

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 January 2024

DOCKET NUMBER: AR20230003713

APPLICANT REQUESTS: in effect, correction of her record to show the submitted DA Form 1380 (Record of Individual Performance of Reserve Duty Training), dated 16 October 2012 was accepted and added to her record.

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 1380, 16 October 2012
- Orders Number D 044-01, 13 February 2023
- Email communication between the applicant and U.S. Army Human Resources Command (HRC), 9 March 2023

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:

a. Her retirement points for the year that she became a direct commissioned officer in the U.S. Army Reserve (USAR) are incorrect. She was advised by her accession noncommissioned officer that after her commissioning she would have to hold all documents for payment until she was out-processed as a staff sergeant and in-processed as a second lieutenant.

b. Her retirement points on her DA Form 1380 were not processed by her unit administrator for 2 days that were used for her transition out of the unit. She is currently completing a medical board and has a retirement date of 15 April 2023. She discovered that she was not awarded a good year for her commissioning year. After speaking to a HRC representative, she also discovered that her retirement points for the beginning of the year (March 2012 through October 2012) were not reflecting as well. She was advised to contact the HRC retirement point team. She contacted the team and the

points from March 2012 through October 2012 were granted; however, the points from the DA Form 1380 were not processed due to "the DA Form 1380 is not prepared and was not submitted in accordance with AR 140-185 (Training and Retirement Point Credits and Unit Level Strength and Accounting Records)."

c. She was not preparing for retirement at this time. She was attempting to update her profile for the ACFT [Army Combat Fitness Test] and a medical board was initiated. She was determined to be unfit for duty and subsequently medically retired effective 15 April 2023.

3. A review of the applicant's military personnel records show the following:

a. Having prior enlisted USAR service, DA Form 71 (Oath of Office - Military Personnel) shows she was appointed as a Reserve commissioned officer and executed an oath of office on 16 October 2012.

b. On 4 January 2023, DA Form 199 (Informal Physical Evaluation Board (PEB) Proceedings) shows an informal PEB found the applicant to be physically unfit and recommended she be retired because of permanent disability with a rating of 70 percent.

c. Orders Number D 044-01, published by Headquarters, U.S. Army Physical Disability Agency, retired the applicant, effective 15 April 2023, and placed her on the permanent disability retired list, effective 16 April 2023.

d. DA Form 5016 (Retirement Accounting Statement), dated 19 April 2023, shows in pertinent part, she earned the following retirement points during the periods:

- 20 March 2012 to 15 October 2012 – 31 Inactive Duty Training (IDT) points, 9 membership points, 6 months and 27 days qualifying for retirement, 40 points earned, and 40 points creditable
- 16 October 2012 to 19 March 2013 – 2 IDT points, 6 membership points, 8 points earned, and 8 points creditable

e. DA Form 5016 (Chronological Statement of Retirement Points), dated 19 December 2023, shows in pertinent part:

(1) She earned the following retirement points during the period of 16 October 2012 to 19 March 2013 – 2 IDT points, 6 membership points, and 8 total points creditable.

(2) A total of 789 IDT points, 63 extension course points, 396 membership points, 2423 active duty points, 21 years qualifying for retirement, and 3605 points creditable.

4. The applicant provides:

a. DA Form 1380 dated 16 October 2012, which shows on 15 and 16 October 2012 for 8 hours each day, N2 (nonpaid), at Fort Stewart, GA; "Evals close-out, right-seat ride replacement, equipment turn-in"; totaling: 4 points.

b. Email communication dated 9 March 2023 between her and HRC, wherein, the Supervisor, Retirement Point Team states, she updated the applicant's retirement points and populated her DA Form 5016 to the Interactive Personnel Electronic Records Management System. However, she could not award the retirement points on the submitted DA Form 1380 because it was not prepared IAW AR 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records).

5. On 6 September 2023, the HRC, Chief, Personnel Services Division provided an advisory opinion for this case and stated:

a. The United States Army Human Resources Command reviewed the application and requested administrative relief. AR 140-185, paragraph 3-3, requires that nonpaid DA Forms 1380 be forwarded to HRC for the award of retirement points no later than the end of each duty month. The enclosed DA Form 1380 was submitted to HRC in March 2023 for duty performed in October 2012.

b. The DA Form 1380 was 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.

6. On 13 September 2023, the applicant was provided a copy of the HRC advisory opinion for comments or rebuttal. She did not respond.

BOARD DISCUSSION:

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 contentions, the military record, and regulatory guidance. The Board agreed that documentation available for review supports that the applicant performed the requested duty. However, due to circumstances beyond her control, she was unable to submit them prior to the end of the month in which the service was performed. After due consideration of the case, the Board determined the evidence presented sufficient to warrant a recommendation for relief.

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 sufficient to warrant a recommend for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected to show the following DA Form 1380's were submitted to the appropriate USAR Readiness Division in a timely manner in accordance with AR 140 -185 and that they were properly considered, in which the Readiness Division will determine the appropriate amount of service credit to add to the applicant's record:

- DA Form 1380 dated 15 October 2012, reflective of the applicant's performance of active duty service at Fort Stewart, GA; "Evals close-out, right-seat ride replacement, equipment turn-in"; totaling: 8 points, N2
- DA Form 1380 dated 16 October 2012, reflective of the applicant's performance of active duty service at Fort Stewart, GA;; "Evals close-out, right-seat ride replacement, equipment turn-in"; totaling: 8 points, N2

█

█ █

█

█

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 140-1 (Mission, Organization, and Training) states in paragraph 3-26 (Training of Soldiers in a non-pay status), Soldiers in an active status may take part in individual inactive duty training (IDT) in a non-pay status when authorized by the appropriate commander. In pertinent part, individual training opportunities with retirement point credit are approved for:

- attachment to appropriate Reserve Component Troop Program Units (TPU)
- attachment to Active Army units
- attachment to reinforcement training units as appropriate
- participation in approved training projects or using administrative skills in support of TPU and USAR activities
- attendance at Army service or Army area school training
- enrollment in appropriate extension courses
- attendance at authorized conventions, professional conferences, or appropriate trade association meetings related to the individual's mobilization specialty
- conducting or reviewing medical examinations, and related medical duties
- recruiting duties as described in AR 140-185

3. AR 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records), paragraph 2-1 (Criteria for crediting retirement points) states, IDT will be either 4 hours in length for one retirement point or 8 hours in length for two retirement points. Paragraph 3-3b (DA Form 1380) states, nonpaid DA Forms 1380 will not be entered into automated drill attendance reporting software and will be forwarded to HRC for award of retirement points no later than the end of each duty month.

//NOTHING FOLLOWS//