



Work-Product

**UNITED STATES AIR FORCE
BOARD FOR CORRECTION OF MILITARY RECORDS**

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-00467

Work-Product

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT’S REQUEST

She be credited with five (5) satisfactory Retirement/Retention (R/R) years for her R/R years of 20 Mar 16 – 19 Mar 21, to include restoration of pay and a total of 165 points.

APPLICANT’S CONTENTIONS

In her submission, to include 168 pages of supplemental materials, she contends that she was denied participation due to post-deployment medical disqualifying conditions resulting in a No Pay, No Points status and COVID 19 travel restrictions. As a result, she lost pay and points for the following periods:

- a. 20 Mar 16 – 19 Mar 17; 29 Non Paid Points
- b. 20 Mar 17 – 19 Mar 18; 31 Non Paid Points
- c. 20 Mar 18 – 19 Mar 19; 35 Non Paid Points
- d. 20 Mar 19 – 19 Mar 20; 35 Non Paid Points
- e. 20 Mar 20 – 19 Mar 21; 35 Non Paid Points

On 8 Feb 19, the Air Force Reserve Center Commander issued an immediate change to Air Force Instruction (AFI) 36-2254, Vol 1, *Reserve Personnel Participation*, regarding guidance when a member has a duty limiting condition. This change, effective immediately, stated that a member placed on a Duty (DR), Mobility (MR) or Fitness (FR) restriction via an AF Form 469, *Duty Limiting Condition Report*, issued by any Air Reserve Component or Active Duty medical squadron may participate for pay and points at the discretion of the Unit Commander. It further states that, Commanders choosing to restrict a member’s participation will formally notify them in writing.

Due to this denial of participation by HQ RIO/IRO and AFRC/SG, she was unable to fulfill the following positions:

- a. IMA to Chief Enlisted Manager at Headquarters Air Force Services Center (HQ AFSVC).
- b. Chief Enlisted Manager, HQ AFRC Yellow Ribbon Program, from 1 Nov 15 – 31 Dec 18.

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Controlled by: SAF/MRB
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Limited Dissemination Control: N/A
POC: SAF.MRBC.Workflow@us.af.mil

When queried, her myPers Total Force Service Center (TFSC) response stated, “Unsure of inactive status reasoning: Member should have been given the opportunity to serve for pay or points only since she works an office/desk job at the headquarters level.”

On 6 May 22, her Line of Duty Determination (LOD) appeal was disapproved and the final LOD decision remained Not In Line of Duty (NILOD) – Not due to Own Misconduct. As such, AFSVA/CC and RIO/IRO DET [REDACTED] CC denied her High Year Tenure (HYT) request which forced her to retire on 31 Jan 23 with 27 years of satisfactory service instead of 33 years.

Additionally, the applicant provides a list of facts and related statements of the events, as she saw they occurred, which she contends led to the mismanagement of her case resulting in her loss of pay and points.

The applicant’s complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an Air Force Reserve chief master sergeant (E-9).

According to documentation provided by the applicant:

On 25 Aug 16, an e-mail from HQ RIO/IRM was sent to the applicant and indicates that AFRC/SG had denied the applicant’s participation waiver.

On 4 May 20, according to the HQ RIO DET [REDACTED] CC memorandum, *Approved Participation Status*, the applicant was notified that her participation status was approved. She was also notified that approval was granted to perform only AT and IDTs at her home unit or in telework status and informed her that she is required to log into Air Force Reserve Orders Writing System-Reserve (AROWS-R) and/or UTAPS to route her projected duty days. She acknowledged: receipt of the notification; understanding the memorandum was only approved until 30 Sep 20; and action on her part to enter any projected duty in AROWS-R and/or UTAPS.

On 23 Sep 20, according to the HQ RIO DET [REDACTED] CC memorandum, *Approved Participation Status*, the applicant was notified that her participation status was approved. She was also notified that approval was granted to perform only AT and IDTs at her home unit or in telework status and informed that she is required to log into Air Force Reserve Orders Writing System-Reserve (AROWS-R) and/or UTAPS to route her projected duty days. She acknowledged: receipt of the notification; understanding the memorandum was only approved until 30 Sep 21; and action on her part to enter any projected duty in AROWS-R and/or UTAPS.

According to the Point Credit Accounting Record System (PCARS) report, she was credited with the with the following Active Duty (AD), Inactive Duty for Training (IDT), membership (MBR), and retirement points from 2015 to 2021:

R/R Year	AD	IDT	MBR	Retirement	Satisfactory Service (Year)
20 Mar 15 – 19 Mar 16	180	16	15	226	010000
*20 Mar 16 – 19 Mar 17	6	0	15	21	000000
*20 Mar 17 – 19 Mar 18	4	0	15	19	000000

*20 Mar 18 – 19 Mar 19	0	0	15	15	000000
*20 Mar 19 – 19 Mar 20	0	0	15	15	000000
*20 Mar 20 – 19 Mar 21	0	0	15	15	000000
20 Mar 21 – 19 Mar 22	13	24	15	52	010000

***Unsatisfactory Years**

For more information, see the excerpt of the applicant’s record at Exhibit B and the advisory at Exhibit C.

APPLICABLE AUTHORITY/GUIDANCE

Air Force Instruction 36-2254, Vol 1, *Reserve Personnel Participation*, 26 May 10, paragraph 1.6, Medical Qualifications:

1.6.3. A member identified as having a potentially disqualifying condition in accordance with AFI 48-123, *Medical Examinations and Standards*, attachment 2 notated on an AF Form 469, *Duty Limiting Condition Report*, by any Air Reserve Component (ARC) or AD medical squadron will not be allowed to participate in any pay or point gaining activity until the disqualifying condition has been removed or an approved waiver is received from AFRC/SG in accordance with AFI 48-123. Any IDT which is missed due to this medical limitation will be considered excused. Member will be excused from any type of military duty requirements until the profile has been finalized by AFRC/SGP or removed. When applicable, the Personnel Data System (PDS) will be updated to reflect the member as excused.

2.2. Crediting Points and Satisfactory Federal Service. Points may only be credited to the date a member actually performed the duty, except in those activities where the cumulative method is authorized, such as telecommuting.

Air Force Chief of Reserve Affairs (AF/RE) Memorandum, *Participation Determinations for Members of the Air Force Reserve*, 8 Feb 19. This memorandum directs the immediate implementation of a mandatory change to Air Force Instruction 36-2254 Volume 1, *Reserve Personnel Participation*. Currently, when a member has a duty limiting condition, guidance requires that they be placed in a no-pay, no-points status. Effective immediately, a member placed on a Duty (DR), Mobility (MR) or Fitness (FR) restrictions via an AF Form 469, *Duty Limiting Condition Report*, issued by any Air Reserve Component or Active Duty medical squadron may participate for pay and points at the discretion of the Unit Commander.

Air Force Manual (AFMAN) 36-2136, *Reserve Personnel Participation*, 6 Sep 19, paragraph 1.7. Medical Qualifications:

1.7.3. A member placed on a Duty (DR), Mobility (MR) or Fitness (FR) restrictions via an AF Form 469, *Duty Limiting Condition Report*, issued by any Air Reserve Component or active duty medical squadron may participate for pay and points within the restrictions outlined on the member’s AF Form 469. The commander will carefully consider the member’s documented physical limitations, safety (to include travel to and from duty location) and mission requirements, and allow the member to participate within the restrictions outlined on the member’s AF Form 469. Commanders choosing to restrict a member’s participation will formally notify them in writing. A copy of the notification letter restricting the member from participation must be sent to the servicing FSS (Force Support Squadron) who will update the member’s Duty Status Code to 14 in Military Personnel Data System (MILPDS). The Commander must formally notify the FSS

in writing when a member's previous restriction is removed or finalized. Additionally, any Inactive Duty Training (IDT) which is missed due to medical limitations will be considered excused. If the commander determines a member may safely perform any duties, a letter outlining these duties and restrictions must be presented to and acknowledged by the member. When applicable, the Personnel Data System (PDS) will be updated to reflect the member as excused.

2.2. Crediting Points and Satisfactory Federal Service. Points may only be credited to the date a reservist actually performed the duty, except in those activities where the cumulative method is authorized (e.g., Admissions Liaison Officer, teleworking, etc.).

11.2. Definition. Teleworking allows written pre-authorization by a reservist's Air Force Reserve unit or RIO detachment commander (or equivalent) for reservists to work/train in an official capacity for pay and/or points away from the official duty location in either active duty or Inactive Duty Training status.

AIR FORCE EVALUATION

HQ RIO/IRO recommends denying the applicant's request. Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice. In 2016, the Air Force Reserve Surgeon General (AFRC/SG) denied the applicant's initial waiver request to participate due to her medical conditions. This was in accordance with Air Force Reserve Policy, which at the time stated that members with an Assignment Availability Code (AAC) 37 could only participate if the AFRC/SG approved a participation waiver. On 8 Feb 19, the Chief of the Air Force Reserve (AF/RE), changed the policy to allow commanders the decisional authority to allow members to participate. On 6 Aug 19, the new DET [REDACTED] was appointed. It is unclear whether the applicant requested, in light of the new AF/RE guidance, a participation waiver during the period of 8 Feb 19 – 6 Aug 19.

On or about 26 Aug 19, discussions took place within RIO/IRO DET [REDACTED] leadership regarding the applicant's participation status and on 26 Aug 19, the DET [REDACTED] signed and approved a participation request; however, no action was taken between the applicant and her assigned unit, and the signed participation request was not returned with either acknowledgement or signature from the applicant.

In Oct 19, the applicant made another request to participate and a new approved and signed memo from the applicant's unit commander authorizing her to participate was required. However, due to her profile expiring in Dec 19, the commander, to ensure that the applicant's medical conditions did not deteriorate further, did not immediately sign a new request. After months of communications between the Air Force Services Center (AFSVC) Reserve Operations Division Chief and the DET [REDACTED], the request to participate was again approved and signed authorizing participation between 5 May 20 and 30 Sep 20. However, there is no documentation that reflects the applicant participated during this authorized period. Therefore, the applicant should not receive pay or points for her R/R years of 20 Mar 19 – 19 Mar 21.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 12 Apr 23 for comment (Exhibit D), and the applicant replied on 1 May 23. In her response, to include 140 pages of additional

supplemental material, she contends that due to no misconduct of her own, for the past eight (8) years she has been asked to take off her uniform, sit down, and wait for approval to serve her country and provides a timeline that will prove that her medical case has been mishandled and that the statement by HQ RIO/IRO, “There is no documentation that shows <applicant’s name> participating when authorized to” is inaccurate and false based on the following factual data:

a. Since 1 Oct 15, there have been *extreme* (emphasis added) delays in IRILO processing due to incomplete medical package processing by her wing’s medical group and HQ RIO/IRO which prolonged her ability to participate in person.

b. As an Individual Mobilization Augmentee (IMA), she has *no* (emphasis added) power or ability to independently placed herself on military orders or approve her own travel, nor does she believe that she would still hold the position of the IMA to AFSVC/CEM in 2023 had she disobeyed a direct order to report for duty and/or willingly decided to go Absent Without Leave (AWOL) anytime between 2015 – 2023.

c. She complied with COVID-19 travel restrictions for military personnel as outlined in *Force Health Protection (Supplement 2) - Department of Defense Guidance for Military Installation Commander’s Risk Based Measured Response to the Novel Coronavirus Outbreak*, dated 25 Feb 20.

d. She complied with HQ RIO telecommuting restrictions for Annual Tour (AT) and Inactive Duty for Training (IDT) in accordance with the *Instructions for completing Telecommute Worksheet* and AFI 36-2254, Vol 3, Attachment 2, *Air Force Reserve Telecommuting Agreement*, 18 Jun 10.

On 23 Jul 23, the applicant replied to the DET [REDACTED] CC, Memo for Record, dated 27 Mar 23, which was inadvertently left off the 12 Apr 23 communication to the applicant (Exhibit D) and sent to the applicant on 22 May 23. In her response, dated 23 Jul 23, to include 71 pages of supplemental material and email traffic, she contends that in Aug 16, while on AAC 37, she applied to HQ AFRC/IRO and requested a temporary participation waiver for IDT/AT pending receipt of IRILO package which was denied. Further she states that the first approved participation memo, signed by DET [REDACTED] CC on 28 Jun 19, recommended IDT/AT for Fit For Duty (FFD) process, utilizing MTF nearest to residence only. The second approved participation waiver was signed by the new DET [REDACTED] CC on 4 May 20, and signed by her on 5 May 20, but was not signed by the new AFSVC/CC until 26 Aug 20 which was approved until 30 Sep 21, but she was advised that due to pending adjustment to COVID restrictions that there was no telework available at AFSVC.

The applicant’s complete response, to additional response dated 23 Jul 23, is at Exhibit E.

FINDINGS AND CONCLUSION

1. The application was timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is the victim of an error or injustice. While the Board notes the recommendations of HQ RIO/IRO against correcting the record, the Board finds a preponderance of the evidence substantiates the applicant’s contentions. In this respect, the Board finds that the applicant was unable to participate during this time period

due to circumstances beyond her control. While the Board finds that the decision to deny participation in 2016 was neither arbitrary nor capricious as it fell within the bounds of the AFR/SG’s authority, the Board determines the delays in IRILO processing, which continued even after the AF/RE updated the participation policy, were due to no fault of the applicant and prolonged her inability to participate that resulted in an injustice to the applicant as she was not afforded the opportunity to participate and earn both pay and points. In addition, during COVID-19 restrictions, although the applicant was provided several opportunities in which to participate and earn both pay and points, the Board finds that due to circumstances beyond her control, she was unable to either schedule or perform military duties as teleworking opportunities at her command were unavailable. Although according to AFMAN 36-2136, *Reserve Personnel Participation*, Paragraph 2.2. *Crediting Points and Satisfactory Federal Service*. “Points may only be credited to the date a reservist actually performed the duty,” in this case the Board finds the preponderance of the evidence justifies awarding of pay and points for duty not performed as the applicant’s situation warrants this type of correction. Therefore, the Board recommends correcting the applicant’s records as indicated below.

4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board’s understanding of the issues involved.

RECOMMENDATION

The pertinent military records of the Department of the Air Force relating to APPLICANT be corrected to show:

- a. For Retirement and Retention year 20 Mar 16 through 19 Mar 17, the applicant be credited with an additional 29 Inactive Duty Training points.
- b. For Retirement and Retention year 20 Mar 17 through 19 Mar 18, the applicant be credited with an additional 31 Inactive Duty Training points.
- c. For Retirement and Retention year 20 Mar 18 through 19 Mar 19, the applicant be credited with an additional 35 Inactive Duty Training Points.
- d. For Retirement and Retention year 20 Mar 19 through 19 Mar 20, the applicant be credited with an additional 35 Inactive Duty Training Points.
- e. For Retirement and Retention year 20 Mar 20 through 19 Mar 21, the applicant be credited with an additional 35 Inactive Duty Training Points.
- f. She receives all back pay associated with the above Inactive Duty Training points.

CERTIFICATION

The following quorum of the Board, as defined in Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2023-00467 in Executive Session on 11 Jul 23 and 7 Nov 23:

- Work-Product**, Panel Chair
- Work-Product** Panel Member
- Work-Product** Panel Member

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All members voted against correcting the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 19 Jan 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, HA RIO/IRO, w/atch, dated 30 Mar 23.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 12 Apr 23.
- Exhibit E: Applicant's Response, w/atchs, dated 1 May 23 and 23 Jul 23.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

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X

Board Operations Manager, AFBCMR
Signed by: USAF