

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 27 February 2025

DOCKET NUMBER: AR20230012149

APPLICANT REQUESTS: in effect:

- correction of her unit's battle assembly roster for the period covering 12 through 14 September 2014, to show she was credited for that period of service
- add a line of duty (LOD) investigation to her Army Military Human Resource Record (AMHRR) for the 12 September 2014 accident
- a personal appearance before the Board

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

- DD Form 149 (Application for Correction of Military Record)
- Inactive Duty Training (IDT) Attendance Roster, 12 September 2014
- Medical Record, 12 September 2014 (11 Pages)
- DA Form 5016 (Chronological Statement of Retirement Points), 21 August 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:

a. She was actively drilling on 12 September 2014 when she was involved in a High Mobility Multipurpose Wheeled Vehicle accident. She lost consciousness and was taken to the emergency room by ambulance. She suffered a concussion and grade three sprained wrist. She feels it was an error to code her absence as excused since her injury occurred during the battle assembly while performing her duties.

b. The next day when she returned with her medical document the command excused her absence from battle assembly. She was incapacitated for several weeks and unable to work for seven days because of the severe post-concussion syndrome.

When she did return to work as a nurse she was placed on light duty because she could not wash her hands properly in the cast.

c. She should have been credited for the entire battle assembly; this missing time caused her to be short of a qualifying year of service. Additionally, there was never a LOD added to her AMHRR for the accident.

3. The applicant provided:

a. Her unit's IDT Attendance Roster, showing her signature verifying her attendance on 12 September 2014, the roster is marked with an "A" for absent on 13 and 14 September 2014.

b. An emergency room treatment record from 12 September 2014, showing she sustained a concussion and wrist injury as a passenger in a motor vehicle accident, the same day. She was brought by ambulance after losing consciousness.

4. The applicant's service record shows:

a. DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) shows she enlisted in the U.S. Army Reserve (USAR) on 20 October 2003. She was discharged from USAR for immediate enlistment into the Army National Guard (ARNG) on 8 February 2006. She was discharged from the ARNG on 1 October 2013 and transferred to the USAR Control Group (Reinforcement). She reenlisted in the USAR on 13 October 2017.

b. DD Form 214 (Certificate of Release or Discharge from Active Duty) shows she was ordered to AD, as a member of the USAR, on 17 June 2019. She completed 3 years and 1 day of active service. She was honorably released from active duty due to the completion of her required service on 17 June 2022. Her DD Form 214 also shows she had 4 years and 2 months of total prior active service, 11 years, 5 months, and 27 days of total prior inactive service.

5. On 8 January 2024, an advisory opinion was obtained from Headquarters USAR Command (USARC), which recommended denial of the applicant's request. It states:

USARC reviewed documents and determined the applicant should not be awarded any points based off AR 140-185. The Soldier was paid for 12 September 2014 because she was present for duty when the accident happened. She was excused for 13 and 14 September 2014 because she could not attend Battle Assembly.

The applicant must submit all her medical documents to her unit S-1 for processing of the Line of Duty (LOD). No administrative relief granted.

6. On 9 January 2024, a copy of the advisory opinion was provided to the applicant for the opportunity to respond.

7. On 31 January 2024, the applicant stated in response to the advisory opinion from USARC:

On January 08, 2024, Headquarters, USARC, Soldier Programs Branch, reviewed documents and advised I should not be awarded retirement points based on Army Regulation (AR) 140-185. The advisory opinion directed the submission of all medical documents for the processing of a Line of Duty (LOD).

On September 12, 2014, while performing IDT, I was in a motor vehicle accident in a military vehicle at Fort Walker (formerly Fort A. P. Hill). We were enroute to recover a Soldier who was stuck in a tree during Airborne operations. I was not the driver and was not considered negligent in performing my duties. I was actively performing my duties when the driver of the vehicle led the vehicle into a natural embankment, causing severe damage to the front-end of the military vehicle. Upon exiting the vehicle, I collapsed and was later taken to the local hospital emergency room via ambulance.

I had previously signed the Automated Drill Attendance Reporting System (ADARS) IDT Attendance Roster for one period on September 12, 2014. Per USARC Pamphlet 37-1, 3-2(b) "The unit commander is responsible for establishing sign-in procedures. Depending on the size of the unit, you can centrally locate the ADARS IDT Attendance Roster or distribute it to sections. The Soldier must sign for each BA period (even for one BA). Soldiers must sign-in prior to the beginning of a BA or opening formation of a BA". USARC Pamphlet 37-1, 3-2(c) further states, The Senior NCO posts the signature line for the first period of the drill with an attendance status of either an "A" for excuse absence, "U" for unexcused absence, or "W" for excused absence - Equivalent Training authorized. All other signature lines should be complete, with either the Soldier's signature or an absence code posted prior to drill. All excused absences and RSTs require an approved excused absence form or request for RST. The unit commander, Major S____ Y. K____, or alternate certifying official, is responsible for certifying the ADARS IDT Attendance Roster. However, that requires understanding unit attendance and pay procedures. Lastly, the day after the motor vehicle accident, I returned to A.P. Hill and provided the medical documentation to my chain of command.

Pursuant to USARC Pamphlet 37-1, Enclosure 3, 2(e), RC Service members performing IDT are covered for an injury, illness, or disease incurred or aggravated in line of duty pursuant to section 1074 a of Reference (d). DoDI 1241.01, April 19, 2016, states, "An RC Service member is entitled to medical and dental treatment for an injury, illness, or disease that was incurred or aggravated while in a qualified duty status and that is not the result of gross negligence or misconduct (referred to in this instruction as a "covered condition")." In 2013, HQDA EXORD 165-13, Department of the Army Guidance for Management of Concussion/Mild Traumatic Brain Injury in the Garrison Setting, was published, along with several other DOD policies were used to establish the Department of the Army TBI protocol. ALARACT 017/2023 updates the procedures for Servicemembers, leaders, and Army medical personnel (to include uniformed, civilian, and contractor staff) detailing training and education requirements, MTBI tools, and management processes when servicemembers are involved in potentially concussive events (PCES). The guidance provided in both is as follows:

7.B. (U) POTENTIALLY CONCUSSIVE EVENTS (PCES): EVENTS REQUIRING A MEDICAL

SCREENING FOR CONCUSSION. THESE INCLUDE, BUT ARE NOT LIMITED TO—

7.B.1. (U) INVOLVEMENT IN A VEHICLE COLLISION OR ROLLOVER.

7.B.2. (U) A BLOW TO THE HEAD DURING ACTIVITIES SUCH AS TRAINING, SPORTING/RECREATIONAL ACTIVITIES, COMBATIVES, ASSAULTS, OR ACCIDENTS.

8.B. (U) FOR ALL SOLDIERS DIAGNOSED WITH CONCUSSION/MTBI, ENFORCE THE MINIMUM 24 HOUR MANDATORY RECOVERY PERIOD AND HAVE SOLDIERS FOLLOW UP WITH A MEDICAL PROVIDER WITHIN 24 HOURS OF DIAGNOSIS WHEN DEPLOYED AND WITHIN 72 HOURS WHEN IN GARRISON.

8.C. (U) SOLDIERS MUST HAVE A MEDICAL RE-EVALUATION PRIOR TO RETURNING TO FULL DUTY AS OUTLINED IN THE PRA IN ANNEX C. COMMANDERS MAY DETERMINE THAT MISSION REQUIREMENTS PRECLUDE THIS MANDATE IN CERTAIN CIRCUMSTANCES. THIS EXCEPTION SHOULD BE DOCUMENTED IN THE SOLDIER'S MEDICAL RECORD.

Per the medical documentation provided by Mary Washington Hospital, page 9, signed by Dr. C ____ B ____, I was diagnosed with a concussion. I was not released to return to duty. I should not have been coded as an excused absence on the ADARS IDT Attendance Roster as I was hurt while performing my duty and under medical care.

Army Regulation (AR) 135-91, Service Obligations, Methods of Fulfillment, Participation Requirements, and Enforcement Provisions, provides guidance in sections 3-1 on satisfactory participation in troop program units. It states, " TPU Soldiers are required to participate in at least 48 scheduled inactive duty training (IDT) periods, and no less than 14 days, exclusive of travel time, of AT. Satisfactory participation is defined in paragraphs 3-1b as Attending and satisfactorily completing the entire period of AT unless excused by proper authority. Further guidance defines an excused absence. In the same regulation, section 4-8 states, "Conditions of excused absence All situations not specifically identified in this paragraph or section V of this chapter are considered unexcused absences. Absence from scheduled IDT periods, training, or AT may be excused. Such absences may be excused when sickness, injury, or some other circumstance beyond the Soldier's control caused the absence. At the discretion of the appropriate commander (see para 4-2), ET may be scheduled to make-up the excused absence."

Per AR 600-8-4, 2-2a, Line of Duty Policy, Procedures, and Investigations, an LOD investigation will be conducted for all Soldiers, regardless of Component, if the Soldier experiences a loss of duty time for a period of more than 24 hours and- (3) If an RC Soldier requires follow-on care for an injury, illness, or disease incurred during a period of active duty. AR 600-8-4, 2-2c further states Depending on the circumstances of the case, an LOD investigation may or may not be required to make this determination. Only HRC can make a presumptive in line of duty (PILD) determination with the exception of identifying service connection for RC Soldiers who were previous members of one compo and transferred to another compo for which clear evidence is documented in the active-duty medical record. HRC is the only organization authorized to render a PILD finding in the following situations: (3) Injury or death as a passenger in a common commercial carrier or military aircraft or vehicle. I want to request at this time that my case be submitted to HRC for a PILD. I am not requesting incapacitation pay.

I am requesting the accurate attendance code "P" be applied to the dates of September 13-14, 2014, in accordance with the law and regulations, and in order to be eligible to request retirement. In addition, an LOD needs to be directed, and pay for the dates must be processed.

8. MEDICAL REVIEW:

1. The Army Review Boards Agency (ARBA) Medical Advisor reviewed the supporting documents, the Record of Proceedings (ROP), and the applicant's available records in the Interactive Personnel Electronic Records Management System (iPERMS), the Health Artifacts Image Management Solutions (HAIMS) the VA's Joint Legacy Viewer (JLV) and in Federal EHR/MHS Genesis (military electronic health record). The applicant requests an In Line-of-Duty determination for injuries sustained due to a motor vehicle accident (MVA) during battle assembly weekend. She also requests credit for the entire weekend.

2. The ABCMR ROP summarized the applicant's record and circumstances surrounding the case. The applicant enlisted in the Army National Guard on 08Feb2006. During the period from 01Oct2013 to 19Oct2014, the applicant was a member of the USAR Control Group (Reinforcement). Her MOS was 68W Health Care Specialist. She was released under authority of NGR 600-200 chapter 6, para 36b (moving to an area where an ARNG unit is not within reasonable commuting distance) due to completion of this period of required active service. Her service was characterized as honorable. The reenlistment eligibility code was RE-1. She reenlisted in the USAR on 13Oct2017. She honorably completed a period of active service from 17Jun2019 to 17Jun2022.

3. Summary of pertinent medical records

a. 12Sep2014 Emergency Department Mary Washington Hospital. The applicant presented to the ER by EMS after being a restrained (two point) passenger in a HUMVEE that hit a ditch at approximately 30 mph. The airbag did not deploy, the vehicle sustained mild damage. During the accident, the applicant hit her head and lost consciousness. She also sustained neck injury, right elbow abrasion and laceration and left wrist sprain. The exam revealed neck pain with movement—no spinal tenderness, left elbow abrasion and moderate tenderness. The clinical Impression was that she had sustained a concussion (TBI) due to the MVA. A skull fracture nor wrist fracture was suspected— imaging did not show fractures. A splint was applied to the elbow. The applicant was given medication to treat nausea and pain. She was instructed not to work until she was released. She was to follow-up with her doctor in 2 days.

b. 16Sep2014 Internal Medicine Walter Reed National Military Medical Center (WRNMMC). This note documents her follow-up visit after being seen in the ER after the MVA on 12Sep2014. The additional information obtained included that (in the interim??) a soft left wrist splint had been placed (due to concern for possible hair line fracture) and she had been advised to follow-up with orthopedics in 2 weeks. On the day of the note, she reported continued headaches and nausea post MVA. There was no dizziness, no memory lapses or loss and no focal neurologic deficits (to include

motor disturbances, and gait abnormality). A follow-up head CT on 16Sep2014 was normal.

c. 17Sep2014 Internal Medicine WRNMMC. The applicant presented requesting clearance for work (civilian). She was given a written release to return to work except she was advised that she must maintain relative physical rest for example "does not participate in physical activity or be involved in any form of physical impact". She was to remain in this status until 01Oct2014.

d. 30Sep2014 Orthopedics Hand Clinic WRNMMC. She initially had severe pain throughout the left wrist. She has remained in the splint and now reported no pain. There was no numbness. The exam showed full motion with slight wrist pain. Her grip strength was good. The 30Sep2014 left wrist film showed no bony abnormalities. She endorsed feeling that she was able to perform full duties at work. She was given a work note to return to full duties effective 01Oct2014. A follow up appointment was not necessary unless she had further problems or questions.

4. Summary/Opinion

a. The civilian emergency room note and subsequent military treatment records confirmed the applicant sustained TBI, right elbow and left wrist sprain during a MVA (HUMVEE) on 12Sep2014. Initially, the applicant was instructed not to return to work for at least 2 days at which time she was to see her doctor for follow up. The record did not show follow-up until 16Sep2014, 4 days after the incident. She was still suffering significant TBI related symptoms (headaches and nausea) requiring treatment as well as wrist pain. The following day, on 17Sep2014, she was returned to limited duties (nothing physical) and to full duty 01Oct2014.

b. The applicant was not cleared to return to battle assembly duties after the MVA. Medically, after TBI, brain rest is advised. In addition, it is well known that an initial head CT can be negative. If symptoms persist, a repeat head CT is completed as occurred in this instance. The applicant sustained multiple injuries including TBI while performing duties due to HUMVEE accident on 12Sep2014. In the ARBA Medical Reviewer's opinion, the applicant was prescribed not to return to work for 2 days (at the time) and therefore was appropriately excused from the remaining battle assembly duty that weekend.

BOARD DISCUSSION:

1. After reviewing the application and all supporting documents, the Board found that relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive review based on law, policy, and regulation.

a. Upon review of the applicant's petition, available military records, and the provided IDT attendance roster, the Board determined relief was warranted to amend the IDT attendance roster to for the period covering 12 to 14 September 2014 to show credit for duty performed as her name is hand-written on the form and the form is authenticated by the commander.

b. Upon review of the applicant's petition, available military records, and the medical advisor's review, the Board determined relief was warranted to add a line of duty (LOD) investigation to her AMHRR for the 12 September 2014 accident, noting specifically the civilian emergency room note and service treatment records.

2. The applicant's request for a personal appearance hearing was carefully considered. In this case, 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.

- correction of her unit's battle assembly roster for the period covering 13 and 14 September 2014, to show she was credited for that period of service
- add a line of duty (LOD) investigation to her Army Military Human Resource Record (AMHRR) for the 12 September 2014 accident

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:XX	:XX	:XX	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 the applicant attended battle assembly 13 to 14 September 2014 and was credited with the associated points and payment
- referring the applicant's civilian medical records, dated 12 September 2014, to the National Guard Bureau for initiation of a line of duty determination


X //SIGNED//

CHAIRPERSON
Signed by:

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 140-185 (Army Reserve - Training and Retirement Point Credits and Unit Level Strength Accounting Records), dated 3 August 2018 prescribes the types of training and activities for which retirement points are authorized.

a. It discusses the procedures for recording retirement point credits and training. Retirement points are awarded for membership, active duty for training, active duty, mobilization, training, and other situations.

b. Retirement points may be earned by USAR Soldiers for active duty or duty in an active status for active duty for training (ADT), initial active duty for training (IADT), involuntary active duty for training (involuntary ADT), annual training (AT), IDT, membership points, and for other activities specified in this regulation. The following types of IDT are:

- Regularly scheduled unit training assembly include battle assemblies (BA) formally known as unit training assemblies
- Re-scheduled training (RST)
- Make-up assemblies for missed BA due to AT
- Equivalent training (ET) in lieu of scheduled BA or RST
- Additional training assemblies (ATA)
- Two-hour funeral honor IDT
- Training of individual Soldiers in non-pay status

3. Army Regulation 600-8-4 (Line of Duty Policy, Procedures, and Investigations) prescribes policies and procedures for investigating the circumstances of disease, injury, or death of a Soldier providing standards and considerations used in determining LOD status.

a. A formal LOD investigation is a detailed investigation that normally begins with DA Form 2173 (Statement of Medical Examination and Duty Status) completed by the medical treatment facility and annotated by the unit commander as requiring a formal LOD investigation. The appointing authority, on receipt of the DA Form 2173, appoints an investigating officer who completes the DD Form 261 (Report of Investigation LOD and Misconduct Status) and appends appropriate statements and other documentation

to support the determination, which is submitted to the General Court Martial Convening Authority for approval.

b. The worsening of a pre-existing medical condition over and above the natural progression of the condition as a direct result of military duty is considered an aggravated condition. Commanders must initiate and complete LOD investigations, despite a presumption of Not In the Line of Duty, which can only be determined with a formal LOD investigation.

c. An injury, disease, or death is presumed to be in LOD unless refuted by substantial evidence contained in the investigation. LOD determinations must be supported by substantial evidence and by a greater weight of evidence than supports any different conclusion. The evidence contained in the investigation must establish a degree of certainty so that a reasonable person is convinced of the truth or falseness of a fact.

4. Title 38, U.S. Code, section 1110 (General – Basic Entitlement) states for disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

5. Title 38, U.S. Code, section 1131 (Peacetime Disability Compensation – Basic Entitlement) states for disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during other than a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

6. Army Regulation 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 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.

7. Title 10, U.S. Code, section 1556 requires the Secretary of the Army to ensure that an applicant seeking corrective action by the Army Review Boards Agency (ARBA) be provided with a copy of any correspondence and communications (including summaries of verbal communications) to or from the Agency with anyone outside the Agency that directly pertains to or has material effect on the applicant's case, except as authorized by statute. ARBA medical advisory opinions and reviews are authored by ARBA civilian and military medical and behavioral health professionals and are therefore internal agency work product. Accordingly, ARBA does not routinely provide copies of ARBA Medical Office recommendations, opinions (including advisory opinions), and reviews to Army Board for Correction of Military Records applicants (and/or their counsel) prior to adjudication.

//NOTHING FOLLOWS//