

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 6 November 2024

DOCKET NUMBER: AR20240003505

APPLICANT REQUESTS: correction of her record to show she earned three years of retirement points to reflect a total of 39 good years towards a non-regular retirement.

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 5016 (Retirement Accounting Statement)
- Leave and Earnings Statement (LES)

FACTS:

1. The applicant states in effect, her record is incorrect because it is missing points throughout the years showing 36 years instead of 39 years of creditable service towards a non-regular retirement.

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

a. The applicant's records are void of her initial DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) showing her enlistment in the U.S. Army Reserve (USAR). However, it contains a DA Form 5016 (Retirement Accounting Statement) showing she enlisted in the USAR on 19 August 1981 and was assigned to a Troop Program Unit. She served continuously until she was placed on the retired list.

b. On 22 September 2005, the U.S. Army Human Resources Command (AHRC) issued a Memorandum, Subject: Notification of Eligibility for Retired Pay at Age 60 (Twenty Year Letter) which informed the applicant she had met the service requirements and was eligible for retired pay at age 60.

c. On 6 June 2024, Orders number C06-495621 issued by AHRC placed the applicant on the retired list, effective 2 June 2024.

d. DA Form 5016 dated 20 August 2024 shows the applicant earned a total of 1630 inactive duty training points, 642 membership points, 2000 active duty training points, 4272 points earned, 4263 points creditable for retirement. In total at the time, she completed 37 years, 9 months, and 13 days.

3. The applicant provides:

a. Two LES' showing her total years of service as 39 years and she performed active duty for training 24 and 25 August 2020.

b. Orders Number 0006928672.00 which shows the applicant was retired, effective 1 June 2024.

4. On 5 September 2024, in the processing of this case, the AHRC, Chief, Personnel Services Division, provided an advisory opinion and stated:

a. This memorandum is in response to your request dated 7 August 2024, on behalf of the applicant requests assistance updating her DA Form 5016.

b. AHRC reviewed the application and DA Form 5016. The applicant's current DA Form 5016 has been verified, and the calculations are accurate. To qualify for non-regular retirement, a minimum of 50 points must be earned each full anniversary year before the Soldier's Anniversary Year End (AYE) date. If fewer than 50 points are earned in a year, the points will still be credited, but the year cannot count towards the 20 qualifying years needed for retired pay. The duty listed on the LES dated 21 October 2020, for 24-25 August is accurately reflected in the history of the Retirement Points Accounting System. While the LES shows a total of 39 years of service, only 37 years, 9 months, and 13 days qualify for non-regular retirement. The years of service shown on a Soldier's LES represent the total time served, but this does not necessarily equate to the years of qualifying service for retirement purposes. Qualifying service for retirement often requires meeting specific criteria, such as active-duty time, reserve points, and other factors contributing to retirement eligibility. The applicant's DA Form 5016 reflects 37 creditable years and 4263 points.

5. On 6 September 2024, the applicant was provided with a copy of the advisory opinion for comment or rebuttal. She did not respond.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not 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 Army Human Resources Command – Personnel Services Division advisory opinion, the Board concurred with the advising official recommendation for denial finding the applicant's current DA Form 5016 has been verified, and the calculations are accurate. The opine noted, the duty listed on the leave and earning statement (LES), dated 21 October 2020, for 24-25 August is accurately reflected in the history of the Retirement Points Accounting System. While the LES shows a total of 39 years of service, only 37 years, 9 months, and 13 days qualify for non-regular retirement.

2. The Board determined based on the advising official opine, there is insufficient evidence to support the applicant's contentions for correction of her record to show she earned three years of retirement points to reflect a total of 39 good years towards a non-regular retirement. The Board agreed, to qualify for non-regular retirement, a minimum of 50 points must be earned each full anniversary year before the Soldier's Anniversary Year End (AYE) date. If fewer than 50 points are earned in a year, the points will still be credited, but the year cannot count towards the 20 qualifying years needed for retired pay. Based on this, the Board denied relief.

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.

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 (AR) 135-180 (Retirement for Regular and non-Regular Service) prescribes policy and procedures governing the granting of retired pay for non-regular service to Soldiers in the Army National Guard (ARNG), Army National Guard of the United States (ARNGUS), and the USAR. Chapter 2 provides eligibility criteria and states, in pertinent part, that in order to qualify for non-regular retirement, a member must have attained age 60 (could be reduced to age 50 for qualifying active duty or Full Time National Guard Duty in any fiscal year after 28 January 2008, or in any consecutive fiscal years after 30 September 2014) and completed a minimum of 20 years of qualifying service.

a. Paragraph 2-2 (Basic qualifying service requirements) To be eligible for retired pay at or after the age specified in paragraph 2 – 1, an individual need not have military status at the time of application, but must have completed one of the following:

- A minimum of 20 creditable years of qualifying service computed under 10 USC 12731(f); or,
- At least 15 and less than 20 years of qualifying service, computed under 10 USC 12732, if the individual is to be separated because the Soldier has been determined unfit for continued Selected Reserve service

b. Paragraph 2-6 (Retirement point statements) 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. Supporting documents may include, but are not limited to:

- DD Form 214 (Certificate of Discharge or Release 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)
- NGB Form 22 (Report of Separation and Record of Service)
- NGB Form 22A (Correction to NGB Form 22)
- NGB Form 23A (ARNG Current Annual Statement)
- NGB Form 23A1 (ARNG Retirement Points Statement Supplemental Detailed Report)
- NGB Form 23B (ARNG Retirement Points History Statement)
- NGB Form 23C (ARNG Retirement Points History Statement Application for Retired Pay)
- DA Form 1379 (U.S. Army Reserve Components Unit Record of Reserve Training)
- DA Form 1380 (Record of Individual Performance of Reserve Duty Training)
- DA Form 1383 (Annual or Terminal Statement of Retirement Points)
- Other Services retirement point statements
- Master military pay account

2. AR 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records) in effect at the time states, 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 limitations on the number of points that may be credited to a Soldier during an anniversary year are—

- Maximum—365 (366 during leap year) points
- No more than one retirement point may be awarded for any day in which the Soldier is on active duty
- A Soldier in active service may not receive retirement points for other activities performed concurrently
- Retirement points credited for activities other than active service or funeral honors duty may not exceed—
 - For any anniversary years closing before 23 September 1996: 60 retirement points
 - For anniversary years closing on or after 23 September 1996 but before 30 October 2000: 75 retirement points

- For anniversary years closing on or after 30 October 2000 but before 30 October 2007: 90 retirement points
- For anniversary years closing on or after 30 October 2007: 130 retirement points

//NOTHING FOLLOWS//