

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 15 October 2024

DOCKET NUMBER: AR20230006648

APPLICANT REQUESTS: in effect, correction to his NGB Form 22 (National Guard Report of Separation and Record of Service), 31 December 2014, to reflect in item 10e (Total Service for Retired Pay) 20 years, vice 12 years. In addition:

- Correction to his retirement documents (unspecified) to also reflect 20 years, vice 12 years
- A personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Memorandum subject: Flexible Training for the Army National Guard Clinical Officers, 15 April 2008
- Duplicate DD Forms 214 (Certificate of Release or Discharge from Active Duty)
- Resume
- A copy of his Medical Certificate
- Copy of his Common Access Card (CAC)
- Up To Date completion Certificates (8)
- Transcripts
- NGB Form 22
- NGB Form 23B (Army National Guard (ARNG) Retirement Points History Statement)

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, 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, in effect, he completed 20 years of service but was only credited for 12. He is requesting correction to his retirement documents and his NGB Form 22, to reflect in item 10e "20 years", vice "12 years". As a member of the ARNG, and as a physician in training, he was allowed to participate in continuing medical

education (CME) according to the flexible training policy for medical professionals, instead of inactive duty training (IDT), in order to receive retirement points. According to regulatory guidance, he was supposed to receive one retirement point, for every four credit CME activities he participated in. His retirement points for his participation in the CME was not processed, causing his ineligibility for retirement with 20 good years. He has provided evidence that reflects his CME participation, which he did not receive credit for. If these activities are credited, he will become eligible for retirement with 20 good years along with any retirement benefits he might be entitled to.

3. As it pertains to the applicant's request for correction to his NGB Form 22, this document is issued by the State Army National Guard. The applicant is advised to contact his State Adjutant General for any administrative corrections to this form.

4. The Board will address the applicant's total qualifying service towards non-regular retirement.

4. The applicant provides:

a. In a memorandum subject: Flexible Training for the Army National Guard Clinical Officers, 15 April 2008, that is available in its entirety for the Boards review, shows in:

(1) Paragraph 4a: Provide flexibility to the States and commanders for the training and development of National Guard U.S. Army Medical Department (AMEDD) Clinical Personnel. It authorizes unit commanders to approve Equivalent Training (ET) for officers scheduled for Inactive Duty Training (IDT); Unit Training Assembly and Active (UTA); Annual Training (AT) Duty for Training (ADT); to enable their participation in other health education activities.

(2) Paragraph 5a (b): Attendance at a minimum of one IDT weekend with the officer's assigned unit will be required each quarter to ensure the officer's availability for required tasks or training as determined by the unit commander. Each period of Equivalent Training (ET) must be a minimum of 4 hours duration and approved in advance by the unit commander. The following may be treated as Unit Assembly (UT) under this policy:

- ET at local Military Medical Treatment Facilities (MTF)
- Medical conferences, seminars, or Continuing Health/Medical Education courses
- Attendance at local or national health care meetings, which grant continuing health/medical educational credits, or which enhance the officer's military assignment

- The IDT credit for this type of training would be one unit training assembly for each 4 hours in attendance, (i.e., a 2-day, 16 hour course), is the equivalent of a Multiple UTA or Military Unit Training Assembly (MUTA)

b. Eight continuing medical education certificates that show he participated in the internet point-of-care activity titled Up To Date, and was awarded 80 American Medical Association (AMA) category 1 credits, for the following periods:

- 30 November 1997 - 29 November 1998
- 30 November 2002 - 29 November 2003
- 30 November 2007 - 29 November 2008
- 30 November 2009 - 29 November 2010
- 30 November 2010 - 29 November 2011
- 30 November 2011 - 29 November 2012
- 30 November 2012 - 29 November 2013
- 30 November 2013 - 29 November 2014

c. Continuing medical education transcripts, 31 January 2014, that show he was awarded 40 hours for the completion of General AMA Category 1 training.

5. The applicant's service record shows:

a. The applicant served as an enlisted Soldier from 30 November 1994 to 29 April 2003. An NGB Form 337 (Oaths of Office) reflects he was appointed as a commissioned officer in the Puerto Rico Army National Guard (PRARNG) on 30 April 2003.

b. DD Form 214, reflects he was ordered to active duty on 7 January 2010, and was honorably released on 6 May 2010, and was transferred to Headquarters and Headquarters Company, 1st of the 104th Aviation, Pennsylvania. He completed 4 months of active service, and 3 months, 11 days of foreign service.

c. Orders 335-010, 1 December 2014, show he was to be honorably separated from the ARNG, with an effective date of 31 December 2014. This document further shows his resignation from the ARNG, in accordance with National Guard Regulation 635-100.

d. The applicant's NGB Form 22, 31 December 2014, reflects he was honorably separated from the Florida ARNG (FLARNG) in the rank of Major/(MAJ). This document shows in:

- Item 10a (Net Service This Period): 3 years, 11 months and 00 days
- Item 10b (Reserve Component Service): 15 years and 15 days

- Item 10c (Prior Active Federal Service): 1 year, 1 month, and 16 days
- Item 10d (Total Service for Pay): 20 years, 1 month, 1 day
- Item 10e (Total Service for Retired Pay): 12 years
- This document also shows his resignation from the ARNG.

f. The applicant's service record is void of any documentation to show when he transferred from the PRARNG to the FLARNG.

g. The applicant's ARNG retirement Points History Statement, NGB Form 23B, 6 January 2015, shows from 30 November 1994 to 31 December 2014, the applicant completed 12 qualifying years of service towards non-regular retirement.

6. On 10 May 2024 the National Guard Bureau provided an advisory opinion on the applicant's request that his records be corrected to show he had 20 good years of service so he can receive his retirement.

a. The applicant states as a member of the Army National Guard of Medical Corps and as a physician in training, he was allowed to participate in alternative activities instead of inactive duties training to receive credit for retirement point purposes. He further states that based on regulations, he was allowed to participate in Continuous Medical Education activities as part of the flexible training policy for medical professionals.

b. Upon coordination with the Army National Guard Retirement Services Branch, it was determined that the applicant earned the points, and they should be recorded in his RPAM but, it would not give him more years. He has only 12 qualifying years and the courses would not give him additional 8 qualifying years. His only option is to serve the additional 8 years to meet the 20 qualifying years.

c. Army Regulation 600-8-7, para 7-18 b (2) states that to receive retired pay, Soldiers must have performed at least 20 years of qualifying service computed under 10 USC 12732.

d. Army National Guard memorandum for State Surgeons and Deputy State surgeons, dated 15 April 2008, para 7 states that "This program is designed to give maximum flexibility for training and duty assignment to each Adjutant General and unit commander. However, it is imperative each AMEDD Health Care Clinician understands that overall military readiness objectives are expected, and the use of flexible training schedules should not detract from accomplishing those requirements. The soldier needs to be knowledgeable of the retirement point system and that 50 points are required for a valid retirement year.

e. The applicant's Retirement Point History Statement shows that he has 12 years of creditable service for retired pay. The Florida Army National Guard reviewed all of the applicant's records available to include the ABCMR request, state archives and his individual I PERMS record. They were able to credit the applicant with points from the training certificates provided in the ABCMR request. Unfortunately, those points were only able to affect one year, which brings him up to 13 years of creditable service. Updated RPAM and detail report is enclosed.

f. This opinion was coordinated with the ARNG Retirement Services Branch.

7. On 22 May 2024, the Army Review Boards Agency provided the applicant a copy of the advisory opinion for an opportunity to respond. He did not.

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 applicant served in the ARNG as an enlisted Soldier from 30 November 1994 to 29 April 2003 and as a commissioned officer from 30 April 2003 to 31 December 2014, when he resigned his commission. He completed 12 qualifying years of service towards non-regular retirement. He submitted documents that allowed the NGB to adjust his retirement years to 13 qualifying years. By law and regulation, in order to qualify for retired pay at age 60, a Reserve Component Soldier must complete 20 or more qualifying years of service towards non-regular retirement. A qualifying retirement year is one where the Soldier has completed at least 50 retirement points. The applicant completed 13 qualifying years only. Therefore, the Board agreed with the NGB advisory officials determination that relief is not warranted in this case.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

:	:	:	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 for correction of the records of the individual concerned.

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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 (Armed Forces), U.S. Code, 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. Army Regulation 15-185 (Army Board for Correction of Military Records), currently in effect, prescribes the policies and procedures for correction of military records by the Secretary of the Army acting through the ABCMR. The ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence. The

ABCMR may, in its discretion, hold a hearing (sometimes referred to as an evidentiary hearing or an administrative hearing) or request additional evidence or opinions. Applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

3. Army Regulation 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 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.

a. Paragraph 2–2, (Criteria for Earning Retirement Points) states retirement points may be earned by USAR Soldiers for active duty (AD), or while in an active Reserve status, for ADT, initial active duty for training (IADT), involuntary active duty for training (involuntary ADT), AT, and IDT. Types of IDT are:

- regularly scheduled unit training includes 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.

b. Paragraph 2–4 (Criteria for Awarding Retirement Points) 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.

c. Paragraph 3-3 (DA Form 1380) provides that DA Form 1380 will be prepared for a unit Soldier who performs equivalent training or additional training with their unit after the scheduled Battle Assembly. TPU units will retain one copy of the DA Form 1380 to post the appropriate entry into the Automated Drill Attendance Reporting System (ADARS) for the months report. 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.

d. Paragraph 3-3b, states a DA Form 1380 will be prepared for a unit Soldier who performs equivalent training or additional training. The code "P" or "N" will be entered in item 10c before the retirement point credit. The code "P" indicates the Soldier is entitled to inactive duty pay for the duties performed; the code "N" indicates the Soldier is entitled to retirement point credit only.

4. Army Regulation 600-8-7 (Retirement Services Program), prescribes policies governing military personnel retirement services, the Survivor Benefit Plan, the Career Status Bonus, and the Chief of Staff, Army Retired Soldier Council. This regulation implements DODI 1332.42. It applies to the Active Army, the Army National Guard/Army National Guard of the United States, and the U.S. Army Reserve, unless otherwise stated. It also applies to all retirement services officers and Survivor Benefit Plan counselors.

a. Notification of Eligibility for Retired Pay for Non-Regular Service. The Retirement Points Accounting Management (RPAM) system will determine when a Soldier has completed the required qualified service for non-regular retirement and will automatically generate the 20 year NOE. The Soldier must perform at least 20 years of qualifying service computed under Title 10 (Armed Forces), U.S. Code, section 12732. The State RPAM noncommissioned officer will produce a Notification of Eligibility for Retired Pay for Non-Regular Service.

b. Army National Guard (ARNG) Soldiers who meet the qualification for Regular (active service) retirement will apply for retirement through the State AGR Office. Soldiers may be processed for retirement either at an installation transition center or at the State Joint Force Headquarters (JFHQ) location as ordered by the State AGR Office.

c. Title 10 (Armed Forces), U.S. Code, section 12731 requires all eligible Soldiers to receive this notification letter within 1 year after completing 20 qualifying years of service for retired pay purposes. Issuance of the Notification of Eligibility for Retired Pay identifies Soldiers entitled to receive retired pay at non-regular retirement.

//NOTHING FOLLOWS//