

IN THE CASE OF: [REDACTED]

BOARD DATE: 14 December 2023

DOCKET NUMBER: AR20230003623

APPLICANT REQUESTS: change his term of service in the U.S. Army Reserve (USAR) from 6 years to 3 years for his enlistment dated 12 February 2021.

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 4 (Enlistment/Reenlistment Document Armed Forces of the United States)
- DD Form 1966 (Record of Military Processing - Armed Forces of the United States)
- DA Form 3540 (Certificate and Acknowledgement USAR Service Requirement and Methods of Fulfillment)
- DA Form 5261-5 (Selected Reserve Incentive Program (SRIP) USAR Prior Service Enlistment Bonus (PSEB) Addendum)
- Memorandum, Subject: Request Exception to Policy (ETP) - Payout of Enlistment Bonus
- Memorandum, Subject: ETP for Applicant
- DA Form 4187 (Personnel Action) Request for ETP
- Email PSEB Applicant
- Letter to Senator

FACTS:

1. The applicant states, in effect, he is requesting his term of service be changed from six years to three years for his enlistment contract executed on 12 February 2021. He enlisted into the USAR for 6 years to receive a \$15,000.00 PSEB. After in-processing with his new unit and submitting all his contract documents to finance, it was discovered that he had been erroneously awarded the PSEB and would not be paid. Several inquiries were submitted via his unit, retention, Inspector General, and Congress. The main driving force for him enlisting in the USAR was the PSEB to help him and his family alleviate some of their financial burden.

2. The applicant's service record contains the following documents:

a. National Guard Bureau Form 22 (Report and Record of Service) shows the applicant enlisted in the Army National Guard (ARNG) on 30 August 2012 in Military Occupational Specialty (MOS) 11B (Infantryman) and was transferred to the USAR Control Group (Annual Training) on 21 March 2017. His terminal date of Reserve/Military Service Obligation was 29 August 2020. He completed 4 years, 6 months, and 22 days of service. He was transferred to the USAR due to continuous and willful absence and issued an under honorable conditions (general) discharge.

b. Orders Number C-05-806513, published by the U.S. Army Human Resources Command, dated 29 May 2018 voluntarily transferred the applicant from the USAR Control Group (Annual Training) to a Troop Program Unit, effective 21 May 2018. His expiration term of service was 29 August 2020.

c. Orders Number 20-346-00014, published by Headquarters, 88th Readiness Division, dated 11 December 2020, honorably discharged the applicant from the USAR, effective 11 December 2020. He had been held beyond his normal discharge date through no fault of the applicant.

d. DD Form 4, dated 12 February 2021, shows the applicant enlisted in the USAR for a period of 6 years. In conjunction with this enlistment DA Form 5261-5 shows the applicant enlisted in the USAR for a PSEB. The bonus addendum states, in pertinent part:

(1) The applicant acknowledged he met the requirements for enlistment, he was not qualified in MOS 88M (Motor Transport Operator) and would not be qualified to receive the bonus entitlement until he had been awarded the MOS, he was in receipt of an honorable discharge issued on separation from all periods of prior military service, and he had not received an enlistment bonus for any prior military service.

(2) The applicant was enlisting in the USAR for 6 years and he was eligible for a bonus in the amount of \$15,000.00.

e. Orders Number 21-146-00022, published by Headquarters, 88th Readiness Division, dated 26 May 2021 awarded the applicant the primary MOS of 88M and the secondary MOS of 11B, effective 5 April 2019.

f. Memorandum from Headquarters, USAR Command (USARC), dated 9 June 2022 Subject: ETP for applicant states in effect:

(1) The USARC G-1 disapproved the request for ETP.

(2) The applicant enlisted in the USAR on 12 February 2021, for a 6 year term with a \$15,000.00 PSEB in MOS 88M. The USAR pay center did not pay the PSEB due

to the applicant not separating from the Selected Reserve (SELRES) for a minimum of 12 months.

(3) Army policy requires Soldiers whose last assignment was in the SELRES to be separated for a minimum of 12 months to be eligible for the PSEB. The applicant enlisted into the USAR on 30 August 2012, establishing a service obligation with the USAR until 29 August 2020.

(4) Additional research revealed that the [REDACTED] ARNG discharged the applicant on 21 March 2017, with an under honorable conditions (general) discharge characterization. Department of Defense Instruction (DODI) 1304.31 (Enlisted Bonus Program) dated 5 November 2020 requires Soldiers to be in receipt of an honorable discharge at the conclusion of all prior periods of service. In this case, the United States Recruiting Command (USAREC) failed to verify the applicant's eligibility for the PSEB. Based on the circumstances in the case, USARC G-1 did not authorize payment of the PSEB.

(5) The applicant could apply to the Board to pursue any perceived injustice.

3. The applicant provides the following documents, not previously considered:

a. DD Form 1966, dated 12 February 2021, shows the applicant was enlisted in MOS 88M with entitlement to a \$15,000.00 PSEB as shown in item 32 (Specific Option/Program Enlisted for, Military Skill, or Assignment to a Geographical Area Guarantees). The entire DD Form 1966 is available for the Board's consideration.

b. DA Form 3540 dated 12 February 2021, which is used to record contractual obligations to enlistees, education and priority skills incentives, and acknowledgement of Army policy that applies to Soldiers. The entire form is available for the Board's consideration.

c. Memorandum, Subject: Request ETP - Payout of Enlistment Bonus, dated 26 April 2022, states, in effect:

(1) The commander requested the enlistment bonus for the applicant be paid.

(2) The applicant was not paid his enlistment bonus per the Bonus Addendum because of an error in official personnel records as to his date of transfer from the Individual Ready Reserve to the USAR Troop Program Unit program. The error had been corrected and the applicant had adhered to all contractual obligations per his most recent enlistment.

(3) The applicant's case was reviewed by the Inspector General's office and the findings were the applicant was eligible to receive his bonus.

d. DA Form 4187 dated 14 August 2022, wherein the applicant was requesting a term of service change on his contract executed on 12 February 2021 from six years to two years due to an administrative error stating he was entitled to a PSEB of \$15,000.00 after becoming MOS qualified in MOS 88M. After completing MOS training on 22 March 2019 and several inquiries, he finally was notified by finance that he was not qualified to receive the PSEB as stated in his contract. He wanted to change his term of service from six years to two years as he only joined for six years to receive the PSEB. The DA Form 4187 is signed by the commander/authorized representative. His request was recommended for approval by his chain of command. The approval portion of the form is not signed.

e. Email from USAR Reenlistment, Incentives and Policy Analyst, dated 24 August 2022 states in effect:

(1) Per Fiscal Year 2021 SRIP: PSEB eligibility is not being released from the active component or SELRES service for the purpose of enlistment in the USAR. Soldiers whose last assignment was in the SELRES must be out of the SELRES for at least 12 months in order to be eligible for the PSEB.

(2) G-1 did not have the authority to change contract terms for USAREC contracts. A possible course of action for the applicant would be to file an ETP to USARC.

(3) This may go through since this was no fault of the applicant that USAREC offered the incentive even though the applicant had not been out of the SELRES for a minimum of 12 months.

f. Letter from Headquarters, USAREC to Senator D- D-, dated 30 January 2023, explains to the Senator why the applicant was not eligible for the PSEB, and the applicant could petition the Board to pursue any perceived injustice. The entire letter is available for the Board's consideration.

#### BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is not warranted.
2. The Board noted that the applicant's PSEB contract clearly stated the terms of eligibility for the incentive, one of which was to be in receipt of an honorable discharge

at the conclusion of all prior periods of service. While the Board understood the applicant may not have been aware of the requirement for a 12-month break in SELRES service, he clearly would have, or should have, known he received a less than honorable discharge from the [REDACTED] ARNG. The Board determined the fact that he entered into a 6-year enlistment in his attempt to receive the PSEB and was then found ineligible for the incentive does not constitute an error or injustice.

BOARD VOTE:

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

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

2/15/2024

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. Army Regulation (AR) 635-200 (Active Duty Enlisted Administrative Separations) states:

a. A defective enlistment agreement or unfulfilled enlistment commitment exists when the Soldier is eligible for enlistment in the Army but does not meet the prerequisites for the option for which enlisted.

b. An unfulfilled enlistment commitment exists when the Soldier receives a written enlistment commitment from recruiting personnel for which the Soldier is qualified but which cannot be fulfilled by the Army through no fault of the Soldier.

2. DODI 1304.31 (Enlisted Bonus Program) establishes policy, assigns responsibilities and prescribed procedures for a bonus payment, in accordance with Section 331 of title 37, U.S. Code (USC) to persons who enlist in a military service; affiliate with a Reserve Component of a military service; reenlist, voluntarily extend an enlistment, or otherwise agree to continue to serve in a military service; transfer between Regular and Reserve Components of the military service; or transfer from on military service to another. It states:

a. The Secretaries of Military Departments may pay a bonus to a person or member in the military services who:

(1) Enlists in a Regular or Reserve Component of a military service;

(2) Affiliates with a Reserve Component of a military service;

(3) Reenlists, voluntarily extends and enlistment, or otherwise agrees to serve in a Regular or Reserve Component of military service for a specified period in a designated MOS;

(4) Transfers between the Regular Component and the Ready Reserve of a military service; or

(5) Transfers from a Regular Component or the Ready Reserve of a military service to a Regular Component or the Ready Reserve of another Military service, subject to the approval of the Secretary of the Military Service to which the member is transferring.

b. The Secretaries of the Military Department may pay a bonus to a person or member who:

(1) Signs an agreement with the Secretary of the Military Department concerned to served on active duty or in an active status for a specified period in a designated military specialty or skill, career field, unit grade, or to meet other condition(s) imposed by the Secretary of the Military Department concerned.

(2) Successfully completes training and becomes qualified in a designated skill or career field, if completion of such training and technical qualification forms the basis for which the bonus is paid.

b. Eligibility required for a Prior Service Reenlistment Bonus:

(1) Not have previously received, or currently be entitled to, a Selective Retention Bonus in accordance with the issuance or a critical skills retention bonus in accordance with Section 335 of Title 37, USC.

(2) Not more than 16 years of total military service and have received an honorable discharge at the conclusion of all previous periods of service.

(3) Not have been released, or not be released, from active duty for the purpose of enlistment in a Reserve Component.

(4) Provide official documentation verifying member's satisfactory participation for all periods of previous service in Active Component and Selected Reserve.

(5) Successfully complete any additional training or retraining to become technically qualified in a designated critical skill for which the member is projected to occupy.

(6) Reenlist for at least 3 years in a Regular or Reserve Component of a military service for the purpose of qualifying for award of a prior service reenlistment bonus in accordance with this issuance.

(7) Execute an agreement to serve as an enlisted member in the Regular or Reserve Component of a military service for a period of not less than 3 years upon acceptance of the agreement by the Secretary of the Military Department concerned.

3. AR 601-210 (Regular Army and Reserve Components Enlistment Program), prescribes eligibility criteria governing the enlistment of persons, with or without prior service into the Regular Army, the USAR, and the ARNG. It provides policies and procedures to process applicants for enlistment in the Regular Army Delayed Entry Program and on delayed status and the USAR Delayed Training Program. It states in paragraph 10-13 (SRIP PSEB) a cash bonus is offered to eligible applicants enlisting in the Selected Reserve and complying with all of the following eligibility requirements:

a. Received an honorable discharge or honorable release at the conclusion of all prior periods of military service. A general under honorable discharge from any period of service does not meet these criteria and is ineligible for the PSEB.

b. Has completed no more than 16 years of total military service. The “total military service criteria” includes inactive Reserve time in the IRR or ING.

c. Is not being released from active service for the purpose of enlistment in the Selected Reserve. Soldiers also may not be released from one selected RC for the purpose of enlistment into a different selected RC for the PSEB. Soldiers who are separated within 90 days of their contracted expiration term of service are exempt from this restriction and are considered to have completed their prior obligation.

d. Possesses a bonus MOS or accepts training into an MOS as announced by HQDA that is the same required by the Selected Reserve unit position vacancy. The Soldier must have successfully served in the MOS and attained a level or qualification commensurate with the Soldier’s grade and years of Service while serving on AD. In the case of PS in the USAR or ARNG, Soldier must have previously qualified in the MOS (see para 10–4). Soldiers enlisted as “will train” have 24 months to acquire the critical MOS.

e. Meets the eligibility criteria for enlistment in the USAR as a PS applicant as prescribed by this regulation.

f. Completes a PSEB annex to DD Form 4 for ARNG and USAR as part of the enlistment agreement

4. USAR Fiscal Year 2021 SRIP Policy Number 21-01, the intent of the yearly SRIP policy of the USAR is to support leadership in meeting end strength, readiness, and force balancing objectives. It provides recruiting and retention incentives to assist in filling critical shortages. Incentives are implemented to support unit and occupational skill staffing requirements. All incentives are subject to availability of funds, which may change without notice. Eligibility for PSEB (changed to Prior Service Reenlistment Bonus (PRSB)) are:

a. Bonus must be in a bonus eligible MOS or unit vacancy as determined by USAR G-1 manning priorities recorded in REQUEST. For the nonduty MOS qualified PRSB, enlistment must be in a primary vacancy.

b. Is not being released from active component or SELRES service for the purpose of enlistment in the USAR. Soldiers whose last assignment was in the SELRES must be out of the SELRES for at least 12 months in order to be eligible for the PRSB.

c. Must not have received or currently be entitled to a Selected Retention Bonus or a Critical Skill Retention Bonus under Title 37 USC 335.



d. Enlist in the USAR for at least three years. Soldiers may enlist for a period of three to six years in the SELRES for varying incentives as announced in the USAR SRIP.

e. Upon assignment to the USAR, Soldiers must have no more than 16 years of total military service with an honorable discharge at the conclusion of all prior periods of service.

f. Soldiers must be duty MOS qualified within 24 months of the date of contract execution to be eligible to receive payment of the bonus.

//NOTHING FOLLOWS//