

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 2 January 2024

DOCKET NUMBER: AR20220011455

APPLICANT REQUESTS: reconsideration of his previous request for correction of his DA Form 5016 (Chronological Statement of Retirement Points) for points only for duty performed during the period of 1982 through 2014.

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

- DD Form 149 (Application for Correction of Military Record) with hand-written notes and comments
- Various Statements
- Previous Record of Proceedings with hand-written notes and comments
- Extract of Army Regulation (AR) 140-185, Training and Retirement Points Credits and Unit Level Strength Accounting Records
- Multiple DA Forms 1380, Record of Individual Performance of reserve Duty Training

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AR20210008986 on 5 April 2022.

2. The applicant states:

a. He originally submitted a DD Form 149 to the Army Review Boards Agency, on 16 April 2021. Additionally, he did in fact respond to the advisory opinion when packet was received by himself on 13 February 2022. His review and comments were faxed to Case Management, on 14 February 2022. These comments were also mailed to Case Management, 15-17 February 2022. Thus, Army Review Board, Docket Number AR20210008986 decision, page 92, #6 is not accurate. He has uploaded his review and comments to Supporting Documents Considered, as well as 15 May 1987 (I fall under the "Old Rule/Grey Area, per Previous Unit Administrator of Army Unit") AR 140-185, Chapter 2, Paragraphs 2-1 and 2-2; AR 140-185, Chapter 3, Paragraph 3b.

b. The error(s) or injustice(s) needed to be corrected in the applicant's military records: He requests each DA Form 1380, from 1982 through 2014 sent to the U.S. Army Human Resources Command. His DA Form 5016 does not reflect the "non-paid"/retirement points earned. As he is eligible for Early Age Drop, he requested through HRC, expedited processing of all Retirement Points. Original Enlistment Document (DD Form 4/1 to DD Form 4/4 provides that "All additional duties performed in a non-paid status, the service member will receive 1(one) retirement point for every 2 (two) hours of duty, training, or instruction. This agreement will stand the lifetime of this agreement and any other agreements." He has provided HRC with all copies of DA Forms 1380. Lieutenant Colonel (LTC) Jo__ Bo__ stated both in writing, and telephone conversation-"this is unprecedented!" "Why were none of these processed throughout your career?" "Are these re-creations of the original forms, or actually original documents from these dates?" He told LTC Bo__ that "I joined in 1982, an old 1st SGT told me keep everything and I did." He also stated "I am not surprised that my non-paid, retirement points were not processed. That would have been too much work for them to do. I cannot answer the question of ""why none of these were processed throughout your career."" Previous Unit Administrator(s) stated "Each Unit Failed to record my "non-paid" 1380(s) on the DA Form 1379 which is a Permanent Record of Retirement points earned.

c. Failure of each Unit to record his "non-paid" 1380(s) is a Unit Error/ S1 Error. He further discussed with LTC Jo__ Bo__ that he was Special Forces (SF) - that SF guys were not supposed to make it to retirement." He and his wife went through 4 (four) large Military boxes and gathered all paperwork to scan and send to HRC. Thus, SF Veterans are having to (a) drive to Fort Knox, KY with all military records to correct "missing retirement points" (b) scanning, reducing file size to upload, every DA Form 1380 (copy retained for file), only to be told "HRC is unable to validate the legitimacy of "your request and award you points credit for these periods of service due to various reasons." He was fortunate enough to have his older brother with him when he enlisted to make sure all hours "non-paid" were recorded. And to have a first sergeant tell him to keep everything. He has continued to submit each DA Form 1380 to different personnel at HRC. He has attached his document to appeal the Board's previous decision. All Training, as provided on each copy of DA Form 1380, was performed. Thus, all submitted DA Forms 1380 are correct due to command structure.

3. Review of the applicant's service records shows:

a. The applicant was born on XX M____ 1963. He will turn (or has turned) 60 years of age, on XX M__ 2023. He enlisted in the U.S. Army Reserve on 27 August 1982.

b. He entered active duty for training (ADT) from 27 October 1982 to 18 August 1983 and completed training for military occupational specialty (MOS) 91L, Physical

Therapy Specialist. His DD Form 214 for this period shows he completed 9 months and 22 days of active service.

c. The applicant again entered active duty for training from 20 August 1984 to 29 June 1985 and completed the Practical Nurse Course. His DD Form 214 for this period of service shows he completed 10 months and 20 days of active service.

d. On 12 March 1990, the U.S. Total Army Personnel Command (PERSCOM), now called U.S. Army Human Resources Command (HRC) issued the applicant an Appointment Memorandum as a Reserve commissioned Officer of the Army, effective 6 April 1990 (date of acceptance).

e. The applicant served in a variety of staff assignments, and he was advanced to major (MAJ) on 20 May 2003.

f. On 2 October 2002, the U.S. Army Reserve Personnel Command (AR-PERSCOM), issued the applicant a Notification of Eligibility for Retired Pay at Age 60 (20-Year Letter).

g. On 23 June 2014, HRC published Orders Number C-06-408794, assigning the applicant to the USAR Control Group (Reinforcement), effective 17 June 2014.

h. On 11 July 2014, HRC published Orders Number C-07-409784, assigning the applicant to the Retired Reserve, effective 11 June 2014, for non-selection for promotion. His DA Form 5016, dated 21 October 2021, shows he completed 31 years, 10 months, and 15 days of qualifying service for non-regular retirement (2,814 retirement points).

4. In his previous application, the applicant provided multiple DA Forms 1380, reflective of unit training and duties, unit support, meetings, beginning in Retirement Year August 1982 through August 1983 and ending in Retirement Year June 2014.

5. In the previous application, on 10 November 2021, HRC, Chief Operations and Readiness Division provided an advisory opinion in the processing of this case, regarding the applicant's request for correction of his retirement points for the period of 1982 through 1996. The advisory official stated that most of the DA Form(s) 1380 were signed by an NCO, or civilian personnel, and the signature authority card/memorandum was not accompanied with the forms. Another concern, the ranks of the personnel who signed the forms do not correspond with the timeline of when the applicant performed the duties. Lastly, each anniversary year ending (AYE) date will be considered.

a. In accordance with AR 140-185, para 3-3, dated 15 May 1987 requires that unit preparing the form will forward the original within three days after performance of duty.

Furthermore, the documents were not submitted to HRC in accordance with AR 140-185, paragraph 2-4, designating one point for each two hour or greater period. To receive credit for the second point the requirement is a minimum of eight hours. A maximum of two points is allowed in one calendar day.

b. The applicant is requesting a total of 96 IDT points for the period 27 August 1982 through 26 October 1982. Per Table A-1, authorized a maximum of 11 IDT(s) for this period. The applicant currently has seven points and if approved HRC can add four additional points.

c. The applicant is requesting a total of 312 IDT points for 27 August 1983 through 26 August 1984. Per paragraph 2-1 authorizes a maximum of 60 points for IDT and membership points. Currently the maximum number of points has been reached.

d. The applicant currently has 150 active duty points and should have 306 total active duty points per the DD Form 214 covering the period 20 August 1984 through 29 June 1985. HRC will add 156 active duty points.

e. The applicant is requesting a total of 264 IDT points for 27 August 1985 through 26 August 1986. Per paragraph 2-1, authorized a maximum of 60 points for IDT and membership points. The applicant currently has 58 reserve points, if approved HRC can only add two additional points.

f. The applicant is requesting a total of 284 IDT points for 27 August 1986 through 26 August 1987. Per paragraph 2-1, authorizes a maximum of 60 points for IDT and membership points. The applicant currently has 45 reserve points, if approved HRC can only add 15 additional points.

g. The applicant is requesting a total of 332 IDT points for 27 August 1987 through 26 August 1988. Per paragraph 2-1, authorized a maximum of 60 points for IDT and membership points. The applicant currently has 50 reserve points, if approved HRC can only add 10 additional points.

h. The applicant is requesting a total of 256 IDT points for 27 August 1988 through 26 August 1989. Per paragraph 2-1, authorized a maximum of 60 points for IDT and membership points. Currently the maximum number of points has been reached.

i. The applicant is requesting a total of 248 IDT points for 27 August 1989v through 26 August 1990. Per paragraph 2-1, authorized a maximum of 60 points for IDT and membership points. The applicant currently has 57 reserve points, if approved HRC can only add three additional points.

j. The applicant is requesting a total of 304 IDT points for 27 August 1990 through 26 August 1991. Per paragraph 2-1, authorized a maximum of 60 points for IDT and membership points. The applicant currently has 57 reserve points, if approved HRC can only add three additional points.

k. The applicant is requesting a total of 372 IDT points for 27 August 1991 through 26 August 1992. Per paragraph 2-1, authorized a maximum of 60 points for IDT and membership points. The applicant currently has 53 reserve points, if approved HRC can only add seven additional points.

l. The applicant is requesting a total of 264 IDT points for 27 August 1992 through 26 August 1993. Per paragraph 2-1, authorized a maximum of 60 points for IDT and membership points. The applicant currently has 55 reserve points, if approved HRC can only add five additional points.

m. The applicant is requesting a total of 252 IDT points for 27 August 1993 through 26 August 1994. Per paragraph 2-1, authorized a maximum of 60 points for IDT and membership points. Currently the maximum number of points has been reached.

n. The applicant is requesting a total of 292 IDT points for 27 August 1994 through 26 August 1995. Per paragraph 2-1, authorized a maximum of 60 points for IDT and membership points. Currently the maximum number of points has been reached.

o. The applicant is requesting a total of 80 IDT points for 27 August 1995 through 26 August 1996. Per paragraph 2-1, authorized a maximum of 60 points for IDT and membership points. Currently the maximum number of points has been reached.

6. The applicant responded to the advisory opinion by making hand-written notes and comments next to each item addressed by HRC. His notes read:

- Paragraph 2: The 1380s were taken to the command suite and signed; there was no signature authority card
- Paragraph 2(a): Gap in administrative process
- Paragraph 2(b) thru 2(c): All additional dates were for non-paid retirement points only
- Paragraph 2(e) thru 2(o): All additional dates were for non-paid retirement points only

7. On 5 April 2022, after reviewing the application and all supporting documents, the Board determined partial relief was warranted. Based upon the available documentation and the findings of the HRC advisory opinion, the Board concluded there was insufficient evidence of an error or injustice which would warrant adding additional retirement points to the applicant's record based upon the DA Form 1380s provided.

However, based upon the record showing the applicant completed periods of active duty annotated by DD Form 214s, the Board recommended referring the applicant's record to HRC to ensure the periods of active duty annotated by the applicant's DD Form 214s were given appropriate retirement point credit.

8. On 17 May 2022, HRC responded to the applicant's application for Retired Pay and Reduced Retirement Age, received April 25, 2022. HRC stated that after a thorough review of the request, they are unable to approve a drop in his retirement age. In accordance with the National Defense Authorization Act for Fiscal Year 2008, any mobilization prior to January 29, 2008, cannot be considered for a reduction in retirement age. Therefore, his date of placement on the retired list will remain his 60th birthday, XX M___ 2023.

9. On 5 February 2023, the applicant submitted a DD Form 108, Application for Retired Pay Benefits. His request was approved, and on 17 April 2023, HRC published Orders C04-394496 retiring the applicant and placing him on the retired list in the retired grade of major effective XX M___ 2023 (his 60th birthday).

10. On 15 July 2023, by letter addressed to the applicant, an official at HRC informed him that per the Board Determination/Recommendation, and under the provision of Title 10 of the United States Code, Section 1552, the enclosed DA Form 5016, Chronological Statement of Retirement Points, has been updated by adding by adding active duty points from his DD Form 214 for 20 August 1984 to 29 June 1985. This added an additional 7 points to the retirement year 19830827 - 19840826 and an additional 135 active duty points to the retirement year 19840827 – 19850826. His DD Form 214 for 27 October 1982 to 18 August 1983 has already been accounted for in the retirement year 19820827 – 19830826 (a total of 310 active duty points). His DA Form 5016 now reflects 31 years, 10 months, and 15 days of qualifying service towards non-regular retirement (2978 retirement points).

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The evidence shows HRC conducted a thorough review of the applicant's submission and adjusted his retirement points based on valid and properly completed and signed DA Form 1380 and/or DD Form 214. HRC also raised some concerns regarding the applicant's claims: There were concerns regarding the DA Forms 1380 being signed by unauthorized personnel and/or that the ranks of personnel who signed some the forms did not correspond with the timeline of when the applicant performed the contested duties. HRC also addressed each Anniversary Year (AY) to determine if any additional points were authorized. In many anniversary years, the maximum number of points has

already been reached. The applicant claims that his rebuttal to the HRC advisory opinion was not considered by the Board. In his rebuttal, the applicant made some notes and comments next to each item addressed by HRC, indicating that his points/dates were for non-paid retirement points only. Even in this current application, the Board noted that he raises the same contentions he previously raised but does not provide documentary evidence to refute the HRC's determination for each anniversary year. The Board was not convinced by the applicant's argument and determined the applicant does not bring any new evidence to support additional retirement points.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	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 to amend the decision of the ABCMR set forth in Docket Number AR20210008986 on 5 April 2022.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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. Army Regulation 140-185 (Army Reserve Training and Retirement Point Credits and Unit Level Strength Accounting Records), in effect at the time, 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. It also prescribes guidance for USAR unit level strength accounting.

a. Paragraph 2-1 (Criteria for crediting retirement points), limitations on the number of points which may be credited to a Soldier during a retirement year are:

- Maximum—365 (366 during leap year) points
- Maximum for inactive duty training (IDT)—60 points for IDT and membership
- Membership—15 points for each year in an active status

IDT and Membership points may not exceed:

- Prior to 23 September 1996: 60-point rule in effect
- On or after 23 September 1996: 75-point rule in effect
- On or after 30 October 2000: 90-point rule in effect
- On or after 30 October 2007: 130-point rule in effect

All active duty training is credited. However, a Soldier can only receive credit for a maximum of 365 (366 in a leap year) retirement points in a year.

b. Paragraph 2-2 (Criteria for earning retirement points), retirement points may be earned by USAR Soldiers for active duty or duty in an active status for active duty for training (ADT), initial active duty for training (IADT), involuntary active duty for training (involuntary ADT), voluntary IDT, annual training (AT), IDT, membership points, and for other activities specified in this regulation.

c. Paragraph 2-3 (Qualification and eligibility for earning retirement points), authority and specific individual qualifications required for earning retirement points are in AR 140-1 and other regulations governing the type of Reserve duty training to be performed. All USAR Soldiers are classified into alphabetic training/pay categories (T/PC) for determination of individual requirements for paid IDT and AT. These categories determine individual status in the Ready Reserve (Selected Reserve and Individual Ready Reserve and the Standby Reserve (Active and Inactive).

d. Paragraph 2-4 (Criteria for awarding retirement points), 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. Table 2-1 provides criteria for award of retirement points for IDT performed in accordance with AR 140-1. Most types of IDT are covered by one of the following rules on required duration of IDT and calendar day limitations on points.

- Four-hour rule - 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
- Two-hour rule - 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; maximum of 1 point in 1 calendar day
- Two/eight-hour rule - 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 in b above during any single calendar day
- No individual may be awarded a total of more than 2 points for IDT in 1 calendar day, with the following exceptions: (1) TPU soldier who recruits a new member as specified under rule 17 in Table 2-1 or (2) Correspondence courses completed

e. Paragraph 3-1, Army Training Requirements and Resources System (ATRRS) training transcript, DD Form 214 (Certificate of Re-lease or Discharge from Active Duty), DD Form 215 (Correction to DD Form 214, Certificate of Release or Discharge from Active Duty), DD Form 220 (Active Duty Report), master military pay account, DFAS Form 702 (Defense Finance and Accounting Service Military Leave and Earnings Statement), DA Form 1379 (U.S. Army Reserve Components Unit Record of Reserve Training), DA Form 1380 (Army Reserve Record of Individual Performance of Reserve Duty Training), DA Form 5016, and the Reserve retirement repository are used to maintain and record the award and entitlement of retirement points. Units of assignment are responsible to ensure source documents are uploaded into iPERMS prior to submission of action to adjust a Soldier's retirement points. This will ensure proper validation of retirement points throughout a Soldier's career.

f. Paragraph 3-2 (DA Form 1379 (RCS AG 534) and DA Form 1379-SG (U.S. Army Reserve Components Unit Record of Reserve Training)), a. Use. This is either a Standard Installation/Division Personnel System-USAR output roster (utilized prior to automation), an automated unit commander's pay management report or TAPDB-R output roster (utilized by nonpaid individual mobilization augmentation (IMA) detachments) listing Soldiers attached to IMA detachments. It contains personnel data on each Soldier and is used as follows:

- To record IDT paid and nonpaid drill attendance/status for assigned and attached personnel

- As a source document to verify accuracy of monthly unit payrolls under the defense joint uniform military pay system by authorized inspecting and verifying personnel
 - As a permanent record of retirement points earned
 - As a basic report for reflecting unit performance and constructive attendance
 - As a historical record of unit training
 - For AT attendance
 - By IMA detachments to record authorized training of attached non-unit Soldier
 - To determine eligibility for benefits if injury or death is incurred while in training
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- Non-unit Soldiers (attached to IMA detachments). Forward original to Commander, HRC within 30 days after reporting month.

g. Paragraph 3–3 (DA Form 1380), (a) the purpose of this form is to record IDT by: Non-unit Soldiers under the jurisdiction of HRC who are attached for retirement points only to USAR TPUs, ARNG units, or to another Service or component for training per AR 140–10. Only attached Soldiers are authorized to perform IDT except for 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. Non-unit Soldiers performing other inactive duty training for retirement point credit as outlined in table 2–3. b. DA Form 1380 will be prepared for a unit Soldier who performs ET or additional training with their unit after the scheduled BA. TPU units will retain one copy of the DA Form 1380 to post the appropriate entry into ADARS for the month's report and then place in the appropriate Army records information management system file. Non-paid 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 Soldier's official records by the unit of assignment per AR 600–8–104.

2. Department of Defense Instruction 1215.07 (Service Credit for Non-Regular Retirement), establishes policy, assigns responsibilities, prescribes procedures, and establishes requirements for crediting active and Reserve service for non-regular retirement in accordance with Chapter 1223 of Title 10, United States Code, Paragraph 3.4b (Retirement Point Credit by Activity), (Inactive Duty Service), credit inactive duty service as follows: (1) One retirement point for each attendance at an inactive duty training (IDT) period or period of equivalent instruction. The Secretary concerned or the Commandant of the Coast Guard must prescribe the IDT periods or periods of equivalent instruction for that year, and the must conform to the requirements prescribed by law, including attendance by a member of the National Guard at required IDT periods. (2) One retirement point for each attendance at a period of equivalent

training. (3) a maximum of two retirement points for attendance at IDT periods, or equivalent training, in any 1 calendar day.

//NOTHING FOLLOWS//