

IN THE CASE OF: ██████████

BOARD DATE: 18 January 2024

DOCKET NUMBER: AR20230003868

APPLICANT REQUESTS: correction of his retirement points to reflect inclusion of service for points only performed for the retirement years covering 2019 to 2020.

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), covering February 2019
- DA Form 1380, covering March 2019
- DA Form 1380, covering April 2019
- DA Form 1380, covering May 2019
- DA Form 1380, covering July 2019
- DA Form 1380, covering August 2019
- DA Form 1380, covering September 2019
- DA Form 1380, covering October 2019
- DA Form 1380, covering November 2019
- DA Form 1380, covering December 2019
- DA Form 1380, covering January 2020
- DA Form 1380, covering February 2020

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, he was honorably discharged from the Regular Army in 2018 and joined the U.S. Army Reserve (USAR) in 2019. Upon his transition to the USAR, he was unaware of how to be properly credited for training retirement points. In 2022, he was informed on how to complete DA Form 1380, and he needs to be credited for training events completed from February 2019 through February 2020.

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

a. On 29 October 2009, he enlisted in the USAR as a cadet in the Reserve Officers' Training Corps (ROTC).

b. On 10 May 2013:

(1) The ██████████ University Military Science Department issued Orders Number 130-003 discharging him from the ROTC to accept a commission in the U.S. Army.

(2) He accepted a Reserve commission and executed an oath of office.

c. On 17 July 2013, Headquarters, United States Army Cadet Command issued Orders Number 198-031-A-3765 assigning him to temporary duty at Fort Leonard-Wood, MO, to fulfill and active duty commitment of 4 years with an effective reporting date of 26 January 2014.

d. On 17 July 2017, the U.S. Army Installation Management Command, Headquarters, United States Army Garrison, Fort Sill, issued Orders Number 198-1311 releasing him from active duty and reassigning him to the USAR Control Group (Reinforcement), effective 23 January 2018.

e. A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects an honorable release from active duty for completion of required active service and transfer to the USAR Control Group (Reinforcement). Item 12 (Record of Service) shows service from 22 January 2014 to 23 January 2018 for a net active service this period of 4 years and 2 days.

f. On 24 January 2018, the U.S. Army Human Resources Command (HRC) issued a Memorandum for Appointment as a Reserve Commissioned Officer of the Army for appointment to an indefinite term.

g. DA Form 5016 (Retirement Accounting Statement), dated 12 October 2023 shows:

(1) For the retirement year ending 9 May 2019, the applicant earned 17 Inactive Duty Training (IDT) points, and 4 membership points, totaling 21 total points creditable.

(2) For the retirement year ending 9 May 2020, the applicant earned 61 IDT points, 15 membership points, and 57 active duty points, totaling 133 total points creditable.

h. He continues service with the USAR.

4. The applicant provides the DA Forms 1380, dated 19 March 2023, showing the applicant completed training for the following dates:

- a. On 19,20,23, and 27 February 2019, for 4 hours each, totaling 4 retirement points.
- b. On 4,9,10,16,23, and 30 March 2019, for 4 hours each, totaling 6 retirement points.
- c. On 3,8,13,20, and 27 April 2019, for 4 hours each, totaling 5 retirement points.
- d. On 1,2,6, and 8 May 2019, for 4 hours each, totaling 4 retirement points.
- e. On 3,8,13,20,27, and 31 July 2019, for 4 hours each, totaling 6 retirement points.
- f. On 3,8,13,20,27, and 31 August 2019, for 4 hours each, totaling 6 retirement points.
- g. On 7,11,16,21, and 28 September 2019, for 4 hours each, totaling 5 retirement points.
- h. On 2,7,12,19, and 26 October 2019, for 4 hours each, totaling 5 retirement points.
- i. On 2,9,13,18,23, and 30 November 2019, for 4 hours each, totaling 6 retirement points.
- j. On 4,9,14,21, and 28 December 2019, for 4 hours each, totaling 5 retirement points.
- k. On 4,8,13,18, and 25 January 2020, for 4 hours each, totaling 5 retirement points.
- l. On 1,5,10,15,22, and 29 February 2020, for 4 hours each, totaling 6 retirement points.

5. On 30 August 2023, the Chief, Soldier Programs Branch, United States Army Reserve Command (USARC), provided an advisory opinion recommending disapproval of the applicant's request stating, in effect:

- a. They reviewed the documents and determined he should not be awarded credit for the DA Forms 1380. The forms are signed in block 10 by Master Sergeant (MSG) ■■■■■. In accordance with Army Regulation (AR) 140-185 (Training and Retirement Point

Credits and Unit Level Strength Accounting Records), there is no supporting documentation specifying MSG [REDACTED] is authorized to sign as the Operations Noncommissioned Officer (NCO).

b. The applicant claims this is a violation of the Anti-deficiency Act, but points are not considered compensation. He should be paid for the duty performed. The recreated DA Forms 1380 have up to 24 hours of worked performed by the applicant.

c. No relief granted.

6. On 5 September 2023, the applicant was provided with a copy of the advisory opinion to provide a response.

7. On 19 September 2023, the applicant provided a rebuttal to the advisory stating, in effect:

a. The USARC's primary concern centered around the absence of supporting documentation specifying MSG [REDACTED] authorization to sign as the Operations NCO on his DA Forms 1380, as stipulated by AR 140-185. He acknowledges and apologizes for not submitting the necessary documentation in his initial request for the correction of this injustice.

b. Due to the Army365 transition from the "mail.mil" to "army.mil" email domain, and unit commander declining to assist because he was being relieved for unrelated violations, retrieving the necessary documentation in support of his request presented some challenges. However, he was able to locate and provide the following in support:

(1) DA Forms 1380 signed by MSG [REDACTED] showing him as the designated signature authority, which were processed and uploaded into his iPERMS record by his unit.

(2) A Memorandum for Record confirming MSG [REDACTED] as the Operations NCO, was given signature authority for the company commander.

c. USARC additionally raised the issue that retirement points are not considered compensation and that he should have been paid for the work performed. He concurs and would welcome monetary compensation if it is possible. However, he is also aware of the limitations on funding and is willing to accept and hoping to earn retirement points as compensation for the work directed and required of him by his unit. The Annual Quadrennial Review of Military Compensation, and similar regulations and literature, consistently recognize retirement points as a primary element of reserve component compensation under the total force pay structure.

d. The work completed included various responsibilities such as meetings before Battle Assemblies, the completion of products and deliverables requested to be completed between scheduled Battle Assemblies, the work required to prepare himself and a group of Soldiers for a month-long construction training event in Guatemala, and similar tasks, as outlined in the DA Forms 1380. It is important to note that he made earnest efforts to request monetary compensation from his commander, but the requests were denied, which appear to be in violation of the Anti-Deficiency Act (Title 31, USC, section 1341(a)(1)(A)). Requests for future compensation in the form of retirement points that did not affect were also denied, which may also be in violation of the same act. Moreover, the work performed was not voluntary; it was obligatory as per the needs and requests of the unit, accepted, and not in any way compensated in violation of Title 31, USC, section 1342.

e. He kindly requests that the ABCMR reevaluate the USARC's advisory opinion with consideration of the additional details provided. He is confident that the evidence and supplementary information presented in this letter and the attached documents substantiate his entitlement to the correction of his military records through the awarding of retirement points to recognize work completed. He deeply appreciates the attention to this matter, his ability to present additional details prior to a decision being made, as well as the dedication to upholding the fairness and accuracy of military records.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is warranted.
2. Although the advisory official in this case recommended disapproval of the applicant's request, the Board found the documentation provided by the applicant in response to the advisory allays the advisory official's concern that the master sergeant who verified the DA Forms 1380 was not authorized to do so. Having confirmed the service performed, the Board determined the record should be corrected by adding the retirement points shown on the DA Forms 1380 provided by the applicant and, if otherwise authorized, he should be paid for the duty performed.

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 by showing DA Forms 1380 reflecting service on the days specified below were accepted for processing and updating his retirement points accordingly along with any pay he is authorized for the duty performed on the specified days.

- 19,20,23, and 27 February 2019, 4 hours each, 4 retirement points
- 4,9,10,16,23, and 30 March 2019, 4 hours each, 6 retirement points
- 3,8,13,20, and 27 April 2019, 4 hours each, 5 retirement points
- 1,2,6, and 8 May 2019, 4 hours each, 4 retirement points
- 3,8,13,20,27, and 31 July 2019, 4 hours each, 6 retirement points
- 3,8,13,20,27, and 31 August 2019, 4 hours each, 6 retirement points
- 7,11,16,21, and 28 September 2019, 4 hours each, 5 retirement points
- 2,7,12,19, and 26 October 2019, 4 hours each, 5 retirement points
- 2,9,13,18,23, and 30 November 2019, 4 hours each, 6 retirement points
- 4,9,14,21, and 28 December 2019, 4 hours each, 5 retirement points
- 4,8,13,18, and 25 January 2020, 4 hours each, 5 retirement points
- 1,5,10,15,22, and 29 February 2020, 4 hours each, 6 retirement points

4/15/2024

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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. 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 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. Non-unit Soldiers attached for retirement point credit to IMA detachments are reported on DA Form 1379 (U.S. Army Reserve Components Unit Record of Reserve Training) for those units.

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.

c. 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. Non-unit Soldiers not attached to a unit are prohibited from performing IDT.

//NOTHING FOLLOWS//