

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 January 2025

DOCKET NUMBER: AR20240007479

APPLICANT REQUESTS: correction of his DA Form 5016 (Retirement Accounting Statement) to reflect he was awarded 12 retirement points for training for Retirement Year Ending (RYE) 29 November 2021.

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

- DD Form 149 (Application for Correction of Military Record)
- Self-authored Statement
- Five DA Forms 1380 (Record of Individual Performance of Reserve Duty Training)
- Email Correspondence

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:

a. He received permission from his unit to complete the Electronic Based Distance Learning (EBDL) coursework in light of difficulties scheduling in-person duty due to COVID-19 and an overseas move for his family. He thoroughly reviewed Army Regulation (AR) 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records) to confirm he was eligible to receive retirement points for the EBDL training. Additionally, he confirmed with his command's Reserve Programs office to ensure his understanding was correct, and he received confirmation. He also contacted the Individual Mobilization Augmentee (IMA) Human Resources Command (HRC) team twice in October 2021 and received no response.

b. After completing 12 periods of Additional Training Assemblies (ATA) he submitted the corresponding DA Forms 1380 for retirement points only he was referred to a HRC document titled "DA Form 1380 for Points Only Field Guide." The document cited guidance from April 2016 that stated "as of 15 April 2016 HRC may no longer

award points for distance learning courses. Troop Program Unit (TPU) members may inquire with their HR support personnel regarding paid compensation for EBDL; IMA/Individual Ready Reserve (IRR) members are ineligible for credit for EBDL at this time.”

c. He does not agree with the interim guidance that was issued in April 2016, as he believes AR 140-185 is the authoritative guidance. He is not requesting pay for the 12 periods of ATA, only retirement points. Without those points, his RYE 29 November 2021 does not count as a good year for his Reserve retirement.

3. A review of the applicant’s service record shows:

a. He enlisted in the U.S. Army Reserve (USAR) on 30 November 2006.

b. He was ordered to Active Duty for Training (ADT) on 3 January 2007.

c. He was honorably released from ADT on 20 June 2007. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows that he completed 5 months and 18 days of net active service.

d. On 21 June 2007, the applicant executed an oath of office and was subsequently appointed as a commissioned officer in the USAR.

e. On 11 July 2013, the applicant entered the IMA program.

f. DA Form 5016, dated 29 December 2024, shows for RYE 29 November 2021 he earned 9 inactive duty points, 15 membership points, and 14 active duty points, totaling 38 creditable points.

4. The applicant provides:

a. A self-authored statement that discusses the circumstances surrounding how he came to completing the 12 ATA hours via EBDL and how it was unclear with conflicting guidance if he was to be awarded pay or points for the training.

b. Five DA Forms 1380 that show the applicant completed training (ATA) on the following dates (EBDL earns 1 point for every 8 hours of training  $48/8 = 6$  retirement points):

- 31 July 2021; 4 hours
- 11 – 12 October 2021; 8 hours
- 25 – 27 October 2021; 12 hours
- 6 November 2021; 4 hours

- 13 November 2021; 4 hours
- 20 November 2021; 4 hours
- 25 – 26 November 2021

c. Email correspondence ranging from 17 June 2022 through July 2022 from the applicant's unit and HRC's Reserve Personnel Actions Branch on the way to rectify the applicant's request for retirement points for EBDL and the policy for paid versus points only duty/training.

5. On 7 November 2024, the HRC, Chief, Personnel Services Division, provided an advisory opinion pertaining to the applicant's request for retirement points credit.

a. HRC reviewed the application and determined the requested retirement points are governed by AR 140-185, specifically in Table 2-3, Rule 5. According to AR 140-185, Chapter 2-4(5), the "Eight-Hour Rule" states that approved EBDL courses will award retirement points to members of the Selected Reserve (SELRES) in the Troop Program Unit (TPU). Subject to available funding and pre-approval, Soldiers can earn one retirement point and be compensated for one IDT day for every 8 hours of distance learning completed. However, the applicant was not a TPU Soldier during the duty performance. Therefore, the requested retirement points cannot be awarded. Additionally, no funding was available to complete EBDL for Soldiers assigned to the IMA Program.

b. The applicant further states that this duty was performed due to difficulties in scheduling in-person training due to COVID-19 restrictions. The applicant should work with his unit of assignment and submit a request for COVID relief under a declared National Emergency in accordance with the enclosed information paper.

6. On 27 November 2024, the applicant was provided with a copy of the advisory opinion for comment or rebuttal.

7. On 11 December 2024, the applicant responded via email and stated:

a. The HRC advisory opinion in paragraph 2 confirms that the requested retirement points are governed by Rule 5 in Table 2-3 of AR 140-185. The opinion further references the "Eight-Hour Rule" as evidence that the requested retirement points cannot be awarded. However, Table 2-3 Rule 5 does not reference the Eight-Hour Rule of Chapter 2-4(5) that HRC cites in its opinion. Rather, Rule 5 clearly states in Column C: "Points under the 4-hour/8-hour rule". This "4-hour/8-hour rule" reference points back to Chapter 2-4(4) rather than Chapter 2-4(5). In contrast, see Rule 8 for a rule that explicitly references the "Eight-Hour Rule" of Chapter 2-4(5). The Four/eight-hour rule explained in Chapter 2-4(4) simply states that "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. Maximum of two points in 1 calendar day." To reiterate, HRC appears to cite the wrong rule (Chapter 2-4(5)) as evidence that he is not authorized the points because he was not a TPU Soldier during the duty performance. However, the actual rule (Chapter 2-4(4)) makes no distinction between TPU and IMA Soldiers and describes in a straightforward manner the type of duty he requested in his DA Forms 1380 under review: one retirement point for each four hour or greater period of duty performed. The HRC advisory opinion also states in paragraph 2 that no funding was available to complete EBDL for Soldiers in the IMA Program. He considers this to be irrelevant to his application as he is not requesting any pay for the duty under review. He is simply requesting retirement points according to Table 2-3 Rule 5 and the Chapter 2-4(4) four/eight-hour rule referenced therein. Before completing the duty under review, he received approval from his unit to complete the training. He also contacted the IMA Coordinator at his unit's higher headquarters to seek confirmation that the regulations authorized him to complete this duty for retirement points. Additionally, he made multiple attempts to get clarification from the HRC IRR/IMA team regarding the process for submitting for retirement points for this type of duty. Attached for review you will find the email thread attached to this letter which captures his attempts to contact HRC. Additionally, please note that HRC at some point transitioned away from the `usarmy.knox.hrc.mbx.rpmd-omd-irr-ima-branch@army.mil` email account that was used. He admits that it is possible that the IMA/IRR team did not receive his emails, but he has no record in October 2021 of the type of response you would reasonably expect when an old email inbox is retired, such as an "undeliverable" message or out-of-office reply directing me to use a different email to reach the team. In the absence of a response from HRC, he completed the remaining days of duty under review in light of what he perceived as direct authorization in AR 140-185 and the guidance he had received from my IMA Coordinator.

b. He believes he has established that HRC's advisory opinion cites incorrect evidence to claim that he should not be awarded the requested retirement points. First, the opinion references the wrong rule in AR 140-185 and uses that to claim he is ineligible for the points because he was not a TPU Soldier. Second, the opinion states that no funding was available for the duty under review, which has no bearing on his application as he is not requesting any pay for the duty performed. Furthermore, he believes that he has positively established that he is authorized the 12 requested retirement points under the "4-hour/8-hour rule" of Chapter 2-4(4) that Table 2-3 Rule 5 references. He has also documented my unsuccessful attempts to contact HRC in 2021 for clarification of the duty under review. The applicant respectfully asks the ABCMR to consider his comments above when making a final determination in his case.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Although the HRC advisory opinion recommended denying relief, based upon the available documentation showing the applicant had DA Form 1380s approved by appropriate unit personnel, the Board concluded there was sufficient evidence to warrant an injustice. Therefore, the Board recommended changing the applicant's military by awarding the appropriate number of retirement points for the EBDL duty performed and approved on the submitted DA Form 1380s.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

■	■	■	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 Army records of the individual concerned be corrected by amending the applicant's record by awarding the appropriate number of retirement points for the EBDL duty performed and approved on the submitted DA Form 1380s.

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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 Accounting Records) 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, USC, 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.

//NOTHING FOLLOWS//