

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 13 September 2024

DOCKET NUMBER: AR20230015216

APPLICANT REQUESTS: correction of her DA Form 5016 (Chronological Statement of Retirement Points) to reflect the qualifying service performed from 2016-2018.

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 1380 (Record of Individual Performance of Reserve Duty Training)

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 she has made repeated attempts to have her retirement points corrected. She contests that in response to her submissions; she has been advised that the forms are either outdated or not submitted within the required timeframe. She has previously been advised by the U.S. Army Human Resources Command (AHRC) that the documents need to be processed through her unit since she is assigned to a Reserve unit. However, her unit is deferring her to this Board due to the timelines of her filing.

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

a. After serving as an enlisted Soldier in the U.S. Army Reserve (USAR), on 17 May 1991, the applicant was appointed as a Reserve commissioned officer and assigned to a unit.

b. On 4 June 2009, the applicant was issued a Memorandum – Subject: Notification of Eligibility for Retired Pay at Age 60 (20-Year Letter).

c. On 30 August 2018, Headquarters, 63rd Readiness Division issued Orders Number 18-242-00009 reassigning the applicant to the 81st Readiness Support Command Augmentee Detachment, effective 1 September 2018.

4. The applicant provides 30 DA Forms 1380 dated 6 August 2023, reflective of her performance of qualifying service for points only on the following dates:

- 2, 8, 11, 15, 18 and 25 August 2016 (8 hours per day/12 points total)
- 4-5, 9, 16, 23 and 29 May 2016 (8 hours per day/12 points total)
- 2, 7, 9, 16, 23 and 30 June 2016 (8 hours per day/12 points total)
- 3, 7, 14, 21, 28 and 31 July 2016 (8 hours per day/12 points total)
- 2, 8, 11, 15, 18 and 25 August 2016 (8 hours per day/12 points total)
- 18, 20, 22, 25, 27 and 30 September 2016 (8 hours per day/12 points total)
- 3, 6, 13, 20, 27 and 30 October 2016 (8 hours per day/12 points total)
- 3, 6, 10, 13, 17 and 27 November 2016 (8 hours per day/12 points total)
- 2, 6, 9, 16, 20 and 28 December 2016 (8 hours per day/12 points total)
- 6, 10, 13, 20, 27 and 30 January 2017 (8 hours per day/12 points total)
- 1, 3, 6, 17, 24 and 27 February 2017 (8 hours per day/12 points total)
- 3, 6, 10, 13, 21 and 30 March 2017 (8 hours per day/12 points total)
- 3, 6, 10, 14, 21 and 28 April 2017 (8 hours per day/12 points total)
- 1, 5, 8, 16, 19 and 22 May 2017 (8 hours per day/12 points total)
- 2, 6, 8, 12, 20 and 30 June 2017 (8 hours per day/12 points total)
- 4, 7, 11, 18, 25 and 31 July 2017 (8 hours per day/12 points total)
- 1, 8, 10, 16, 22 and 29 August 2017 (8 hours per day/12 points total)
- 5, 7, 12, 14, 23 and 28 September 2017 (8 hours per day/12 points total)
- 3, 10, 13, 17, 24 and 31 October 2017 (8 hours per day/12 points total)
- 2, 5, 10, 12, 25 and 28 November 2017 (8 hours per day/12 points total)
- 2, 5, 7, 11, 26 and 27 December 2017 (8 hours per day/12 points total)
- 2, 9, 16, 19, 23 and 30 January 2018 (8 hours per day/12 points total)
- 6, 9, 13, 20, 23 and 27 February 2018 (8 hours per day/12 points total)
- 6, 8, 13, 20, 23 and 27 March 2018 (8 hours per day/12 points total)
- 3, 10, 12, 16, 18-19 and 21 April 2018 (8 hours per day/14 points total)
- 3, 5, 8, 12, 18 and 24 May 2018 (8 hours per day/12 points total)
- 1, 4, 6, 8, 25 and 30 June 2018 (8 hours per day/12 points total)
- 2, 6, 9, 15, 20 and 25 July 2018 (8 hours per day/12 points total)
- 4-5, 15, 21, 25 and 31 August 2018 (8 hours per day/12 points total)
- 1, 3, 6, 11, 15 and 20 September 2018 (8 hours per day/12 points total)

Total requested points based upon the submitted documents = 362 points

5. A review of the applicant's DA Form 5016 reflects the following:

- 4 May 2016 – 3 May 2017 = 99 points (52 Inactive Duty (IDT)), 32 Active Duty Training (ADT)), and 15 Membership)
- 4 May 2017 – 3 May 2018 = 75 points (49 IDT, 11 ADT, and 15 Membership)
- 4 May 2018 – 3 May 2019 – 95 points (45 IDT, 35 ADT, and 15 Membership)

6. On 2 May 2024, the Headquarters, U.S. Army Reserve Command, Chief, Military Services, provided an advisory opinion recommending that the applicant's request be approved with the award of 180 retirement points in accordance with Army Regulation (AR) 140-185 (Training and Retirement Point Credits and Unit Level Strength and Accounting Records). This duty if paid would not be classified as two Unit Training Assemblies (UTA) a day but would have been paid as an Additional Training Assemblies (ATA) which is considered a full day or eight hours equal to one point. A favorable adjudication from ARBA would still allow the Readiness Division to update the Soldier's record.

7. On 10 May 2024, the applicant was provided with a copy of the advisory opinion and afforded 14 days to provide comments. In response the applicant contests that in accordance with AR 140-185 she would earn 1 point for each 4-hour block worked. The provided DA Forms 1380 are for points only i.e., 110 points for 2018, 144 points for 2017, and 96 points for 2016 (350 points in total) not 180.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that partial 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 majority reviewed and concurred with the U.S. Army Reserve Command's advising official and determined the evidence supports the applicant receiving credit for an additional 180 retirement points. The duty, if paid, would have been classified as additional training assemblies which are considered full-day or 8 hours equal to one point. The Board minority found in favor of the applicant's request that she completed the duty and therefore should be awarded the full 350 non-paid points.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

█	:	:	GRANT FULL RELIEF
:	█	█	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by awarding the applicant qualifying retirement points below, provided all other criteria is met:

- 54 non-paid retirement points for the retirement year ending 3 May 2017
- 72 non-paid retirement points for the retirement year ending 3 May 2018
- 54 non-paid retirement points for the retirement year ending 3 May 2019

2. The Board further determined that the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to granting the applicant retirement points in excess of the above.

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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. 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 (RC) 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. The Anniversary Year Ending (AYE) date is the annual date that a Soldier's retirement point record is closed out. It is utilized when referring to retirement points accounting. The AYE is much like a Reserve Soldier's "Anniversary" date and is a primary date captured in the Retirement Points Accounting System (RPAS). The anniversary year periods listed on the DA Form 5016 are calculated from an anniversary date. The criteria for establishing the service requirement for a satisfactory year of service for non-regular retirement per Department of Defense Instruction 1215.07 and changing the anniversary year ending date are as follows:

a. 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 service member entered active service or active status in a RC.

b. Paragraph 2-2, states retirement points may be earned by USAR Soldiers for Active Duty (AD), or while in an active Reserve status, for active duty for training (ADT), initial active duty for training (IADT), involuntary active duty for training (involuntary ADT), annual training (AT), and IDT. Types of IDT are:

- regularly scheduled unit training includes Unit Training Assemblies (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.

c. Paragraph 2–4 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
- two-hour aggregates of shorter periods may be used except in the case of 2-hour unit training assemblies
- 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.

//NOTHING FOLLOWS//