

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 July 2024

DOCKET NUMBER: AR20230013608

APPLICANT REQUESTS:

- correction of retirement points for Retirement Year Ending (RYE) 27 November 2021 (4 points)
- a personal appearance before the Board

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)
- Memorandum – Subject: Delegation of Signature Authority, 17 July 2022
- Troop Program Unit (TPU) Personnel Actions Checklist, 25 August 2022
- Email communication

FACTS:

1. The applicant states in pertinent part she was required to attend medical appointments in 2021 in order to receive her COVID 19 vaccination, Influenza vaccination and Periodic Health Assessment (PHA). She contests that retirement points and pay were to be awarded for each of these events however, she was later advised that only points were authorized. She further notes that her command advised her to submit the appropriate documentation for retirement points, but after 19 months of receiving no results, she was directed to request relief through this Board. She argues that not awarding retirement points for the performance of required military duties is an injustice and the errors made in the processing of her points were not her fault.

2. A review of the applicant's available service records reflects the following:

a. On 28 November 2018, the applicant enlisted in the U.S. Army Reserve (USAR) for 8 years as an 09S (Commissioned Officer Candidate) and subsequently assigned to the 440th Civil Affairs Battalion.

b. The applicant's most recent DA Form 5016 (Chronological Statement of Retirement Points), dated 18 July 2024, reflects that for RYE 27 November 2021, she

received a total of 65 retirement points of which 36 points were from Inactive Duty Training, 14 points from Active-Duty Training and 15 Membership points.

3. The applicant provides the following a:

a. DA Form 1380 reflective of the applicant's completion of a PHA on 2 August 2021 for points only (4 hours – 1 point). This document was digitally endorsed by Mr. J_ G_ of the 440th Civil Affairs Battalion on 25 August 2022.

b. DA Form 1380 reflective of the applicant's completion of various medical activities (Influenza and COVID-19 vaccinations) on 20 July, 10 August and 17 September 2021 (4 hours per day – 3 points total). This document was digitally endorsed by Mr. J_ G_ of the 440th Civil Affairs Battalion on 25 August 2022.

c. Memorandum – Subject: Delegation of Signature Authority dated 17 July 2022, reflective of the commander's delegation of signature authority to three individuals of the 440th Civil Affairs Battalion to include Mr. J_ G_.

d. TPU Personnel Actions Checklist dated 25 August 2022, reflective of the applicant's submitted request for retirement points.

e. Email communication reflective of the commentary concerning the applicant's submission of DA Forms 1380 through her battalion. On 8 August 2023, the applicant's submitted request was returned without action due to the absence of signatures and lateness i.e., submitted in excess of 60 days post the performance of the activity. The applicant was redirected to this Board to request relief.

4. On 2 February 2024, the Headquarters, U.S. Army Reserve Command, Chief, Soldier Programs Branch, provided an advisory opinion recommending that the applicant be awarded 1 retirement point. In accordance with Army Regulation (AR) 140-185 (Training and Retirement Point Credits and Unit Level Strength and Accounting Records), Paragraph 2-4b (1)(g) Soldiers are authorized a maximum of 1 medical and 1 dental PHA for 4 hours per fiscal year unless follow-ups are authorized at the needs of the Army due to further medical screenings per AR 40-501 (Standards of Medical Fitness). The applicant should seek back pay through her unit for the PHA.

5. On 14 February 2024, the applicant was provided with a copy of the advisory opinion and afforded 15 days to provide comments.

6. On 28 February 2024, the applicant responded to the advisory opinion contesting the recommendation that she be awarded only one point. The applicant notes that each of the vaccinations were medical readiness requirements in accordance with AR 40-501. She further provides that each event occurred on separate days and required a total of

four hours to schedule and complete each event. Therefore, she should be awarded 1 point for each event resulting in a total of four points awarded rather than one.

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 partial relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The applicant contends that each of her medical appointment were for vaccinations as part of her medical readiness requirements in accordance with AR 40-501. The Board reviewed and agreed with the USARC advisory official's determination that the applicant should be awarded one (1) retirement point. In accordance with Army Regulation (AR) 140-185 (Training and Retirement Point Credits and Unit Level Strength and Accounting Records), paragraph 2-4b (1)(g) Soldiers are authorized a maximum of 1 medical and 1 dental PHA for 4 hours per fiscal year unless follow-ups are authorized at the needs of the Army due to further medical screenings per AR 40-501. Additionally, the applicant should seek back pay through her unit for the PHA.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
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:	:	:	GRANT FULL RELIEF
■	■	■	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

1. The Board determined the evidence presented is sufficient to warrant a recommendation for partial relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by awarding the applicant one (1) qualifying retirement point, based on submitted DA Forms 1380, for points only, provided all other criteria is met.

2. The Board further determined the evidence presented is insufficient to warrant a portion of the requested relief. As a result, the Board recommends denial of so much of the application that pertains to any relief in excess of that described above.1.

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

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. AR 140-185 (Training and Retirement Point Credits and Unit Level Strength and Accounting Records) prescribes the types of training and activities for which retirement points are authorized and the procedures for recording retirement point credits and training for USAR Soldiers. A qualifying year of service for non-regular retired pay is a full year during which a Reserve Component member is credited with a minimum of 50 retirement points.

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

- regularly scheduled unit training includes UTA, and 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 (Criteria for Awarding Retirement Points) 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
- 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
- Soldiers may not perform more than 48 BAs per fiscal year. Soldiers must perform RST within 60 days of the missed BA.
- Soldiers are authorized a maximum of 1 medical and 1 dental physical health assessment for 4 hour periods per fiscal year unless follow-ups are

authorized at the need of the Army due to further medical screening per
AR 40-501

c. Paragraph 3-3 (DA Form 1380) provides that DA Form 1380 will be prepared for a unit Soldier who performs equivalent training or additional training with their unit after the scheduled Battle Assembly. TPU units will retain one copy of the DA Form 1380 to post the appropriate entry into ADARS for the months report. 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.

d. Paragraph 3-3b, states 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.

2. 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 may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicant's do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//