

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: ██████████

BOARD DATE: 27 February 2024

DOCKET NUMBER: AR20230006074

APPLICANT REQUESTS:

- in effect, 62 retirement points credit for duty performed between 17 February 2007 and 8 December 2009
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Eight DA Forms 1380 (Record of Individual Performance of Reserve Duty Training)
- Doctor of Medicine Diploma, dated 28 February 2009
- Xavier University Transcript, issued 17 September 2010
- Screenshot of "My Retirement Points"
- DA Form 5016 (Chronological Record of Retirement Points), dated 4 May 2023

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, 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 his retirement years were shortened by 3 years due to missing records of several DA Forms 1380 he submitted in lieu of Individual Performance of Reserve Duty Training which he conducted at Moncrief Army Community Hospital Pharmacy at Fort Jackson, SC. He was approved to perform those because he was attending medical school and as a result there were difficulties coordinating the unit training schedule with his school requirements. He believes the error occurred during the transition to electronic bookkeeping and the DA Forms 1380 were overlooked or possibly lost. Unfortunately, he took for granted that his years in service were properly being accounted for; however, he quickly discovered that his years of creditable service were incorrect upon gaining access to his iPerms record. Luckily, he had copies of his documents and was able to locate them during his move of household goods.

3. The applicant provides:

a. Eight authenticated DA Forms 1380, which show, in pertinent part:

- 17 February 2007, 32 hours (8 retirement points)
- 20 August 2007, 32 hours (8 retirement points)
- 21 February 2009, 32 hours (8 retirement points)
- 15 March 2009, 24 hours (6 retirement points)
- 28 April 2009, 32 hours (8 retirement points)
- 20 May 2009, 32 hours (8 retirement points)
- 19 June 2009, 32 hours (8 retirement points)
- 12 August 2009, 32 hours (8 retirement points)

b. A Doctor of Medicine diploma, which shows the applicant complied with all the requirements of Xavier University of Medicine on 28 February 2009.

c. A screenshot of “My Retirement Points,” which includes the applicant’s service information and lists a total of 3277 points earned.

d. A DA Form 5016, dated 4 May 2023, shows the applicant earned a total of 2542 active duty points, 15 qualified years for retirement.

4. A review of the applicant’s service record shows:

a. He was appointed as a Reserve commissioned officer and executed an oath of office on 15 March 1999.

b. The service record contained eight DA Forms 1380, with the supervisor’s signature, showing the applicant submitted requests for retirement points credit for service performed, a total of 62 points:

- 17 February 2007, 32 hours (8 retirement points)
- 20 August 2007, 32 hours (8 retirement points)
- 21 February 2009, 32 hours (8 retirement points)
- 15 March 2009, 24 hours (6 retirement points)
- 28 April 2009, 32 hours (8 retirement points)
- 20 May 2009, 32 hours (8 retirement points)
- 19 June 2009, 32 hours (8 retirement points)
- 12 August 2009, 32 hours (8 retirement points)

c. A DA Form 5016, dated 31 July 2023, shows the applicant received to date 2547 active duty points. It also shows the applicant has been credited with 15 years of qualifying service for retired pay.

5. On 28 September 2023, the U.S. Army Reserve Command (USARC), Branch Chief, provided an advisory opinion, which states, in effect, USARC reviewed the applicant's documents and determined he should be awarded 62 retirement points. He recommended full administrative relief be granted.

6. On 2 October 2023, the advisory opinion was forwarded to the applicant for acknowledgment and/or response. The applicant acknowledged receipt on 5 October 2023 and indicated he had no further comments, and he was grateful for the agency's efforts in upholding justice.

7. By regulation (AR 15-185), an applicant is not entitled to a hearing before the ABCMR. Hearings may be authorized by a panel of the ABCMR or by the Director of the ABCMR.

8. By regulation (AR 140-185), 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 Battle Assembly.

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 warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. According to the submitted DA Form 1380, the applicant performed the duties and qualified for retirement points for those duties performed between February 2007 and August 2009. The Board was persuaded by the applicant's argument that administrative errors occurred in that he was attending medical school and as a result there were difficulties coordinating the unit training schedule with his school requirements. The Board agreed with the USARC determination that the applicant should be awarded sixty-two (62) points based off AR 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records).

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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| █ | █ | █ | 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 awarding the applicant qualifying retirement points on the dates below indicated on his submitted DA Forms 1380, provided all other criteria is met.

- 17 February 2007, 32 hours (8 retirement points)
- 20 August 2007, 32 hours (8 retirement points)
- 21 February 2009, 32 hours (8 retirement points)
- 15 March 2009, 24 hours (6 retirement points)
- 28 April 2009, 32 hours (8 retirement points)
- 20 May 2009, 32 hours (8 retirement points)
- 19 June 2009, 32 hours (8 retirement points)
- 12 August 2009, 32 hours (8 retirement points)

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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, U.S. Code, 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. Army Regulation (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.

3. AR 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records) sets responsibilities and procedures to establish and maintain retirement records prescribing the types of training and activities for which retirement points are authorized. It discusses the procedures for recording retirement point credits and training. It provides guidance for the use of completing DA Form 1380.

a. Chapter 2: Paragraph 2-4a states personnel on active duty, Active Duty Training (ADT), Inactive Duty Training (IADT), involuntary ADT, or Annual Training (AT) are awarded one point for each calendar day they serve in one of these categories and may not be awarded additional points for other activities while in such status. A maximum of two retirement points may be credited for attendance at unit Battle Assemblies (BA) or IDT in any 1 calendar day.

b. Paragraph 3-3 states:

(1) The purpose of DA Form 1380 is to record Inactive Duty Training by:

(2) Troop Program Unit Soldiers performing Inactive Duty Training assemblies when pay is authorized, and the Soldier is not present to sign the Inactive Duty Training attendance roster.

(3) Troop Program Unit Soldiers attached to another USAR unit for 89 or fewer days. In such cases the unit of attachment will prepare DA Form 1380 and forward to unit of assignment for recording attendance.

(4) 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 Inactive Duty Training with the exception of one annual physical health assessment each for medical and dental readiness when authorized by the command prior to the event.

(5) Non-unit Soldiers performing other inactive duty training for retirement point credit.

c. DA Form 1380 will be prepared for a unit Soldier who performs equivalent training or additional training with their unit subsequent to the scheduled Battle Assembly. Troop Program Unit units will retain one copy of the DA Form 1380 to post the appropriate entry into Automated Drill Attendance Reporting Software (ADARS) for the month's report and then place in the appropriate Army records information management system file. 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. DA Form 1380 will be scanned into the Soldier's iPerms by the unit of assignment.

//NOTHING FOLLOWS//