

IN THE CASE OF: ██████████

BOARD DATE: 28 February 2024

DOCKET NUMBER: AR20230009401

APPLICANT REQUESTS: the accreditation of nonpaid retirement points for duty performed in January, February, and March 2023, and correction of his retirement years 19 June 2022 to 18 June 2023. He also request a personal appearance.

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

- Multiple (3x) DD Form 149 (Application for Correction of Military Record)
- DA Forms 1380 (Record of Individual Performance of Reserve Duty Training), January 2023, February 2023, and March 2023
- DA Form 5016 (Chronological Statement of Retirement Points)

FACTS:

1. The applicant states the DA Forms 1380 were submitted for processing through the proper channels in March 2023. They are for points only. They were not processed prior to his separation. His unit went through several administrative changes and the requests were lost. He was informed he would need to go through this Board to have the points added to his record and for his year 19 June 2022 to 18 June 2023 to be corrected.

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

a. He had prior enlisted service in the Regular Army (April 1987 to April 1989) and the Army National Guard (ARNG) (April 1989 to April 1999). He was appointed a Reserve commissioned officer on 31 July 2003.

b. He served in a variety of assignments, including active duty mobilizations (June 2007 to July 2008 and July 2009 to July 2010), and attained the rank of major.

c. On 24 July 2014, the U.S. Army Human Resources Command issued him a Notification of Eligibility for Retired Pay at Age 60 920-Year Letter).

d. On 28 January 2022, he was considered by a non-duty related physical evaluation board (NDR-PEB) that found him unfit and recommended his disposition through Reserve Component regulations.

e. He was honorably retired from the U.S. Army Reserve on 29 May 2003. He completed 29 qualifying years of service towards non-regular retirement.

3. The applicant provides 3 DA Forms 1380 as follows:

a. DA Form 1380, dated 20 March 2023, signed on 24 May 2023, for duties performed for points only on 17, 30, and 31 January 2023.

b. DA Form 1380, dated 20 March 2023, signed on 24 May 2023, for duties performed for points only on 1, 2, 3, 6, 7, 10, 11, 12, 13, 14, and 16 February 2023.

c. DA Form 1380, dated 20 March 2023, signed on 24 May 2023, for duties performed for points only on 10, 11, 12, 14, 15, 16, 18, 19, and 20 March 2023.

4. On 12 December 2023, the U.S. Army Human Resources Command (HRC) provided an advisory opinion in the processing of this case. An HRC advisory official stated:

a. HRC reviewed the application and requested administrative action. Army Regulation (AR) 140-185, para 3- 3, Training and Retirement Point Credits and Unit Level Strength Accounting Records, requires that nonpaid Records of Individual Performance of Reserve Duty Training (DA Forms 1380) be forwarded to AHRC for the award of retirement points no later than the end of each duty month. The enclosed DA Forms 1380 are for January, February, and March of 2023 but were not signed until 24 May 2023.

b. The DA Forms 1380 were not prepared or submitted in accordance with AR 140-185. This office cannot award nonpaid retirement points without direction from the Army Review Boards Agency.

5. The applicant responded to the advisory opinion stating:

a. His unit went through a transition, and they did not have a full time UA (Unit Administrator). He has enclosed an email that was sent from his acting UA to the 99th Regional Support Command (RSC) to add the attached 1380's for points only to his record. He actually went to the RPAC located on Devens RFTA and spoke with [REDACTED] in person about getting the 1380's added to his record. He advised he needed to work with his supervisor, but it never got completed. He then had Sergeant First Class (SFC) [REDACTED] reach out to the 99th RSC [REDACTED] to be exact who advised that the 1380's couldn't be processed, that he would need to go to the Army Correction Board.

He inquired why they couldn't be added since his retirement wasn't effective until May 29 and the email was sent with signed 1380's on May 24. He also noted that the points do not appear in his final DA Form 5016, which also has a discrepancy.

b. On his final DA Form 5016, his last year is broken up for whatever reason- 20220731-20221113 and then 20221114-20230529. This issue also deprived him of his final good year as without the attached 1380's he still had over 50 points and would have concluded his career with 30 good years, thus qualifying him for the 30 year service certificates from the Commander in Chief. He can provide the DA Form 5016 if needed. As the soldier, who relies on the personnel whose job it is to handle and process documents when submitted, having the 99th tell him they couldn't do anything despite still being an active TPU (troop program unit) is absurd. As the soldier, he shouldn't be penalized for a simple correction to his points detail since the documents were signed by his commander and submitted before his retirement. He spent the majority of his life in service to the Army, his time should be counted and reflected correctly, and he should be awarded the commendations his 30 years of service. It's bad enough that he did not receive a retirement award or decoration from his unit when he retired. He also was transferred from the 405th Combat Support Hospital after 18 years of dedicated service with 9 being the OIC (Officer in Charge) of the Intensive Care Unit in February 2020 without any acknowledgement at all. In his career, he has seen troops receive ARCOM's (Army Commendation Medals) for doing laundry- He served in every leadership capacity in the 405th over his career and didn't even get a goodbye, just an email with his orders transferring him.

5. With his response, he enclosed an email from SFC [REDACTED] to the US Army Reserve 99 RD Mailbox, dated 24 May 2023, that reads "Please see attached 1380s for January, February, and March. (These have been corrected and using the current version.)"

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition, available military records and United States Army Human Resources Command – Personnel Services Division advisory opinion, the Board considered the advising official opinion. However, the Board determined there is sufficient evidence to show the applicant completed the training and submitted the proper documentation in a timely manner to his headquarters, but never received credit for the retirement points allocated on his DA Form 1380's. The Board determined, at no fault of the applicant his records should be corrected to show he performed the training for the periods of January, February, and March 2023, and

correction of his retirement years 19 June 2022 to 18 June 2023. Based on this, the Board granted relief to correct the applicant's retirement points to reflect the inclusion of service performed.

2. The Board determined the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice 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 Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected to show the applicant submitted his DA Form 1380's in a timely manner to Human Resources Command for the periods of January, February, and March 2023, and correction of his retirement years 19 June 2022 to 18 June 2023.

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CHAIRPERSON  
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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. Army Regulation 135-180 (Retirement for Non-Regular Service) prescribes policies and procedures governing non-regular retirement. After 30 June 1949, a Reservist must earn a minimum of 50 retirement points each retirement year to have that year credited as qualifying service. Only Soldiers assigned to an active status in a RC or individuals in active Federal service are authorized to earn retirement point credits. When a person is in an active status for a period less than a full retirement year, a minimum number of retirement points are required to be earned to have that period credited as qualifying service. HRC will update the DA Form 5016 for USAR Soldiers annually at the end of their AY (anniversary year) and place it into their on-line record at <http://www.hrc.army.mil> for their review. Soldiers will review their retirement point statement annually and provide supporting documents to correct any deficiencies through their chain of command to HRC in accordance with AR 140–185.

2. Army Regulation 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Record) sets responsibilities and procedures to retirement records prescribing the types of training and activities for which retirement points are authorized. 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. Paragraph 3-3(b) provides that a DA Form 1380 will be prepared for a unit Soldier who performs equivalent training or additional training with their unit subsequent to 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 iPERMS by the unit of assignment per AR 600–8–104.

3. AR 15-185 (ABCMR) 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, which is that what the Army did was correct.

a. The ABCMR is not an investigative body and decides cases based on the evidence that is presented in the military records provided and the independent evidence submitted with the application. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

b. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that 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.

//NOTHING FOLLOWS//