

IN THE CASE OF: [REDACTED]

BOARD DATE: 13 August 2024

DOCKET NUMBER: AR20230014074

APPLICANT REQUESTS: in effect, correction of his record to show the submitted DA Forms 1380 (Record of Individual Performance of Reserve Duty Training) dated 5 October 2023, were accepted, and added to his record for the anniversary year of 18 February 2018 to 17 February 2019.

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

- DD Form 149 (Application for Correction of Military Record)
- DA Forms 1380, 5 October 2023

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:

a. He is requesting retirement points from 2018. His assigned unit failed to process four DA Forms 1380 during that year. Failure by the 4th Legal Operations Detachment (LOD) to process original DA Forms 1380 has made that year unsatisfactory for retirement and/or benefits.

b. He volunteered to participate at multiple SRPs [Soldier Readiness Processing] during 2018 for which his four submitted DA Forms 1380 were not processed timely. Although, unintentional by his unit the 4th LOD, such oversight has caused harm to him by making 2018 an unsatisfactory year due to the missing points from these missing DA Forms 1380. The only way to remedy the harm caused to the applicant, is to correct the record by adding the missing points making 2018 a satisfactory year.

3. A review of the applicant's official records show the following:

a. He was appointed as a Reserve commissioned officer and executed his oath of office on 18 February 2011.

b. On 3 June 2024, the Department of the Army published Orders Number 0008322625.00, which separated the applicant, effective 3 July 2024.

c. On 28 June 2024:

(1) An Informal Physical Evaluation Board found the applicant physically unfit and recommended a rating of 60 percent and that the applicant's disposition be permanent disability retirement. The applicant concurred and waived a formal hearing of his case.

(2) Headquarters, U.S. Army Physical Disability Agency published Orders Number D 180-12, which retired the applicant, effective 28 July 2024, and placed him on the retired list because of physical disability, effective 29 July 2024.

d. On 2 July 2024, Headquarters, U.S. Army Physical Disability Agency published Orders Number [REDACTED], which amended Orders Number [REDACTED] dated 28 June 2024, to show:

- Effective date of retirement: 3 July 2024
- Date placed on retired list: 4 July 2024
- Basic Pay: 13 Year(s), 5 Month(s), 17 Day(s)

e. The applicant's record contains:

(1) DA Form 5016 (Retirement Accounting Statement) dated 4 July 2024, which shows his total career retirement points earned as – 548 Inactive Duty Training (IDT), 201 Membership, 274 Active-Duty Training (ADT), 12 years, 4 months, and 15 days Qualifying for Retirement, 1023 Points Earned, and 1023 Points Creditable. In relevant part, the form also shows for the completed anniversary year 18 February 2018 to 17 February 2019, he earned the following retirement points:

- 26 IDT
- 15 Membership
- 3 Active Duty
- 44 Points Earned
- 44 Points Creditable

(2) DA Form 5016 (Chronological Statement of Retirement Points) dated 25 July 2024, which shows his total career retirement points earned as – 440 IDT, 165 Membership, 270 ADT, 10 years Qualifying for Retirement, 875 Total Points Creditable.

In relevant part, the form also shows for the completed anniversary year 18 February 2018 to 17 February 2019, he earned the following retirement points:

- 26 IDT
- 15 Membership
- 3 Active Duty
- 44 Total Points Creditable

4. The applicant provides DA Forms 1380 dated 5 October 2023 submitted for points only for the completed anniversary year 18 February 2018 to 17 February 2019. The forms were signed by the Team Chief (Lieutenant Colonel [REDACTED]) and show the applicant's dates, hours, retirement points, location of duties, nature of duties, training, or instruction, as follows:

- 10 July 2018 – for 8 hours, N2 (nonpaid), "SRP Fort Dix, NJ"; Totaling: 2 points
- 15 August 2018 – for 8 hours, N2 (nonpaid), SRP Fort Dix, NJ; Totaling: 2 points
- 21 September 2018 – for 8 hours, N2 (nonpaid), SRP Fort Dix, NJ; Totaling: 2 points
- 15 November 2018 – for 8 hours, N2 (nonpaid), SRP Fort Dix, NJ; Totaling: 2 points

5. On 24 May 2024, Headquarters, U.S. Army Reserve Command (USARC), STL, Military Service Office, provided an advisory opinion for this case and recommended granting full administrative relief. The advisory official stated, USARC reviewed the applicant's documents and determined he should be awarded eight points in accordance with Army Regulation (AR) 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records). The unit did not process his non-paid duty resulting in a "bad" year. A favorable adjudication from the Army Review Boards Agency would allow the Readiness Division to update the points. "Full administrative relief granted."

6. On 12 June 2024, the applicant was provided a copy of the USARC advisory opinion. He responded to the advisory opinion and stated, "Thank you very much for your help with the matter. Is there anything you need from me at this time?"

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 the advisory opinion provided by the Headquarters, U.S. Army Reserve Command (USARC), Military Service Office. In concurrence with the advisory recommendation, the Board determined that the applicant should be credited with eight (8) retirement points in accordance with Army Regulation 140-185. The evidence indicated the applicant’s non-paid duty was not processed by the unit, resulting in an inaccurate anniversary year assessment—a “bad” year.

2. Based on the advising official’s review, the Board found sufficient justification to accept the applicant’s DA Forms 1380 (Record of Individual Performance of Reserve Duty Training) dated 5 October 2023 and correct the applicant’s record to reflect inclusion of the duty for the anniversary year spanning 18 February 2018 through 17 February 2019. In light of these findings, 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 Forms 1380 (Record of Individual Performance of Reserve Duty Training) dated 5 October 2023, they were accepted and added to his record for the anniversary year of 18 February 2018 to 17 February 2019.

X 

CHAIRPERSON

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 140-1 (Mission, Organization, and Training) provides policy guidance on the mission, organization, and training of the U.S. Army Reserve (USAR). Paragraph 3-26 (Training of individual Soldiers in a non-pay status) states, Soldiers in an active status may take part in individual inactive duty training (IDT) in a non-pay training status when authorized by the appropriate commander. In pertinent part, individual training opportunities with retirement point credit are shown below:

- attachment to appropriate Reserve Component Troop Program Units (TPU)
- attachment to Active Army units
- attachment to reinforcement training units as appropriate
- attachment to Reserve Component Training Institutions as students or as augmentation staff or faculty
- attendance at Army service or Army area school training

- participation in approved training projects or using administrative skills in support of TPU and USAR activities
- enrollment in appropriate extension courses
- attendance at authorized conventions, professional conferences, or appropriate trade association meetings related to the individual's mobilization specialty
- conducting or reviewing medical examinations, and related medical duties
- recruiting duties as described in AR 140–185

3. AR 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records) contains Army policy for U.S. Army Reserve training and retirement point credit. It also prescribes guidance for USAR unit level strength accounting.

a. Paragraph 1-7 (Service requirement for a satisfactory year of service for non-regular retirement) states, 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. Except as otherwise provided by law, an accumulation of 20 such years is one requirement necessary to qualify for non-regular retired pay.

b. Paragraph 2-1 (Criteria for crediting retirement points) states, IDT will be either four (4) hours in length for one (1) retirement point or eight (8) hours in length for two (2) retirement points.

c. Paragraph 3-3 (DA Form 1380) states, the purpose of this form is to record IDT by —

(1) TPU Soldiers performing IDT assemblies when pay is authorized, and the Soldier is not present to sign the IDT attendance roster.

(2) TPU 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.

(3) Non-unit Soldiers under the jurisdiction of HRC who are attached for retirement points only to USAR TPUs, Army National Guard units, or to another Service or component for training per AR 140–10. 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. Note: Non-unit Soldiers attached for retirement point credit to IMA detachments are reported on DA Form 1379 for those units.

d. Paragraph 3-3b states, 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. TPU units will retain one copy of the DA Form 1380 to post

the appropriate entry into Automated Drill Attendance Reporting Software (ADARS) for the months 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 Soldiers integrated Personnel Electronic Records Management System by the unit of assignment per AR 600-8-104 (Army Military Human Resource Records Management).

//NOTHING FOLLOWS//