

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 10 July 2024

DOCKET NUMBER: AR20230013091

APPLICANT REQUESTS: correction of his records to show Reserve retirement points for duty performed

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

- DD Form 149 (Application for Correction of Military Record)
- Troop Program Unit Personnel Actions Checklist
- DA Forms 1380 (Record of Individual Performance of Reserve Duty Training)
- Memorandum of Lateness

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. He has served as the 76th Operational Response Command (ORC) command sergeant major (CSM) since 13 March 2021, which required daily interaction during off duty hours with the 76th ORC Command Group as well as the various subordinate units assigned to the 76th ORC.

b. Given the operation tempo of his station being regularly assigned on numerous active duty for training assignments, he did not believe retirement point credit would still apply to the numerous additional hours.

c. In accordance with (IAW) guidance provided by the 76th ORC Commanding General, he is attempting to include applicable retirement only points IAW DA Pam 37-1 (Reserve Components Procedures Manual).

3. The applicant provides the following documents:

a. DA Forms 1380, which show he performed duty on:

- 11 December 2020, 18 December 2020, 25 December 2020, and 31 December 2020, 8 hours per day, 2 retirement points per day (8 total retirement points)
- 6 January 2021, 15 January 2021, 22 January 2021, and 28 January 2021, 8 hours per day, 2 retirement points per day (8 total retirement points)
- 6 February 2021, 12 February 2021, and 19 February 2021, 8 hours per day, 2 retirement points per day (6 total retirement points)
- 3 March 2021, 10 March 2021, 19 March 2021, and 28 March 2021, 8 hours per day, 2 retirement points per day (8 total retirement points)
- 8 April 2021, 14 April 2021, and 30 April 2021, 8 hours per day, 2 retirement points per day (6 total retirement points)
- 4 May 2021, 12 May 2021, and 26 May 2021, 8 hours per day, 2 retirement points per day (6 total retirement points)
- 4 June 2021, 9 June 2021, and 24 June 2021, 8 hours per day, 2 retirement points per day (6 total retirement points)
- 3 July 2021, 11 July 2021, and 30 July 2021, 8 hours per day, 2 retirement points per day (6 total retirement points)
- 6 August 2021, 4 August 2021, and 20 August 2021, 8 hours per day, 2 retirement points per day (6 total retirement points)
- 3 September 2021, 10 September 2021, 24 September 2021, and 30 September 2021, 8 hours per day, 2 retirement points per day (8 total retirement points)
- 8 October 2021, 15 October 2021, 20 October 2021, and 28 October 2021, 8 hours per day, 2 retirement points per day, (8 total retirement points)
- 4 November 2021, 12 November 2021, 17 November 2021, and 26 November 2021, 8 hours per day, 2 retirement points per day, (8 total retirement points)
- 10 December 2021, 16 December 2021, and 30 December 2021, 8 hours per day, 2 retirement points per day (6 total retirement points)
- 6 January 2022, 14 January 2022, and 21 January 2022, 8 hours per day, 2 retirement points per day (6 total retirement points)
- 4 February 2022, 10 February 2022, and 18 February 2022, 8 hours per day, 2 retirement points per day (6 total retirement points)
- 17 March 2022 and 25 March 2022, 8 hours per day, 2 retirement points per day (4 total retirement points)
- 20 April 2022 and 29 April 2022, 8 hours per day, 2 retirement points per day, (4 total retirement points)
- 5 May 2022 and 31 May 2022, 8 hours per day, 2 retirement points per day, (4 total retirement points)

- 5 June 2022 and 23 June 2022, 8 hours per day, 2 retirement points per day, (4 total retirement points)
- 8 July 2022, 13 July 2022, 24 July 2022, and 30 July 2022, 8 hours per day, 2 retirement points per day, (8 total retirement points)
- 4 August 2022, 19 August 2022, and 27 August 2022, 8 hours per day, 2 retirement points per day, (6 total retirement points)
- 3 September 2022, 9 September 2022, and 30 September 2022, 8 hours per day, 2 retirement points per day, (6 total retirement points)

b. Memorandum of Lateness, 13 September 2023, which mirrors the applicant's request on his DD Form 149 and is available for the Board's review.

4. The applicant's service record contains the following documents:

a. DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) shows the applicant enlisted in the U.S. Army Reserve (USAR) on 3 October 1995. He remained in the USAR through extensions of his enlistment and/or immediate reenlistments.

b. Memorandum Notification of Eligibility for Retired Pay at Non-Regular Retirement (20 Year Letter), 2 November 2016, informed the applicant he had completed the required years of qualifying Reserve service and was eligible for retired pay, on application, at age 60.

c. DA Form 5016 (Chronological Statement of Retirement Points), 1 July 2024 shows from 3 October 2020 through 2 November 2021, he received 43 inactive duty points, 15 membership points, and 81 active-duty points. From 3 October 2021 through 2 October 2022, he received 50 active duty points, 15 membership points, and 102 active duty points. He services beyond 2 October 2022 is not available for the Board's review. He had 26 years qualifying for retirement.

5. On 27 February 2024, the Chief, Soldier Programs Branch, USAR Command (USARC) provided an advisory opinion, which states USARC reviewed his documents and determined he should be awarded 128 points based off Army Regulation 140-185 (Training and Retirement Point Credits and Unit Level Strength and Accounting Records). The DA Forms 1380 are being submitted late because he was not aware he could get retirement points for the additional time he spend in the Command Group. A favorable opinion from the Board would all the RDs to update his points. Full administrative relief granted.

6. On 29 February 2024, the advisory opinion was provided to the applicant to allow him the opportunity to respond. He 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 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 Headquarters, United States Army Reserve Command- Soldier Programs Branch advisory opinion, the Board concurred with the advising official finding the applicant should be awarded 128 points based off Army Regulation 140-185 (Training and Retirement Point Credits and Unit Level Strength and Accounting Records). The opine noted the applicant's DA Form 1380 were submitted late due to the applicant' not understanding the guidelines.

2. The Board determined there is sufficient evidence to support to the applicant's request for correction of his records to show Reserve retirement points for duty performed. Based on the advising official and evidence in the applicant' records, the Board granted 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 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 to show the applicant submitted his DA Form 1380's in a timely manner which totaled 128 retirement point for duty performed.

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 prescribes the types of training and activities for which retirement points are authorized and the procedures for recording retirement point credits and training for U.S. Army Reserve (USAR) Soldiers.

a. Paragraph 2-2, states retirement points may be earned by USAR Soldiers for active duty (AD), or while in an active Reserve status, for active duty for training (ADT), initial active duty for training (IADT), involuntary active duty for training (involuntary ADT), annual training (AT), and IDT. Types of IDT are:

- regularly scheduled unit training includes Unit Training Assemblies (UTA), and Multiple Unit Training Assemblies (MUTA)
- Regularly Scheduled Training (RST) other than UTA/MUTA
- make up assemblies for missed UTA/MUTA due to AT
- Equivalent Training (ET) in lieu of scheduled UTA/MUTA or RST
- additional training assemblies (ATA)

- two-hour unit training assemblies
- training of individual Soldiers in non-pay status

b. Paragraph 2–4 states, personnel on AD, ADT, IADT, involuntary ADT, or AT are awarded 1 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. Most types of IDT are covered by one of the following rules on required duration of IDT and calendar day limitations on points:

- one point for each scheduled 4-hour period of IDT at UTA, RST, ET, ATA, or make up assembly maximum of 2 points in 1 calendar day
- one point for each 2 hour or greater period
- two-hour aggregates of shorter periods may be used, except in the case of 2-hour unit training assembly's maximum of 1 point in 1 calendar day
- one point for each 2 hour or greater period
- two-hour aggregates of shorter periods may be used except in the case of 2-hour unit training assemblies
- award of a second point in the same day requires additional hours to bring the day's total to a minimum of 8, maximum of 2 points in 1 calendar day
- points may not be awarded under more than one of the rules above during any single calendar day

c. Paragraph 3-3(b) provides that a DA Form 1380 will be prepared for a unit Soldier who performs equivalent training or additional training. The code "P" or "N" will be entered in item 9c before the retirement point credit. The code "P" indicates the Soldier is entitled to inactive duty pay for the duties performed; the code "N" indicates the Soldier is entitled to retirement point credit only. TPU units will retain one copy of the DA Form 1380 to post the appropriate entry into ADARS for the month's report and then place in the appropriate Army records information management system file. Non-paid DA Form 1380s 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. The DA Form 1380 will be scanned into the Soldiers Integrated Personnel Electronic Records Management System record by the unit of assignment.

//NOTHING FOLLOWS//