

**DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2020-130

██████████ ██████████ ██████████
MST1

FINAL DECISION

This proceeding was conducted according to the provisions of 10 U.S.C. § 1552 and 14 U.S.C. § 2507. The Chair docketed the case after receiving the completed application on August 20, 2020, and assigned the case to the Deputy Chair to prepare the decision pursuant to 33 C.F.R. § 52.61(c).

This final decision, dated June 4, 2021, is approved and signed by the three duly appointed members who were designated to serve as the Board in this case.

APPLICANT'S REQUEST AND ALLEGATIONS

The applicant, a First Class Petty Officer (MST1/E-6) in the Coast Guard Selected Reserve (SELRES) asked the Board to correct her Reserve Points Statement by changing the number of Inactive Duty Training (IDT) drills¹ for her anniversary years ending on September 15, 2005, and September 15, 2006. She did not specify the numbers to which she would like to have her IDT drills changed. The applicant also asked the Board to recalculate her retirement points on her Reserve Points Statement so that 2005 and 2006 count as qualifying years.²

The applicant argued that she completed all drill requirements in 2005 and 2006. However, she argued that the number of IDT drills she completed was improperly recorded for those years. She provided two explanations for the alleged error. First, she argued that the alleged error was due to an administrative issue. She argued that her IDT drills were not properly recorded because at the time, the Coast Guard was transitioning from a paper accountability system to an electronic

¹ According to Chapter 1.C.2. of the Reserve Policy Manual, Coast Guard SELRES members are generally authorized 48 paid IDT drills per fiscal year.

² A qualifying year for retirement purposes is a year in which a reservist is credited with at least 50 points, which may be earned by performing drills, readiness management periods, completing correspondence courses, and serving on active duty. Each reservist also receives 15 membership points annually. To retire, a reservist must have at least 20 qualifying years of service.

system called Direct Access. Second, she argued that the alleged error occurred because there were several command changes at her unit that caused her records to be misplaced.

To support her application, the applicant submitted a letter from Chief Warrant Officer (CWO) C who stated that he and the applicant had worked together on and off for the last eighteen years. Notably, he stated that he and the applicant served at the same station from May 2002 to February 2008. During that time, he alleged, the applicant completed all regularly scheduled reserve drills and training. However, CWO C stated that her IDT drills were not properly recorded. He argued that from 2002 to 2008, the Coast Guard transitioned from paper records to electronic records. At the same time, CWO C stated, their unit experienced several changes in command personnel. Notably, CWO C stated that the unit had three different Executive Petty Officers who were responsible for the personnel management of all reserve members. He argued that the applicant's paper files were destroyed before entries could be made to her electronic records.

To address the delay in submitting her application, the applicant stated that she was unable to locate any relevant records until 2019. She stated that in 2019, CWO C returned to her duty station and was able to locate documents to show her participation in reserve drills and training. However, the applicant did not provide any additional supporting documents.

SUMMARY OF THE RECORD

The applicant enlisted in the Reserve on September 16, 2002. After attending basic training, she was stationed at a Coast Guard Air Station.

The applicant's Reserve Points Statement shows the number of reserve points she earned for performing drills, active duty, and correspondence courses throughout her career. The number of IDT drills she completed each anniversary year is located in the "IDT" column. The applicant's record shows that she completed 30 IDT drills for her anniversary year ending in 2005, and she completed 1 IDT drill for her anniversary year ending in 2006. The applicant's Reserve Points Statement also shows the number of retirement points she received each anniversary year in the "total adjusted" column. The applicant's anniversary years ending in 2005 and 2006 are not considered qualifying years of service because she was not credited with at least 50 retirement points.

Points						
From	Through	IDT	RMP	Membership	RSV AD	Adjusted Total
9/16/2018	9/15/2019	49	1	15	0	65
9/16/2017	9/15/2018	43	1	15	12	71
9/16/2016	9/15/2017	51	1	15	12	79
9/16/2015	9/15/2016	55	1	15	12	83
9/16/2014	9/15/2015	15	1	15	12	43
9/16/2013	9/15/2014	46	1	15	12	74
9/16/2012	9/15/2013	44	2	15	13	74
9/16/2011	9/15/2012	44	1	15	12	72
9/16/2010	9/15/2011	4	0	15	82	101
9/16/2009	9/15/2010	44	0	15	103	162
9/16/2008	9/15/2009	44	0	15	0	59
9/16/2007	9/15/2008	48	0	15	12	73

9/16/2006	9/15/2007	50	0	15	16	81
9/16/2005	9/15/2006	1	0	15	0	16
9/16/2004	9/15/2005	30	0	15	0	45
9/16/2003	9/15/2004	57	0	15	49	121
9/16/2002	9/15/2003	33	0	15	54	102

VIEWS OF THE COAST GUARD

On February 22, 2021, a judge advocate (JAG) of the Coast Guard submitted an advisory opinion in which he recommended that the Board deny relief in this case and adopted the findings and analysis provided in a memorandum prepared by the Personnel Service Center (PSC).

PSC argued that the application is not timely. Regarding the merits of the case, PSC argued that the applicant failed to show that the Coast Guard committed an error or injustice. In preparing its response, PSC contacted the Pay and Personnel Center (PPC) and the Reserve Component Management Branch (RPM-1). PPC stated that the applicant failed to identify a specific error on her Reserve Points Statement. Notwithstanding, PPC stated that it could not discern any errors in the applicant's payroll information or her Reserve Points Statement.

RPM-1 also argued that the applicant failed to provide evidence of an error or injustice. In response to the applicant's allegation that her IDT drills were not properly recorded because of an administrative issue, RPM-1 stated that Direct Access was fully functional in 2004. Further, RPM-1 stated that at the end of the day, members are responsible for keeping track of their drills and pay. RPM-1 argued that the applicant should have inquired about her incorrect points or missing drill pay at the time.

PSC concluded by arguing that CWO C's statement in support of the applicant's request is unpersuasive. PSC stated that CWO C is relying on memories from more than fifteen years ago. Further, PSC argued that CWO C's allegation that the transition from paper to electronic records took nearly six years is erroneous. Instead, PSC argued that the transition from paper to electronic records was completed in approximately seven days.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On February 24, 2021, the Chair sent the applicant a copy of the Coast Guard's views and invited her to respond within thirty days. No response was received.

APPLICABLE LAW AND POLICY

Chapter 8 of the Reserve Policy Manual, COMDTINST M1001.28A, in effect in 2006 discusses transferring to the Retired Reserve in relevant part:

8.C.3 Qualifying Years of Service

- a. A qualifying year of satisfactory service for non-regular retired pay is a full year during which a Regular or Reserve member is credited with a minimum of 50 retirement points.

An accumulation of 20 such years is one requirement necessary to qualify for non-regular retired pay.

...

b. For the purpose of determining entitlement to retired pay in accordance with 10 U.S.C. 12732, years of satisfactory federal service are computed by totaling all anniversary years in which at least 50 points have been credited on the following basis:

- (1) One point for each day of active duty in an Active or Reserve component of an Armed Force, or each day of commissioned service in the National Oceanic and Atmospheric Administration or Public Health Service.
- (2) One point for each authorized IDT drill, RMP or FHD period performed.
- (3) 15 points a year for membership in a Reserve component of an Armed Force.
- (4) Points earned by satisfactory completion of authorized correspondence courses.

...

8.C.6 Retirement Point Statements

A Reserve Retirement Point Statement is distributed by HRSIC approximately three months following the end of the reservist's anniversary year, and provides the number of points earned during the last anniversary year and the cumulative total for members' complete military career. Reservists who find discrepancies on their Reserve Retirement Point Statement shall send a request for correction with supporting documents via the chain of command to HRSIC (ses). In cases that HRSIC cannot resolve, HRSIC shall provide a meaningful endorsement with any additional supporting documents available and forward the request to CGPC-rpm for resolution.

ALCOAST 163/03 announced the transition from paper records to Direct Access. The announcement stated that Direct Access would be available for use on May 12, 2003.

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions based on the applicant's military record and submissions, the Coast Guard's submission and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552.
2. An application to the Board must be filed within three years after the applicant discovers the alleged error or injustice.³ The Reserve Retirement Points Statements in question are for the period from September 16, 2004, to September 15, 2006. According to Chapter 8.C.6. of the Reserve Policy Manual, members receive their Retirement Points Statement approximately three months after the end of their anniversary year. Therefore, the preponderance of the evidence shows that the applicant knew of the alleged errors in her record no later than 2006, and her application is untimely.
3. The Board may excuse the untimeliness of an application if it is in the interest of justice to do so.⁴ In *Allen v. Card*, 799 F. Supp. 158 (D.D.C. 1992), the court stated that the Board should not deny an application for untimeliness without "analyz[ing] both the reasons for the delay

³ 10 U.S.C. § 1552(b) and 33 C.F.R. § 52.22.

⁴ 10 U.S.C. § 1552(b).

and the potential merits of the claim based on a cursory review”⁵ to determine whether the interest of justice supports a waiver of the statute of limitations. The court noted that “the longer the delay has been and the weaker the reasons are for the delay, the more compelling the merits would need to be to justify a full review.”⁶ Pursuant to these requirements, the Board finds the following:

a. Regarding the delay in applying to the Board, the applicant stated that she was unable to locate any records until 2019 when CWO C returned to her duty station. However, the applicant did not provide any of the alleged documents that were found to show her participation in IDT drills, and she did not explain the reason CWO C was the only person who could locate these documents. The Board finds that the applicant’s explanation for the delay is not compelling because she failed to show that anything prevented her from seeking correction of the alleged errors more promptly.

b. A cursory review of the merits of this case shows that the applicant’s claim lacks potential merit. The applicant alleged that her Reserve Points Statements inaccurately show the number of IDT drills she completed for her anniversary years ending on September 15, 2005, and September 15, 2006. She first argued that her record is inaccurate due to an administrative issue caused by transitioning from paper records to an electronic system called Direct Access. However, as discussed in ALCOAST 165/03, Direct Access was available for use in May 2003. Further, the applicant has provided no evidence of technical issues that could have impacted her reserve points years later. She also argued that her record is inaccurate because there were several command changes that led to her records being misplaced. The applicant also stated that these records were later found by CWO C when he returned to their unit. However, the applicant failed to provide any documentation showing that she performed drills that were not accounted for in Direct Access to support her allegation. The disputed record is presumptively correct,⁷ and the record contains no persuasive evidence that substantiates her allegations of error or injustice in her official military record.

4. Accordingly, the Board will not excuse the application’s untimeliness or waive the statute of limitations to conduct a thorough review of the merits. The applicant’s request should be denied.

(ORDER AND SIGNATURES ON NEXT PAGE)

⁵ *Allen v. Card*, 799 F. Supp. 158, 164 (D.D.C. 1992).

⁶ *Id.* at 164, 165; *see also Dickson v. Secretary of Defense*, 68 F.3d 1396 (D.C. Cir. 1995).

⁷ 33 C.F.R. § 52.24(b); *see Arens v. United States*, 969 F.2d 1034, 1037 (Fed. Cir. 1992) (citing *Sanders v. United States*, 594 F.2d 804, 813 (Ct. Cl. 1979), for the required presumption, absent evidence to the contrary, that Government officials have carried out their duties “correctly, lawfully, and in good faith.”).

ORDER

The application of MST1 [REDACTED] [REDACTED] USCGR, for correction of her military record is denied.

June 4, 2021

[REDACTED] [REDACTED] _____

[REDACTED] [REDACTED] Digitally signed by [REDACTED] [REDACTED]
[REDACTED] [REDACTED] Date: 2022.04.06 12:32:30 -04'00'

[REDACTED] [REDACTED] Digitally signed by [REDACTED] [REDACTED]
[REDACTED] [REDACTED] Date: 2022.04.07 09:27:10 -04'00'