

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 22 November 2024

DOCKET NUMBER: AR20230006339

APPLICANT REQUESTS: in effect:

- repayment of Reenlistment/Extension Bonus (REB) in the amount of \$15,000
- repayment of State Reenlistment Bonus in the amount of \$12,000

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

- DD Form 149 (Application for Correction of Military Record)(online)
- National Guard Bureau (NGB) Form 600-7-3-R-E (Annex R to DD Form 4 (Enlistment/Reenlistment Document) or DA Form 4836 (Reenlistment/Extension Bonus (REB) Addendum Army National Guard (ARNG)), 19 October 2015
- State Reenlistment Bonus Addendum (2015-2016)
- Army Physical Fitness Test (APFT) Scores
- DA Form 1059 (Service School Academic Evaluation Report), 12 May 2017
- Certificate for Basic Leader Course, 12 May 2017
- Inspector General E-mail Notification
- Joint Force Headquarters Minnesota Office of the Adjutant General, Memorandum, subject: Notification of Incentive Discrepancy and Exception to Policy Process, 9 April 2021

FACTS:

1. The applicant states on 19 October 2015, he signed State and Federal reenlistment bonus addenda. In April 2017, he was at the Basic Leader Course. On 22 April 2017, he failed his APFT. His first failure. Then he retook his APFT on 2 May 2017 and passed it. Then on 19 November 2017, he failed. He passed his APFT on 2 May 2017, however, it was never uploaded into the Digital Training Management System (DTMS), so it looked like he had two consecutive, for record, failures. Both of his bonuses were taken away (both State and Federal). He did not fail two consecutive APFT tests, so his bonuses were taken away for no reason. The passing APFT was never put into DTMS, and no one looked or questioned it.

2. The applicant provides:

a. Annex B-1 State Reenlistment Bonus Addendum, Minnesota National Guard (2015-2016), shows in:

(1) B-3 (Bonus and Payments). item 2 that he initialed and acknowledged a 6-year reenlistment and that he would receive a total bonus of \$15,000.

(2) B-4 (Termination of Bonus Payments) item 6 he initialed and acknowledged that he will be terminated from bonus eligibility if he did not have a current passing record of an APFT/Fitness Test or meet height (HT)/weight (WT) standards. Termination is effective the date of the failed record APFT/PT or HT/WT.

b. APFT Scores, which show the applicant failed two APFT on 22 April 2017 and 22 November 2017.

c. DA Form 1059 (Service School Academic Evaluation Report), 11 May 2017 shows the applicant achieved course standards and the Certificate shows he graduated from the Army Basic Leader Course.

d. The Inspector General notification, which shows the applicant had a record APFT failure on 19 November 2017 taken with the MNARG and a second failure on 22 April 2017 while attending NCOES. His DA Form 1059 form BLC indicated he passed an APFT on 2 May 2017; unfortunately, this APFT was not entered into DTMS by Fort McCoy, WI.

e. Memorandum for [Applicant], Subject: Notification of Incentive Discrepancy and Exception to Policy Process, 9 April 2021, issued by the Joint Force Headquarters Minnesota Office of the Adjutant General reflects:

(1) A discrepancy has been identified with your Federal Incentive that may result in termination of eligibility.

(2) Information regarding this discrepancy is as follows:

a. Incentive Type(s): \$12,000 Re-Enlistment Bonus(R15100025MN)

b. Discrepancy Amount: \$3833.33 (Estimated)

c. Reason for the Discrepancy: You have received two consecutive APFT failures effective date of 7 March 2018.

(3) Per policy, your bonus will be terminated with recoupment effective second APFT failure date.

(4) You may be eligible for an Exception to Policy (ETP). If you are a current member of the Minnesota Army National Guard (MNARNG) and you intend to request an ETP, you must submit the request through your chain of command to the Federal Incentive Manager. If you are out of service and you intend to submit an ETP, you must submit the request to the Federal Incentives Manager via email at ng.mn.mnarng.mbx.assets-education@mail.mil within 45 days from the date of this correspondence.

(5) Requests for ETP must be detailed in nature and contain copies of service and incentive documentation. For specific guidance and assistance regarding ETP preparation, contact your Unit Readiness Noncommissioned Officer (NCO), Retention NCO, or State Incentive Manager.

(6) Failure to submit an ETP Request to your State Incentive Manager within 45 days will result in immediate termination and/or recoupment of your incentive in accordance with Title 31 U.S.C. section 3702.

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

a. DD Form 4 (Enlistment/Reenlistment Document Armed forces of the United States) reflects the applicant enlisted in the ARNG on 14 October 2010.

b. DA Form 4836 (Oath of Extension of Enlistment or Reenlistment) shows on 19 October 2015, he extended his enlistment in the ARNG.

c. In conjunction with his extension, his NGB Form 600-7-3-R-E (Annex R to DD Form 4 or DA Form 4836 Reenlistment/Extension Bonus (REB) Addendum ARNG) that was completed on 19 October 2015 shows in Section III (Bonus Amount and Payments):

(1) He was reenlisting/extending for the Six Year Duty Military Occupational Specialty (MOS) Qualification REB.

(2) He was entitled to a REB of \$12,000.00.

(3) Number 6 shows he understood the bonus would be suspended if he received a Flag.

(4) Section VI (Termination) Item 1h: The bonus would be terminated if he failed two consecutive Army Physical Fitness Test (APFTs) within the REB contract term. Termination would be effective the date following the second consecutive "For Record" APFT failure.

d. DA Form 4187 (Personnel Action), 19 April 2017, shows an addition of the expiration date of the current Federal Bonus contract to the Local Data Field (LDP) and that the applicant signed a Federal Bonus on 19 October 2015 for 6 years.

e. His DD Forms 214 show he entered active duty on:

- 17 January 2021 and he was honorably released from active duty on 31 January 2021 and transferred to the ARNG; he completed 14 days active service
- 26 November 2021 and he was honorably released from active duty on 3 March 2021 and transferred to the ARNG; he completed 3 months and 8 days active service

f. The applicant remains in the ARNG.

g. The applicant's record is void of documentation showing that an upload of his passing record APFT from his BLC course was entered into DTMS from May 2017, which would show that he did not have two consecutive failing APFTs.

4. In the processing of this case, a memorandum was obtained by the Joint Force Headquarters Minnesota, Office of the Adjutant General on 21 February 2024.

a. The applicant was notified on 9 April 2021 that his RREB was being terminated with recoupment effective on his second consecutive APFT failure on 7 March 2018. The written notification instructed the Soldier that he had 45 days to submit an exception to policy (ETP) or provide a rebuttal of the termination.

b. Failure to submit the ETP request within 45 days would result in immediate termination and/or recoupment of his incentive in accordance with Title 31 U.S.C. section 3702 and Title 31 U.S.C. 3711.

c. The applicant did not inquire about the termination with the Inspector General until May 2023, past the 45-day deadline of the notification. His reenlistment bonus had already been sent to higher echelons for termination processing.

d. The Minnesota Federal Incentives Team used good faith practices and official records to determine the termination recoupment amount and date. The Incentives Team provided written notification with a deadline to the Soldier for correcting the information. The Federal Incentives followed guidelines laid out in Title 31 U.S.C. 3711, Collections and Compromise, with the discussed process.

e. APFT results will be recorded on DA Form 705, Physical Fitness Scorecard. There is no scorecard for the Soldiers passing APFT taken during Basic Leadership Course. The APFT has never been entered into Digital Training Management System (DTMS), the system of record for APFT.

f. Information that is inputted into DTMS is then populated into the Guard Incentives Management System (GIMS). GIMS is the system of record for bonus processing requirements and is historical, meaning nothing can correct the data. Only an APFT correction memo submitted by the unit with corresponding DA 705s will correct the data in GIMS. This APFT correction memo was never submitted to the Federal Incentives team.

5. In the processing of this case, an advisory opinion was received from the National Guard Bureau, Chief, Special Actions Branch, on 8 April 2024, who opined in pertinent part:

a. Summary. The applicant requests payment of Reenlistment/Extension Bonus (REB) in the amount of \$15,000.

b. Recommendation. Approval.

c. Discussion.

(1) The applicant requests REB payment in the amount of \$15,000. He states the REB payment was revoked due to DA Form 705 (APFT Scorecard) not being uploaded into DTMS.

(2) The applicant signed the REB Addendum on 19 October 2015. He attended BLC in April of 2017. On 22 April 2017, he failed the APFT and then passed on 2 May 2017. On 29 November 2017, he failed the APFT.

(3) The applicant states the passing APFT was not uploaded into DTMS giving the erroneous appearance of two consecutively failed APFTs resulting in the REB being revoked.

(4) The applicant provides Annex R to DD form 4, DA Form 4836 REB Addendum Annex B-1 State Enlistment Bonus Addendum, notification of incentive discrepancy and exception to policy process memo, Oath of extension, and DTMS screen shot as supporting documents.

(5) Minnesota Army National Guard (MNARNG) Director of Manpower and Personnel states his second AFT failure was 7 March 2018. The applicant was notified on 9 April 2021 of termination of REB with recoupment due to two APFT failures with a

45- day response deadline and SM's response inquiry about the termination was in May of 2023. By this time his REB had been processed for termination.

(6) MNARNG Director of Manpower and Personnel declares their Federal Incentives Team used good faith practices and official records to determine the recoupment amount and date. There is no passing APFT DA form 705 from the Basic Leader Course in the Soldiers DTMS record. Information placed in DTMS is populated in the Guard Incentives Management System (GIMS). GIMS is the system of record for bonus processing and the historical feature does not permit data correction. Only an APFT corrections memo with DA form 705 can correct GIMS data. An APFT corrections memo was never submitted to the Federal Incentives Team.

(7) MNARNG Director of Manpower and Personnel provides SM's 1059 BLC school evaluation confirming a 2 May 2017 APFT pass, BLC certificate of completion, and his APFT DTMS record as supporting documents.

(8) A review of the Soldier's request by the ARNG Incentives Oversight Branch shows DTMS is still not up to date, and it appears that he never followed the due process instructions when notified of the Termination violation regarding APFT. The State acted accordingly. If the DA Form 1059 remarks are being accepted, then the state will need to update the record. He may be eligible for payment reinstatement if action is required and performing satisfactorily in accordance with (IAW) the terms and conditions of the incentive agreement. He was responsible for complying with the state's request and keeping personal information up to date in accordance with Service Obligations and Responsibilities.

(9) After further review of the applicant's documents provided discussions with the MNARNG and ARNG Incentives Oversight Branch, it is the conclusion of this office, that the MNARNG erroneously notified the applicant of violation of regulation for REB and requested he respond within 45 days. He did not respond within the deadline; however, there was no violation given. The DA Form 1059 BLC evaluation provided by the MNARNG confirms a passing APFT on 2 May 2017 as the applicant stated. Also, he received a certificate of completion from BLC and a passing APFT. This office recommends his request for REB payment be granted.

(10) This opinion was coordinated with the MNARNG.

6. On 10 April 2024, the applicant was provided with a copy of the advisory opinion and given an opportunity to respond. He did not respond.

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 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 Chief, Special Actions Branch, National Guard Bureau indicating the applicant was erroneously notified of violating a regulation for REB and requested to respond within 45 days. He did not respond within the deadline; however, there was no violation given. The DA Form 1059 BLC evaluation provided by the MNARNG confirms a passing APFT on 2 May 2017 as the applicant stated. The Board concluded based on this, relief was warranted for his REB in the amount of \$15,000 and State Reenlistment Bonus in the amount of \$12,000.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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:	:	:	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 the applicant was in receipt of a completed REB in the amount of \$15,000 and State REB in the amount of \$12,000
- showing the NGB timely received, processed, and approved his payment, provided all other criteria is met

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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. Department of Defense Instruction 1205.21 (Reserve Component Incentive Programs Procedures), currently in effect, requires each recipient of an incentive to sign a written agreement stating 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. The agreement must clearly specify the terms of the Reserve Service commitment that authorizes the payment of the incentive.

3. Army National Guard Selective Reserve Incentives Program (SRIP) Policy Number 12-01, in effect at the time, states eligibility criteria, procedures and standards for administering the ARNG SRIP for FY12. The Soldier shall serve satisfactorily in the contracted Military Occupational Specialty for the full term of the service agreement. All suspension, reinstatement, termination, and recoupment of incentives are governed by Army Regulation 601-210, Active and Reserve Components Enlistment Program, 8 Feb 11 (Rapid Action Revision 4 Aug 11). This policy supplements the regulation with specific criteria for each incentive. [Under Reenlistment/Extension Bonus Specific Criteria, there is no specific reference to recoupment with termination for two consecutive record APFT failures and/or two consecutive failures to meet body fat standards]

4. Army Regulation 601-210 (Active and Reserve Components Enlistment Program) states under termination of incentives, incentive eligibility will be stopped when any of the termination reasons as listed apply and that member shall not be eligible to receive any further incentive payments, except for Service performed before the termination date. Once declared ineligible, termination of an incentive will not affect a Soldier's responsibility to serve their current statutory or contractual Service commitment. Recoupment of Incentives. When relief is not granted through the waiver process from incentives received, the member must refund a pro-rata amount to the Government when termination is due.

//NOTHING FOLLOWS//