advisory opinion recommending denial of the applicant's request noting that in accordance with Army Regulation (AR) 140-185 (Training and Retirement Point Credits and Unit Level Strength and Accounting Records), Chapter 3-1 (Records Source Documents), the DA Form 1380 (Record of Individual Performance of Reserve Duty Training) is the authorized source document utilized to record the performance of Inactive Duty Training (IDT) for USAR Soldiers assigned to a Troop Program Unit (TPU).

5. On 14 June 2024, the applicant was provided with a copy of the advisory opinion and afforded 15 days to provide comments. The applicant has not responded.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the findings and recommendation of the USARC advisory opinion and the lack of rebuttal of those findings and recommendation submitted by the applicant, the Board concluded there was insufficient evidence of an error or injustice warranting a change to the applicant's military record.

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.

2/5/2025

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. AR 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).

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
- 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.

2. Army Regulation (AR) 15-185 (ABCMR) paragraph 2-9 states the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

//NOTHING FOLLOWS//