

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 30 November 2023

DOCKET NUMBER: AR20230006828

APPLICANT REQUESTS: correction of retirement points for the retirement year beginning on 4 June 2015 through 3 June 2021.

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 1380 (Record of Individual Performance of Reserve Duty Training)
- Transmittal Log (TL) History
- DA Form 5016 (Chronological Statement of Retirement Points)

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 in pertinent part, his records inaccurately reflect his creditable service performed between 2015-2021. He notes that while serving in the U.S. Army Reserve (USAR) he began receiving disability compensation from the Department of Veterans Affairs (DVA) and therefore he performed periods of active duty service for "points only." He contests that his DA Forms 1380 were coded accordingly but he was unaware of any additional administrative requirements. Recently, he was made aware of the appropriate process whereby the documentation is submitted to the retirements section for processing. He adds that the submitted request should result in 23 qualifying years of service, rather than the 18 years currently reflected.

3. A review of the applicant's available service records reflects the following:

a. After serving in the Regular Army for over 15-years, on 14 May 2014, the applicant was transferred into the USAR and assigned to a Troop Program Unit (TPU) as a 92F (Petroleum Supply Specialist).

b. On 21 October 2017, the applicant extended his current enlistment by 1 year resulting in a 13 May 2019 Expiration Term of Service (ETS) date.

c. On 17 November 2018, the applicant reenlisted for 3 years. He then extended his enlistment by 1 year resulting in a 14 May 2023 ETS date, and then, on 5 February 2023, he reenlisted indefinitely.

d. On 9 September 2023, the applicant was issued his Notification of Eligibility for Retired Pay at Non-Regular Retirement (20-Year Letter).

4. The applicant provides the following a:

a. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 23-24 September 2017 (8 hours per day/4 points total) for "points only."

b. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) on 15 May 2015 (8 hours/2 points) for "points only."

c. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 9-10 April 2016 (8 hours per day/4 points total) for "points only."

d. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 14-15 May 2016 (8 hours per day/4 points total) for "points only."

e. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 11-12 June 2016 (8 hours per day/4 points total) for "points only."

f. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 13-14 August 2016 (8 hours per day/4 points total) for "points only."

g. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 10-11 September 2016 (8 hours per day/4 points total) for "points only."

h. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 14-16 October 2016 (8 hours per day/6 points total) for "points only."

i. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 5-6 November 2016 (8 hours per day/4 points total) for "points only."

j. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 20-22 January 2017 (8 hours per day/6 points total) for "points only."

k. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 25-26 March 2017 (8 hours per day/4 points total) for "points only."

l. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 7-9 April 2017 (8 hours per day/6 points total) for "points only."

m. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 6-7 May 2017 (8 hours per day/4 points total) for "points only."

n. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 10-11 June 2017 (8 hours per day/4 points total) for "points only."

o. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 19-20 August 2017 (8 hours per day/4 points total) for "points only."

p. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 21-22 October 2017 (8 hours per day/4 points total) for "points only."

q. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 16-19 November 2017 (8 hours per day/ 8 points total) for "points only."

r. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 6-7 January 2018 (8 hours per day/4 points total) for "points only."

s. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 3-4 February 2018 (8 hours per day/4 points total) for "points only."

t. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) on 8 March 2018 (8 hours/ 2 points) for "points only."

u. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 14-15 April 2018 (8 hours per day/4 points) for "points only."

v. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 18-20 May 2018 (8 hours per day/6 points total) for "points only."

w. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 11-12 August 2018 (8 hours per day/4 points total) for "points only."

x. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 12-14 October 2018 (8 hours per day/6 points total) for "points only."

y. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 17-18 November 2018 (8 hours per day/4 points total) for "points only."

z. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) on 1 December 2018 (8 hours/2 points) for "points only."

aa. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 12-13 January 2019 (8 hours per day/4 points total) for "points only."

bb. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 7-10 February 2019 (8 hours per day for 3 days and 4 hours for 1 day/7 points total) for "points only."

cc. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 9-10 March 2019 (8 hours per day/4 points total) for "points only."

dd. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 13-16 June 2019 (8 hours per day/8 points total) for "points only."

ee. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 10-11 August 2019 (8 hours per day/4 points total) for "points only."

ff. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 4-6 October 2019 (8 hours per day/6 points total) for "points only."

gg. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 14-17 November 2019 (8 hours per day/8 points total) for "points only."

hh. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 11-12 January 2020 (8 hours per day/4 points total) for "points only."

ii. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 8-9 February 2020 (8 hours per day/4 points total) for "points only."

jj. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 14-15 March 2020 (8 hours per day/4 points total) for "points only."

kk. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 18-19 April 2020 (8 hours per day/4 points total) for "points only."

ll. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 2-3 May 2020 (8 hours per day/4 points total) for "points only."

mm. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) on 6 June 2020 (8 hours/2 points) for "points only."

nn. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 4-7 March 2021 (8 hours per day/8 points total) for "points only."

oo. DA Form 1380 dated 5 November 2022 reflective of his performance of active-duty service (Battle Assembly) from 17-18 April 2021 (8 hours per day/4 points total) for "points only."

pp. TL History reflective of the applicant's Battle Assembly attendance records from 21 March 2016 – 18 April 2021. This document reflects both paid and non-paid periods of active duty service.

qq. DA Form 5016 reflective of the applicant's qualifying service credit received between 4 June 1998 - 3 June 2021. During the period of concern the applicant received credit for the following:

- 4 June 2015 – 3 June 2016; 69 points total (comprised of 40 Inactive Duty (IDT), 15 Membership and 14 Active Duty (ADT) points)
- 4 June 2016 – 3 June 2017; 18 points total (comprised of 3 IDT, and 15 Membership points)
- 4 June 2017 – 3 June 2018; 22 points total (comprised of 7 IDT and 15 Membership points)
- 4 June 2018 – 3 June 2019; 26 points total (comprised of 11 IDT and 15 Membership points)
- 4 June 2019 – 3 June 2020; 23 points total (comprised of 8 IDT and 15 Membership points)
- 4 June 2020 – 3 June 2021; 45 points total (comprised of 16 IDT, 15 Membership and 14 ADT points)

5. The applicant did not provide nor does review of his available service records reflect evidence of a rating or compensation previously provided by the DVA.

6. On 20 November 2023, Headquarters, U.S. Army Reserve Command (USARC), Chief, Soldier Programs Branch, provided an advisory opinion and stated, USARC reviewed the applicant's documents and determined he should be awarded points based off Army Regulation (AR) 140-185 (Training and Retirement Point Credits and Unit Level Strength and Accounting Records). Full administrative relief granted.
7. The applicant was provided with a copy of this advisory opinion.

**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 is requesting retirement points credit from 2015 to 2021. The applicant does not provide an explanation or justification why he failed to submit his retirement points through the unit administrator for timely processing. The Board also reviewed the USARC G-1 advisory opinion and found it insufficient or lacking in an explanation why relief should be warranted. USARC determined the applicant should be awarded points based off Army Regulation (AR) 140-185 (Training and Retirement Point Credits and Unit Level Strength and Accounting Records). The Board was neither convinced by the applicant's explanation nor the advisory's analysis.

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.

[REDACTED]

---

[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. 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 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 RC 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. The AYE is much like a Reserve Soldier's "Anniversary" date and is a primary date captured in the Retirement Points Accounting System (RPAS). The anniversary year periods listed on the DA Form 5016 are calculated from an anniversary date. The criteria for establishing the service requirement for a satisfactory year of service for non-regular retirement per DODI 1215.07 and changing the anniversary year ending date are as follows:

a. The full-year periods used for the crediting of qualifying years for non-regular retirement must be based on the anniversary years. Anniversary year periods are calculated from an anniversary date. The anniversary date is the date the service member entered active service or active status in a Reserve Component.

b. 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

c. 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

d. 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 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.

3. Title 10 USC, section 12316 (Payment of Certain Reserves while on Duty) provides that a Reserve of the Army who because of the Reserve's earlier military service is entitled to retired or retainer pay, and who performs duty for which the Reserve is entitled to compensation, may elect to receive for that duty either—

a. The pay and allowances authorized by law for the duty that the Reserve is performing; or

b. If the Reserve specifically waives those payments, the retired or retainer pay to which the Reserve is entitled because of the Reserve's earlier military service.

4. AR 15-185 (ABCMR) paragraph 2-9 states 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.

//NOTHING FOLLOWS//