

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 March 2024

DOCKET NUMBER: AR20230000824

APPLICANT REQUESTS:

- payment of Reenlistment/Extension Bonus (REB) contract dated 30 June 2021; and/or
- an opportunity to sign a new reenlistment contract with the awareness that there will be no incentive attached

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 4836 (Oath of Extension of Enlistment or Reenlistment), 30 June 2021
- National Guard Bureau (NGB) Form 600-7-4-R-E (Annex R to DD Form 4 or DA Form 4836 – REB Addendum – Army National Guard (ARNG) of the United States), 30 June 2021
- [REDACTED] ARNG ([REDACTED] ARNG) Education Services Office Memorandum, 17 December 2021
- Memorandum, Subject: Request for Exception to Policy (ETP), 8 March 2022
- Memorandum, Subject: ETP Disapproval, Special Forces Reenlistment Bonus, 19 June 2022

FACTS:

1. The applicant states:

a. He signed a 6-year reenlistment contract with the [REDACTED] ARNG which initially included an REB lump sum payment of \$40,000.00 on 30 June 2021. The NGB approved a Guard Incentive Management System (GIMS) control number on the same day of the reenlistment. He was informed receipt of bonus would coincide with the first day of the new contract year, 14 July 2021. He did not receive the bonus on the day specified and did not hear any further reporting on the status of the bonus until 17 December 2021, when he received a notice that a Time-in-Service (TIS) discrepancy was found and an ETP memorandum would have to be sent to the state of Washington Incentive Manager for adjudication. The discrepancy was he had exceeded the maximum TIS eligibility for the incentive because the maximum TIS was 15 years, and

he had 16 years, 1 month, and 22 days. At the time of reenlistment, he understood the TIS restrictions, but when he signed the contract, he was informed that he was eligible for the bonus.

b. He would never sign a contract of that length without any incentive. He submitted an ETP to the NGB on 17 December 2021. He received notification that the ETP had been denied on 19 June 2022, just 11 days short of one year from the time the reenlistment contract was signed. The bonus was denied, but his service contract remains, and he is now obligated to serve the remainder of a 6-year contract with no bonus and no opportunity to sign a new shorter contract with the knowledge that no bonus will be received.

c. He is appealing the denial of the \$40,000.00 REB for a 6-year contract with the [REDACTED] ARNG. He signed the contract explicitly because of the bonus attached. He would never agree to a contract of such length without some form of incentive. He would like to receive the bonus and serve out the time agreed upon in the contract. If payment of the bonus is not possible, he would like an opportunity to sign a new reenlistment contract with the awareness that there will be no incentive attached.

2. A review of the applicant's military record shows the following:

a. Having had prior service in the U.S. Marine Corps Reserve, he enlisted in the Regular Army for a period of 3 years and 20 weeks on 13 October 2010.

b. On 14 July 2014, he reenlisted for 5 years.

c. On 14 May 2019, DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) shows he enlisted in the [REDACTED] ARNG for 1 year.

d. On 13 July 2019, DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was honorably discharged from active duty and transferred to his [REDACTED] ARNG unit. He completed 8 years, 9 months, and 1 day of net active service this period. Item 11 (Primary Specialty) shows "18EP W8 Special Forces Commo Sergeant" – 5 years.

e. On 8 June 2020, DA Form 4836 shows he extended in the [REDACTED] ARNG for 1 year.

f. On 11 July 2020, MIL Form 614-2 (Request for Transfer to the Inactive Army National Guard (ING)) shows the applicant applied for transfer to the ING, effective 1 August 2020. In pertinent part, the form shows his Pay Entry Basic Date (PEBD) as 13 October 2010.

g. On 24 June 2021, the [REDACTED] ARNG published Orders Number 0001247678.00 reassigning the applicant from the ING to his [REDACTED] ARNG unit, effective 1 June 2021.

h. On 30 June 2021, DA Form 4836 shows the applicant extended in the [REDACTED] ARNG for 6 years. In connection with his extension, he completed and signed an REB contract. NGB Form 600-7-4-R-E states, in pertinent part:

(1) Section II (Eligibility) – Upon reenlistment/extension in the ARNG, the applicant understood he must have no more than 15 years TIS on the contract start date. Contract start date is defined as one day after current expiration term of service. The TIS is computed from current PEBD. His current PEBD was listed as 14 May 2005.

(2) Section III (Bonus Amount and Payments) – The applicant understood he was reenlisting/extending for the Six-Year Duty Military Occupational Specialty (MOS) Qualified Special Forces REB and would receive a total amount of \$40,000.00. He understood payment would be processed lump sum on the contract start date; the day after current expiration term of service, upon verification of MOS and unit of assignment qualification in GIMS. The applicant understood he would not receive payment if he did not meet all eligibility requirements on the contract start date and the contract would be verified by the State Incentive Manager prior to the payment being processed.

i. On 19 June 2022, the Chief, Personnel Programs, Resources, and Manpower Division NGB, disapproved the ETP request on behalf of the applicant to receive the \$40,000.00 lump sum Special Forces REB. The NGB official stated, the applicant had 16 years, 1 month, and 22 days time in service on the Contract Start Date (14 July 2021), which exceeds the 15-year maximum TIS eligibility requirement for the incentive. This discrepancy violates Fiscal Year (FY) 21 Selected Reserve Incentive Program (SRIP) and makes the applicant ineligible to contract for this incentive. As the incentive has not been established, nor monies disbursed, the Incentive Manager will invalidate the incentive.

j. NGB Form 23A (Army National Guard Current Annual Statement) dated 31 May 2023 shows in pertinent part, the applicant was member of the U.S. Marine Corps Reserve beginning on 23 May 2005 and ending on 12 October 2010. He began service in the Regular Army on 13 October 2010 and was separated on 13 July 2019. The applicant has been a member of the ARNG in an active and inactive status from 14 July 2019 until the present.

3. The applicant provides:

a. [REDACTED] ARNG Education Services Office Memorandum, Subject: Notification of Incentive Discrepancy and ETP Process, dated 17 December 2021, notifying him that, a discrepancy with his bonus incentive contract must be resolved to avoid termination.

The Incentives Manager attempted all measures to prevent termination; however, this discrepancy will require his assistance to resolve. The witnessing official's signature on bonus addendum was unauthorized. A request for an ETP will contain a detailed explanation and copies of service and incentive documents. For specific guidance, the applicant was informed to contact his Readiness noncommissioned officer or Battalion Career Counselor.

b. Memorandum, Subject: Request for ETP, dated 8 March 2022, in pertinent part, the applicant states, he signed the REB contract prior to transitioning out of the ING in 2021. He elected to sign the six-year contract with the [REDACTED] ARNG only with the understanding that he would receive the incentive associated in the amount of \$40,000.00. Upon verification that he met all requirements, he elected to sign the six-year REB incentive contract.

4. On 12 February 2024, the Chief, Special Actions Branch, NGB, provided an advisory opinion for this case and recommended approval of the applicant's request. The advisory official states:

a. The applicant signed a six-year reenlistment/extension bonus contract in 2021 for an entitlement of \$40,000.00. However, due to an error in processing this bonus, the contract was never approved. He requests payment of his bonus or to sign a new contract for a shorter time of service.

b. The applicant's records show that he signed the REB on 30 June 2021. The extension was for six years with a bonus entitlement of \$40,000.00. The contract was processed through the Guard Incentive Management System and was assigned a control number. However, the applicant did not receive his bonus on the anniversary of the bonus contract because a discrepancy was found related to his Time in Service (TIS). [REDACTED] ARNG submitted an ETP, but the NGB disapproved the ETP. The unit had erroneously issued his bonus contract. They incorrectly calculated his TIS. Instead of using creditable years by PEBD, which would have shown that the applicant had 15 years of service, the unit calculated his TIS to be 11 years.

c. According to the ARNG SRIP FY20 policy, the applicant cannot have more than 13 years and one month of service. Since the applicant had over 15 years of service, he would not have been eligible for the bonus. The bonus was denied, but the applicant is still obligated to serve his six years. [REDACTED] ARNG acknowledges this mistake and supports the applicant's request.

d. For these reasons, it is the recommendation of this office that the applicant's request be approved. Based on the applicant's records, he was ineligible at the time of his extension for a bonus, but the State incorrectly offered him a six-year extension bonus of \$40,000.00. Taking into account his military occupational specialty 18E and his

service in the Special Forces Group, his ETP should be approved for his REB. The mistake was not caused by the applicant, and the applicant is still serving his six years as a result of this erroneous extension. If the applicant should serve his six years per the contract, then he should have his entitlement approved as well.

e. The Army National Guard Incentives Branch did not provide input for this recommendation. [REDACTED] Army National Guard concurs with this recommendation.

5. On 13 February 2024, the applicant was provided a copy of the NGB advisory opinion to allow for comments and/or rebuttal. 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 relief is warranted.
2. The Board concurred with the conclusion of the advisory official that the evidence supports approval of an ETP allowing the applicant to receive the REB he contracted for on 30 June 2021 in spite of exceeding the TIS limit in effect at the time. Based on a preponderance of the evidence the Board determined the applicant's record should be corrected to show the ETP was approved.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	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 and Army National Guard records of the individual concerned be corrected by showing an ETP was approved authorizing him to retain the REB he contracted for on 30 June 2021.

7/23/2024

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.

ADMINISTRATIVE NOTE(S): N/A

REFERENCES:

1. Army Regulation 15–185 (Army Board for Correction of Military Records (ABCM)) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. In pertinent part, it states that 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. The ABCMR will decide cases based on the evidence of record. The ABCMR is not an investigative agency.
2. National Guard Regulation 600-7 (Selected Reserve Incentive Programs (SRIP)) governs policies and procedures for the administration of the ARNG SRIP programs.
 - a. Section IV (REB), paragraph 2-14 (Entitlement) states, entitlement to an REB for an immediate reenlistment or extension begins on the date after expiration term or service. The unit commander must ensure that Soldiers are counseled when they reenlist or extend that they will not receive payments immediately under this program. Payments will be processed through personnel pay channels upon verification of all contractual documentation and meeting the terms and conditions outlined in the incentive agreement.
 - b. Paragraph 2-16 (Processing) states, reenlistment or extension for an REB will be executed within current guidance and any additional requirements directed by Department ARNG or the current Fiscal Year (FY) SRIP policy. For all other processing steps refer to the incentives management system user guide or as outlined in the current FY SRIP policy in effect.
 - c. Paragraph 2-17 (Computation of service years) states, service years are computed from the Soldier's Pay Entry Basic Date (PEBD).
3. Department of Defense Instruction Number 1205.21 (Reserve Component Incentive Programs Procedures) provides that, as a condition of the receipt of an incentive covered by this Instruction, each recipient shall be required to sign a written agreement stating that the member has been advised of and understands the conditions under which continued entitlement to unpaid incentive amounts shall be terminated and which advance payments may be recouped. That agreement shall clearly specify the terms of the Reserve service commitment that authorizes the payment of the incentive to the member.
4. ARNG FY 21 SRIP Policy Number 21-01 states the \$40,000.00 REB may be offered to Special Forces Soldiers in MOS 18B, 18C, 18D, 18E, 18F, 18Z with a minimum of 6-years, DMOSQ, pay grades E-5-E-8, less than 15 years TIS on contract start date. Payment is processed lump sum upon contract date.

//NOTHING FOLLOWS//