

IN THE CASE OF: [REDACTED]

BOARD DATE: 18 November 2024

DOCKET NUMBER: AR20240002143

APPLICANT REQUESTS: correction of his Reserve retirement points for Retirement Year Ending (RYE) 2017.

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)
- Reserve Health Readiness Program
- DD Form 2813 (Department of Defense Active Duty/Reserve/Guard/Civilian Forces Dental Examination)
- Personnel Action Request
- Email Communication
- DD Form 214 (Certificate of Release or Discharge from Active Duty), 25 July 2023
- Memorandum – Subject: Letter of Lateness, 27 November 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 in pertinent part that he was appointed a Reserve commission in 2016 at the rank of captain (CPT)/O-3 with duty as a 61H (Family Medicine Physician). Upon appointment, he was assigned to the Army Medical Department Professional Management Command (APMC) and enrolled in the Specialized Training Assistance Program (STRAP). While participating in the program, he was required to complete DA Forms 1380 for didactic training performed outside of direct patient care and above 40 hours per week of work. He contests that he completed and submitted the provided DA Forms 1380. Unfortunately, these documents, although received, were not processed. He was not aware of this issue at the time and has spent several years attempting to resolve the issue. Recently, his request for correction was approved,

however his unit was unable to process the correction since it was not submitted within 6-months of the performance of the duty.

3. A review of the applicant's available personnel records reflects the following:

a. On 26 October 2016, the applicant was appointed a Reserve commission.

b. On or about 20 December 2016, the applicant was enrolled in Specialized Training Assistance Program (STRAP). As a participant in this program, the applicant acknowledged that he was required to participate satisfactorily in the Army Reserve during the entire period that he was a commissioned officer. Further, as a member of a unit, the applicant may be required to satisfactorily complete a period of annual active duty for training of not less than 14 days per year. However, if he was not assigned to a unit, he would be assigned to the Individual Ready Reserve (IRR), and while so assigned may be required to perform not more than 30 days active duty for training annually.

c. On 31 January 2017, Headquarters, APMC issued Orders Number 17-031-00002 retroactively attaching the applicant to APMC, effective 26 October 2016.

d. On 24 November 2023, DA Form 5016 (Retirement Accounting Statement) was constructed reflecting the following: from 26 October 2016 – 25 October 2017, the applicant was awarded 35 retirement points (16 Inactive Duty Training (IDT), 15 Membership, and 4 Active Duty Training (ADT) points

4. The applicant provides the following a:

a. DA Form 1380 dated 23 February 2017, reflective of the applicant's completion of qualifying service (residency training) for points only on 3, 24 and 31 January 2017 (4 hours each day/3 points total).

b. DA Form 1380 dated 8 March 2017, reflective of the applicant's completion of a Physical Health Assessment (PHA) on 8 March 2017 (4 hours/1 point).

c. DA Form 1380 dated 1 March 2017, reflective of the applicant's completion of qualifying service (residency training) for points only on 7, 14, 21 and 28 February 2017 (4 hours per day/4 points total).

d. DA Form 1380 dated 9 May 2017, reflective of the applicant's performance of qualifying service (resident conference, research, and training) for points only on 1, 4, 11, 15, 18, 22, 25 and 29 April 2017 (4 hours per day/8 points total); 8 April 2017 (8 hours/2 points total).

e. DA Form 1380 dated 1 July 2017, reflective of the applicant's completion of qualifying service (resident didactic time) for points only on 6, 13, 20 and 27 June 2017 (4 hours per day/4 points total); 5 June 2017 (8 hours/2 points total).

f. DA Form 1380, 12 September 2017, reflective of the applicant's completion of Dental care/treatment on 12 September 2017 (4 hours/1 point).

On 27 November 2023, the above forms were reconstructed. All dates remained the same, however 8 April 2017 is now claimed as 4 hours of duty rather than the 8 hours previously reflected on the 9 May 2017 DA Form 1380 (see item 4d. above)

g. Reserve Health Readiness Program reflective of the applicant's completion of a PHA on 8 March 2017.

h. DD Form 2813 reflective of the applicant's completion of required dental care on 30 August 2017.

i. Personnel Action Request, reflective of the applicant's DA Forms 1380 being returned without action on 18 January 2024, since they were not submitted in accordance with the governing policy/regulation.

j. Email Communication, reflective of communication concerning the submission and processing of the applicant's DA Forms 1380 between February 2017 – November 2022. These documents are further provided in their entirety within the supporting documents for the Board member's review.

k. DD Form 214, ending on 25 July 2023, reflective of the applicant's service on active duty from 5 April 2023 - 25 July 2023.

l. Memorandum – Subject: Letter of Lateness, dated 27 November 2023, reflective of the applicant's Training Officer in Charge awareness of the applicant's submitted request noting that, he originally submitted the documents within 30 days of the performance of duty. However, due to an unexpected error, the applicant was not properly awarded service credit.

5. On 3 September 2024, Headquarters, U.S. Army Reserve Command (USARC), Chief, Soldier Programs Branch, provided an advisory opinion recommending the applicant be awarded 14 retirement points. The forms were filled out incorrectly originally and were never processed. A favorable adjudication from the Board will allow the Readiness Division to correct the record.

6. On 10 September 2024, the applicant was provided with the advisory opinion for comment or rebuttal. He did not respond.

7. On 13 November 2024, Headquarters, USARC, Chief, Soldier Programs Branch provided an updated advisory opinion recommending that the applicant be awarded 14 retirement points noting that the forms were completed incorrectly originally and were never processed. There is nothing in the regulation that allows for resident didactive time for 6, 13, 20 or 27 June 2017. Army Regulation (AR) 140-185 (Training and Retirement Point Credits and Unit Level Strength and Accounting Records), Table 2-4 rule 8 allows Soldiers to attend authorized conventions, professional conferences, or appropriate trade association meetings in a non-pay status for 1 point per 8 hours. Table 2-4 rule 12 allows Soldiers to perform military medical duties without pay or professional fees for points under the 4-hour/8-hour rule. The applicant does not state which rule is being used for the points, so USARC utilizes the 8-hour rule. Therefore, USARC only credited 1 point for 5 June 2017. Paragraph 2-4b(1)(g) (Additional Assemblies for Nuclear Training) provides that Soldiers are authorized a maximum of 1 medical and 1 dental PHA for 4-hour periods per fiscal year unless follow-ups are authorized at the needs of the Army due to further medical screening. Therefore, USARC did not award credit for 9 December 2017. A favorable adjudication from this Board would allow the Readiness Division to correct the applicant's records.

BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The applicant contends that he completed and submitted the provided DA Forms 1380. Unfortunately, these documents, although received, were not processed. An official at USARC reviewed the applicant's documents, and determined he should be awarded 14 retirement points noting that the forms (DA Form 1380) were completed incorrectly originally and were never processed. The Board agreed with the USARC advisory official that the applicant should receive 14 retirement points.

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 14 qualifying retirement points, based on submitted DA Form 1380 for February, March, May, July, and September 2017, for retirement points only, and provided all other criteria is met.

11/18/2024

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. Army Regulation (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 U.S. Army Reserve (USAR) Soldiers. A qualifying year of service for non-regular retired pay is a full year during which a Reserve Component (RC) 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. The Anniversary Year Ending (AYE) date is the annual date that a Soldier's retirement point record is closed out. It is utilized when referring to retirement points accounting. The AYE is much like a Reserve Soldier's "Anniversary" date and is a primary date captured in the Retirement Points Accounting System (RPAS). The anniversary year periods listed on the DA Form 5016 are calculated from an anniversary date. The criteria for establishing the service requirement for a satisfactory year of service for non-regular retirement per Department of Defense Instruction 1215.07 and changing the anniversary year ending date are as follows:

a. The full-year periods used for the crediting of qualifying years for non-regular retirement must be based on the anniversary years. Anniversary year periods are calculated from an anniversary date. The anniversary date is the date the service member entered active service or active status in a RC.

b. Paragraph 2-2, 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), annual training (AT), and IDT. Types of IDT are:

- regularly scheduled unit training includes Unit Training Assemblies (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.

c. 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
- Soldiers may not perform more than 48 BAs per fiscal year. Soldiers must perform RST within 60 days of the missed BA.

3. AR 15-185 (ABCMR) paragraph 2-9 states the ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

//NOTHING FOLLOWS//