

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 November 2024

DOCKET NUMBER: AR20240002125

APPLICANT REQUESTS: correction of his DA Form 5016 (Retirement Accounting Statement) to:

- add 54 retirement points and one good year toward retirement for Retirement Year Ending (RYE) 11 July 2020
- add 52 retirement points and one good year toward retirement for RYE 11 July 2021
- correction of his Mandatory Retirement Date (MRD) to 1 August 2022
- personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 5016 (Chronological Statement of Retirement Points), 8 November 2019
- DA Form 1380 (Record of Individual Performance of Reserve Duty Training), 7 October 2019
- DA Form 1380, 17 December 2019
- DA Form 1380, 20 December 2019
- DA Form 1380, 12 January 2020
- DA Form 1380, 23 August 2020
- DA Form 1380, 24 August 2020

FACTS:

1. The applicant states:

a. He was not given (good year or retirement points) for his last two years of military service. He drilled for points only, and not pay, and the work was proposed and authorized by a full colonel (O-6) and approved by the Staff Judge Advocate (SJA) Office. The retirement points desk for grey area retirees at Fort Knox, KY, has refused to enter the points in his record for more than two years and is currently unresponsive. He attached previously submitted DA Forms 1380 that show approval after the duty was

performed for RYE 11 July 2020 and signed off by senior officers. All points were earned as equivalent or appropriate duty under Department of Defense Instructions (DoDI) 1215.07 (Service Credit for Non-Regular Retirement) and Army Regulation (AR) 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records), Table 2 -3, Rule 8. He states he attached his Leave and Earnings Statement (LES) for 3 November 2020. His separation date should be his MRD of 1 August 2022, under the rules since the retirement points desk summarily discharged him without his knowledge in December 2021, based on the incorrect fact that he did not serve for three years in the Army after June 2018, when he actually served through November 2020; though it is not a good year for retirement, it is important to him that the record reflect his service of 28 years, and 20 days.

b. The retirement points desk for grey area retirees at Fort Knox refuses to enter the points in the record for more than two years and is unresponsive. The employees on the desk are either not doing their jobs or they do not understand the Army regulations and DoDI specifically authorizing his drill days for points and no pay. The enlisted and supervisors at the retirement points desk are ignoring the O-6 authorization at Joint Base Lewis-McChord and the legal/SJA approval, while offering no legal argument to the contrary. He believes the desk just hopes he will go away and forget his retirement points (and two good years). The difference is only pennies a month, but his retirement should be corrected.

2. A review of the applicant's official record shows the following:

a. On 15 June 1994, the applicant was appointed as a Reserve commissioned officer and executed an oath of office on 12 July 1994.

b. Orders Number C-06-009576 dated 28 June 2010, issued by the U.S. Army Human Resources Command (AHRC), released him from mobilization/active duty and reassigned him to the U.S. Army Reserve (USAR) Control Group (Reinforcement), effective 1 July 2010.

c. On 11 January 2011, the applicant executed an oath of office indicating he was appointed as a National Guard officer in the rank/grade of major and acknowledge his Temporary Federal Recognition in the Washington Army National Guard (WAARNG).

d. Orders Number 014-908 dated 14 January 2011, issued by Headquarters Military Department, State of Washington, Office of the Adjutant General, announced his appointment in the WAARNG.

e. Orders Number C-02-101594 dated 2 February 2011, issued by AHRC, released him from the USAR Control Group (Reinforcement) for appointment in the WAARNG, effective 10 January 2011. These orders show his pay entry basic date as 12 July 1994.

f. On 2 February 2011, the National Guard Bureau (NGB) issued Special Orders Number 20 which announced the extension of Federal recognition of the applicant's transfer into the WAARNG, effective 11 January 2011.

g. On 2 March 2012, the NGB issued Special Orders Number 73 which announced the applicant's promotion to the rank/grade of lieutenant colonel and extension of Federal recognition, effective 29 February 2012.

h. Memorandum, Subject: Notification of Eligibility for Retired Pay for Non-Regular Service (20 Years) dated 1 August 2014, shows he had completed the required years of service and will be eligible for retired pay upon application at age 60.

i. Army National Guard Current Annual Statement prepared on 19 August 2014 summarized his points earned towards retirement for Annual Year Ending (AYE) July 2011 and shows 20 years of creditable service for retirement pay at the time.

j. Orders Number 180-519 dated 29 June 2018, issued by Headquarters Military Department, State of Washington, Office of the Adjutant General, honorably released him from the Army National Guard and transferred him to USAR Control Group (Individual Ready Reserve (IRR)), effective 2 July 2018.

k. On 9 August 2018, the NGB issued Special Orders Number 183 which withdrew his Federal recognition status for transfer to the USAR, effective 2 July 2018.

l. Army National Guard Current Annual Statement prepared on 2 November 2018 summarized his points earned towards retirement for AYE July 2011 and show 23 years, 11 months, and 21 days of creditable service for retirement pay at the time.

m. Orders Number C-12-114162 dated 27 December 2021, issued by AHRC reassigned the applicant from the USAR Control Group (Reinforcement) to the Retired Reserve by reason of non-participation, effective 22 December 2021.

n. Orders Number C02-492208 dated 28 February 2024, issued by AHRC announced his retirement and placed him on the Army of the United States Retired list, effective 16 August 2024.

o. The applicant is 60 years of age.

3. The applicant provides:

a. DA Form 5016 dated 8 November 2029, which shows the following:

- for the RYE on 11 July 2019, the applicant earned 40 Inactive Duty Training (IDT) points, 15 membership points, and 0 Active Duty Training (ADT) points, totaling 55 total points creditable
- at the time the applicant completed 25 years and 1 day of qualifying service for retirement

b. DA Form 1380 dated 7 October 2019, showing the applicant completed training on the following dates and was endorsed by Colonel (COL) M- C-:

- 7 October 2019, for 4 hours, totaling 1 retirement point

c. DA Form 1380 dated 17 December 2019, showing the applicant completed training on the following dates and was endorsed by Major (MAJ) A- S-:

- 3 December 2019, for 8 hours, totaling 2 retirement points
- 4 December 2019, for 8 hours, totaling 2 retirement points
- 5 December 2019, for 8 hours, totaling 2 retirement points
- 6 December 2019, for 8 hours, totaling 2 retirement points
- 7 December 2019, for 8 hours, totaling 2 retirement points
- 9 December 2019, for 8 hours, totaling 2 retirement points
- 10 December 2019, for 8 hours, totaling 2 retirement points
- 11 December 2019, for 8 hours, totaling 2 retirement points
- 12 December 2019, for 8 hours, totaling 2 retirement points
- 13 December 2019, for 8 hours, totaling 2 retirement points
- 16 December 2019, for 8 hours, totaling 2 retirement points
- 17 December 2019, for 8 hours, totaling 2 retirement points

d. DA Form 1380 dated 20 December 2019, showing the applicant completed training on the following dates and was endorsed by Major (MAJ) A- S-:

- 18 December 2019, for 8 hours, totaling 2 retirement points
- 19 December 2019, for 8 hours, totaling 2 retirement points
- 20 December 2019, for 8 hours, totaling 2 retirement points

e. DA Form 1380 dated 12 January 2020, showing the applicant completed training on the following dates and was endorsed by LTC J-G-:

- 9 January 2020, for 8 hours, totaling 2 retirement points
- 10 January 2020, for 8 hours, totaling 2 retirement points
- 11 January 2020, for 8 hours, totaling 2 retirement points
- 12 January 2020, for 8 hours, totaling 2 retirement points

f. DA Form 1380 dated 23 August 2020, showing the applicant completed training on the following dates and was endorsed by LTC A-S-:

- 3 August 2020, for 8 hours, totaling 2 retirement points
- 4 August 2020, for 8 hours, totaling 2 retirement points
- 5 August 2020, for 8 hours, totaling 2 retirement points
- 6 August 2020, for 8 hours, totaling 2 retirement points
- 7 August 2020, for 8 hours, totaling 2 retirement points
- 8 August 2020, for 8 hours, totaling 2 retirement points
- 10 August 2020, for 8 hours, totaling 2 retirement points
- 11 August 2020, for 8 hours, totaling 2 retirement points
- 12 August 2020, for 8 hours, totaling 2 retirement points
- 13 August 2020, for 8 hours, totaling 2 retirement points
- 14 August 2020, for 8 hours, totaling 2 retirement points
- 15 August 2020, for 8 hours, totaling 2 retirement points

g. DA Form 1380 dated 24 August 2020, showing the applicant completed training on the following dates and was endorsed by LTC A-S-:

- 17 August 2020, for 8 hours, totaling 2 retirement points
- 18 August 2020, for 8 hours, totaling 2 retirement points
- 19 August 2020, for 8 hours, totaling 2 retirement points
- 20 August 2020, for 8 hours, totaling 2 retirement points
- 21 August 2020, for 8 hours, totaling 2 retirement points
- 22 August 2020, for 8 hours, totaling 2 retirement points

h. The applicant stated he provided his LES dated 3 November 2020, however, it is not available for the Board to review.

4. On 16 September 2024, in the processing of this case, the AHRC, Chief, Personnel Services Division, provided an advisory opinion stating the following:

a. A record review has determined that the applicant was assigned to the IRR from 2 July 2019 [sic] through 22 December 2021. The enclosed DA Forms 1380 are prepared under Rule 8, one point per 8 hours; the requested two points per day would not be authorized. IRR Soldiers are not authorized retirement points for completion of a Physical Health Assessment.

b. Soldiers in the IRR must be attached to a unit to perform duty in a non-paid status according to AR 140-10 (Assignments, Attachments, Details, and Transfers), Chapter 2-36. After reviewing the applicant's Army Military Human Resource Record, it

has been found that the applicant was not attached to drill for retirement points only. The AHRC has requested an attachment order from the applicant multiple times, but it has not been provided. The applicant currently has retirement points for the 2018-2019 anniversary year, which are not authorized without the necessary attachment and direction from the Army Review Boards Agency. Therefore, this office cannot award retirement points without the proper attachment and direction.

5. On 17 September 2024, the applicant was provided with a copy of the advisory opinion for comment or rebuttal. He did not respond.

BOARD DISCUSSION:

1. 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.

2. 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 the applicant was assigned to the IRR from 2 July 2019 through 22 December 2021. The enclosed DA Forms 1380 are prepared under Rule 8, one point per 8 hours; the requested two points per day would not be authorized. By regulation, IRR Soldiers are not authorized retirement points for completion of a Physical Health Assessment. Soldiers in the IRR must be attached to a unit to perform duty in a non-paid status according to AR 140-10. The Board reviewed and agreed with the advisory official's determination that the applicant was not attached to drill for retirement points only. The AHRC has requested an attachment order from the applicant multiple times, but it has not been provided. The applicant currently has retirement points for the 2018-2019 anniversary year, which are not authorized without the necessary attachment. Therefore, the Board determined relief is not warranted.

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. AR 15-185 (Army Board for Correction of Military Records) 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.

3. AR 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records), paragraph 3-3 (DA Form 1380) provides that the DA Form 1380 is utilized to record IDT performed by non-unit Soldiers under the jurisdiction of HRC who are attached for retirement points only to USAR Troop Program Units, Army National Guard units, or to another service or component for training. Only attached Soldiers are authorized to perform IDT with the exception of one annual physical health assessment each for medical and dental readiness when authorized by the command prior to the event.

a. 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.

b. With regard to awarding of retirement points for IDT (Four-Hour Rule), Service Members will be awarded one point for each 4-hour period of IDT duty performed. Maximum of two points per calendar day applies to IDT duty. Duty must be 8 hours in duration to receive two points per day.

4. AR 140-10 (Assignments, Attachments, Details, and Transfers) states in paragraph 2-36 if a unit agrees to attach a Soldier, the following guidelines apply: (1) Unit will request attachment orders from AHRC. (2) Upon AHRC approval, attachment orders will be sent to the gaining unit and to the attached Soldier, along with IDT guidance. b. Once the Soldier is attached, they will become an asset of that unit. (1) The commander will direct the tasks the Soldier will complete. (2) The unit of attachment will ensure the Soldier has the most current training schedule. (3) The unit commander must approve all IDTs in advance and Soldier must sign-in for each IDT period. (4) The unit of attachment can request detachment orders from AHRC at any time for any Soldier

attached to that unit. c. DA Form 1380 will be used to record IDT attendance. (1) The initial DA Form 1380 submitted to AHRC will be accompanied by a copy of the attachment order, training schedule and sign-in roster. Future submissions of DA Form 1380 (under the same attachment order) will be accompanied by a sign-in sheet only. (2) AHRC will place a copy of the attachment order in Soldier's permanent file. (3) DA Form 1380 will reflect the exact location where the IDT was performed; if no location is noted, the DA Form 1380 will be returned without action. (4) AHRC will not accept DA Form 1380 directly from the Soldier and it will be returned without action. An officer having knowledge of the duty performed is authorized to sign the DA Form 1380.

5. Title 10, USC, section 14509 (Separation at Age 62: Reserve Officers in Grades Below Brigadier General or Rear Admiral) provides that each Reserve officer of the Army who is in an active status or on an inactive-status list and who reaches the maximum age specified in section 14509 (Age 62), 14510 (Age 62) Brigadier General, 14511 (Age 64) Major General, or 14512 (Age 66) certain general officers of this title for the officer's grade or position shall (unless the officer is sooner separated or the officer's separation is deferred or the officer is continued in an active status under another provision of law) not later than the last day of the month in which the officer reaches that maximum age:

a. Be transferred to the Retired Reserve if the officer is qualified for such transfer and does not request (in accordance with regulations prescribed by the Secretary concerned) not to be transferred to the Retired Reserve; or

b. Be discharged from the officer's reserve appointment if the officer is not qualified for transfer to the Retired Reserve or has requested (in accordance with regulations prescribed by the Secretary concerned) not to be so transferred.

//NOTHING FOLLOWS//