

IN THE CASE OF: [REDACTED]

BOARD DATE: 7 November 2024

DOCKET NUMBER: AR20240001922

APPLICANT REQUESTS:

1. Correction of her DA Form 5016 (Retirement Accounting Statement) to correct the Retirement Years Ending (RYE):

- 12 April 2016 – 11 retirement points
- 12 April 2018 – 12 retirement points
- 12 April 2019 – 3 retirement points
- 12 April 2020 – 14 retirement points
- 12 April 2023 – 10 retirement points

2. A personal appearance before the Board.

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

- DD Form 149 (Application for Correction of Military Record)
- Email correspondence
- USAR Form 26-R (Pay Document Transmittal Letter)
- Memorandum, Subject: 1380 Letter of Lateness
- DA Form 1380 (Record of Individual Performance of reserve Duty Training) 2015-2018
- DA Form 1380 – 2019-2020
- DA Form 1380 – 16 March 2020
- DA Form 1380 – March 2023
- Email correspondence
- DA Form 5016 (Retirement Accounting Statement) Draft
- Congressional
- ExParte request
- U.S. Army Human Resources Command (AHRC) advisory opinion
- Army Regulation (AR) 140-185 (Training and Retirement point Credits and Unit Level Strength Accounting Records)

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 the late submissions are a result of heavy leadership and S-1 changeover during the covered period and is no fault of hers. AHRC is unable to complete the requested action due to the 60 Day Rule; AHRC directed her to the Army Review Boards Agency for processing.

3. A review of the applicant's official record shows the following:

a. On 30 April 2004, the applicant was appointed as a Reserve commissioned officer and executed an oath of office with a subsequent order to active duty.

b. On 1 August 2011, the applicant was honorably released from active duty and transferred to the U.S. Army Reserve (USAR). She completed 7 years, 3 months, and 1 day of net active service.

c. On 2 August 2011, by memorandum issued by AHRC the applicant was appointed as a Reserve commissioned officer in the USAR.

d. DA Form 5016 shows for the following RYE:

(1) 12 April 2016; 21 Inactive Duty Training (IDT) points, 15 membership points, 12 Active Duty Training (ADT) points, totaling 48 creditable points for retirement.

(2) 12 April 2018; 24 IDT points, 15 membership points, 12 ADT points, totaling 51 creditable points for retirement.

(3) 12 April 2019; 21 IDT points, 15 membership points, 0 ADT points, totaling 36 creditable points for retirement.

(4) 12 April 2020; 24 IDT points, 15 membership points, 0 ADT points, totaling 39 creditable points for retirement.

(5) 12 April 2023; 26 IDT points, 6 membership points, 0 ADT points, totaling 32 creditable points for retirement.

4. The applicant provides:

a. Email correspondence returning the applicant's submitted DA Forms 1380 for varying reason. She was directed to this Board.

b. USAR Form 26-R showing the applicant's DA Forms 1380 were submitted for processing.

c. Memorandum, Subject: Letter of Lateness, dated 17 July 2023, wherein the applicant's immediate commander stated the DA Forms 1380 were submitted late due to heavy leadership and S-1 changeover during the covered period.

d. DA Form 1380 dated 17 July 2023 showing the applicant completed Individual Mobilization Augmentee (IMA) duties, dental readiness, height/weight, Army Physical Fitness Test, Officer Evaluation Report (OER), and administrative duties on the following dates:

- 15 and 28 April 2015 – 4 retirement points
- 4 May 2015 – 1 retirement point
- 23 June 2015 – 2 retirement points
- 23 November 2015 – 2 retirement points
- 21 December 2015 – 2 retirement points
- 17 and 18 April 2018 – 4 retirement points
- 9, 26, and 31 July 2018 – 6 retirement points
- 19 December 2018 – 2 retirement points

e. DA Form 1380 dated 17 July 2023 showing the applicant completed IMA duties, dental readiness, height/weight, OER, and administrative duties on the following dates:

- 17 January 2019 – 1 retirement point
- 27 March 2019 – 2 retirement points
- 19 September 2019 – 1 retirement point
- 26 November 2019 – 2 retirement points
- 9, 15, and 23 December 2019 – 3 retirement points
- 8 and 31 January 2020 – 3 retirement points
- 14, 18, and 28 February 2020 – 4 retirement points

f. DA Form 1380 dated 17 July 2023 showing the applicant completed IMA duties on 16 March 2020 for one retirement point.

g. DA Form 1380 dated 13 March 2023 showing the applicant completed administrative duties and mandatory training on 6, 7, 8, 9, and 10 March 2023 totaling 10 retirement points.

h. Email correspondence from the applicant to AHRC wherein she was attempting to correct points for 3 years.

i. Congressional request wherein the applicant requested support from her congressman to help resolve her retirement point issues.

j. Exparte request showing the applicant was provided with an opportunity to respond to an advisory opinion received by the Board.

k. AHRC advisory opinion wherein AHRC stated in part DA Forms 1380 must be submitted to AHRC within 90 days of the duty being completed. AHRC would need a directive from the Board to add additional retirement points.

l. AR 140-185 excerpt providing the purpose of the DA Form 1380 and its preparation.

5. On 30 September 2024, in the processing of this case the Chief, Personnel Services Division, AHRC, provided an advisory opinion and stated AHRC reviewed the application. According to AR 140-185, paragraph 3-3, nonpaid DA Forms 1380 must be sent to AHRC for retirement point credit within 90 days of the duty being performed. However, the enclosed DA Forms 1380, prepared in July 2023 for duty throughout 2015, 2018, 2019, and 2020, were not accurately prepared or submitted on time.

6. On 4 October 2024, the applicant was provided with a copy of the advisory opinion for commend or rebuttal. She responded the same day and stated she saw that AHRC acknowledges the DA Forms 1380 within her packet were not submitted timely and cannot be processed without direction from the Board. This is the primary reason why she went through the Board.

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 review based on law, policy, and regulation. The Board reviewed the advisory opinion provided by the U.S. Army Human Resources Command in that the applicant's DA Forms 1380 were not accurately prepared and submitted on time; however, the Board majority determined the preponderance of the evidence supports the applicant completed the duty performance and should be awarded the retirement point credit as requested. The Board minority concurred with the advising official finding the applicant inaccurately completed the forms and therefore denied relief.

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.

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 by awarding the applicant qualifying retirement points on the dates indicated below, provided all other criteria is met:

- 12 April 2016 – 11 retirement points
- 12 April 2018 – 12 retirement points
- 12 April 2019 – 3 retirement points
- 12 April 2020 – 14 retirement points
- 12 April 2023 – 10 retirement points



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. AR 140-185 (Training and Retirement Point Credits and Unit Level Strength Accounting Records):

a. Paragraph 2-2 (Criteria for earning retirement points) states retirement points may be earned by U.S. Army Reserve 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), voluntary IDT, annual training (AT), IDT, membership points, and for other activities specified in this regulation.

- Four-hour rule; Soldiers earn one point for each scheduled 4-hour period of IDT at Battle Assembly, Rescheduled Training (RST), Equivalent Training, or Additional Training Assemblies
- Four/eight-hour rule; Soldiers earn one point for each 4 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 hours for a maximum of two points in 1 calendar day

b. Paragraph 3-3 (DA Form 1380) states nonpaid DA Forms 1380 will not be entered into Automated Drill Attendance Reporting Software (ADARS) and will be forwarded to HRC for award of retirement points no later than the end of each duty month.

c. Table 3-1 provides that the code "N" will be entered for RST. The code "N" indicates the Soldier is entitled to retirement point credit only.

3. Department of Defense Instructions 1215.07 (Service Credit for Non-Regular Retirement) states inactive duty may be credited for each attendance at an inactive duty training period. A maximum of 2 retirement points for attendance at inactive duty training periods or equivalent training, in any 1 calendar day. The Service member's participation is without payment other than the pay to which the Service member is entitled as a Reserve Component member. Credit no more than one retirement point for fewer than 8 hours.

4. 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 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.

//NOTHING FOLLOWS//