

IN THE CASE OF: [REDACTED]

BOARD DATE: 13 March 2024

DOCKET NUMBER: AR20230006457

APPLICANT REQUESTS: requests entitlement to payment of her \$10,000.00 Reenlistment/Extension Bonus (REB).

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

- DD Form 149 (Application for Correction of Military Record)
- National Guard Bureau (NGB) Form 600-7-3-R-E (Annex R to DD Form 4 or DA Form 4836 REB Addendum Army National Guard (ARNG) of the U.S.), 8 March 2013
- DA Form 4836 (Oath of Extension of Enlistment or Reenlistment), 8 March 2013
- DA Form 4856 (Developmental Counseling Form) 20 April 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 she never received payment of her 2013 REB. She believes that this payment was not processed because she accepted an Active Guard/Reserve (AGR) position.
3. A review of the applicant's available service records reflects the following:
 - a. After serving in the Regular Army, on 12 January 2006, the applicant enlisted in the U.S. Army Reserve for 5 years.
 - b. On 25 August 2006, the applicant enlisted in the ARNG for 6 years.
 - c. On 11 September 2011, the applicant elected to extend her enlistment by 1 year and 2 months resulting in a 24 October 2013 Expiration Term Service (ETS) date.

d. On 8 March 2013, the applicant reenlisted for 6 years with entitlement to a \$10,000.00 REB to be paid in a lump sum on the effective date of her current ETS. NGB Form 600-7-3-R-E, Section VI (Termination), paragraph 4 provides acknowledgment by the applicant that her entitlement to the REB may be terminated without recoupment if she accepted an AGR, permanent/indefinite or temporary Military Technician position that exceeds 180 days within a continuous 12 month period where membership in a Reserve Component (RC) is a condition of employment and have served more than 1-day of this extension contract. The termination date is the start date with all loss of all future payments. This document contains a Bonus Control Number.

e. On 2 July 2013, the Military Department of [REDACTED] issued Orders Number 183-881 announcing the applicant's promotion to the rank/grade of sergeant first class (SFC)/E-7, effective 2 July 2013.

f. On 24 September 2013, the NGB issued Orders Number NG13-267-039 ordering the applicant to Active Duty for Operational Support – Reserve Component (ADOS-RC) from 1 October 2013 – 30 September 2014.

g. On 22 October 2013, the NGB issued Orders Number 295-2 ordering the applicant to active duty in an AGR status, effective 15 November 2013, for a period of 3 years.

h. On 1 December 2016, the Joint Force Headquarters issued Orders Number 336-003 ordering the applicant to Full-Time National Guard (FTNG) duty in an AGR status from 1 December 2016 – 30 September 2017.

i. On 5 December 2017, the Joint Force Headquarters issued Orders Number 339-005 ordering the applicant the FTNG duty in an AGR status from 15 December 2017 – 14 December 2020.

j. On 13 December 2017, the applicant elected to extend her enlistment by 1 year, 2 months, and 7 days.

k. On 5 February 2020, the applicant elected to extend her enlistment by 6 years.

l. On 25 July 2020, the Joint Force Headquarters issued Orders Number 206-033 ordering the applicant the FTNG duty in an AGR status from 15 December 2020 – 14 December 2026.

4. The applicant provides a DA Form 4856 dated 20 April 2023, reflective of her being counseled regarding the disposition of her REB incentive. The applicant was advised that her REB was terminated on 15 November 2013, the date that she accepted an AGR position. However, she was still eligible to receive full payment of the \$10,000.00,

but due to the restrictions associated with the Barring Act she must seek relief through this Board.

5. On 26 December 2023, the NGB, Chief, Special Actions Branch, provided an advisory opinion recommending approval of the applicant's request noting that the REB addendum, section VI, paragraph 4, defines all reasons for termination of bonus without recoupment. Subparagraph (d) provides that if a Soldier accepts an AGR permanent/indefinite or temporary mil-tech position that exceeds 180 days within a continuous 12-month period where membership in a RC is a condition of employment and have served more than 1 day of this reenlistment/extension contract. The termination date would be the date the applicant started working in the AGR position. Additionally, the REB contract also states in section III, that a lump sum payment of the \$10,000.00 bonus would be processed effective the day after their current ETS.

6. On 10 January 2024, the applicant was provided with a copy of the advisory opinion and afforded 14 days to provide comments.

7. On 18 January 2024, the applicant acknowledged receipt of the advisory opinion and offered no items of contention with the suggested relief.

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 and standard review based on law, policy and regulation. Upon review of the applicant's petition, available military records and National Guard Bureau- Special Actions Branch advisory opinion, the Board concurred with the advising official recommendation for approval finding the applicant signed a six-year reenlistment/extension contract for \$10,000 with the [REDACTED] Army National Guard. The opine noted during an audit of the applicant's terminated reenlistment bonus, discrepancies were identified that show the applicant could be entitled to payment of her reenlistment bonus. The Board determined based on the advisory opinion there is sufficient evidence to support an error occurred and the applicant is entitled to payment of her \$10,000.00 Reenlistment/Extension Bonus (REB). Therefore, the Board granted relief.

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 to show the applicant is entitlement to payment of her \$10,000.00 Reenlistment/Extension Bonus (REB).

3/19/2024

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CHAIRPERSON

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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, 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. Memorandum – Subject: The ARNG Selected Reserve Incentive Programs (SRIP) Policy for Fiscal Year 13, Effective 1 January 2013 – 30 September 2013 provides

eligibility criteria, procedures, and standards for administering the ARNG SRIP for FY 13. Paragraph 12 (REB) provides that to be eligible for this incentive a service member must be in the pay grade of E-7 or below, must have less than 13 years' time-in-service upon reaching current ETS, and agree to reenlist/extend for either a 3- or 6-year term of service. The REB is paid in a lump sum payment on the contract start date and upon verification of qualification. Paragraph 23 (Termination without Recoupment) provides that if entitlement to an incentive is terminated for any reason before the fulfillment of the service described in the Soldiers written agreement/addendum, the Soldier shall not be eligible to receive any further incentive payments, except for payments for service performed before the termination date. A Soldier accepting an AGR or MilTech position where membership in a RC is a condition of employment (includes an indefinite and temporary technician on tour for 180 days or more in a continuous 12-month period) and has served 1 or more days in the losing SELRES status (i.e., 1 or more days on or after the contract effective start date of the contract). The effective termination date is 1 day prior to the start date of entering the AGR or MilTech program.

3. The Barring Act, Title 31, USC, section 3702 states that the Secretary of Defense shall settle claims involving uniformed service members' pay, allowances, travel, transportation, payments for unused accrued leave, retired pay, and survivor benefits. A claim against the Government presented under this section must contain the signature and address of the claimant or an authorized representative. The claim must be received by the official responsible under subsection (a) for settling the claim or by the agency that conducts the activity from which the claim arises within 6 years after the claim accrues. A claim that is not received in the time required under this subsection shall be returned with a copy of this subsection, and no further communication is required.

4. Title 10, USC, section 1552 states, the Secretary concerned may pay, from applicable current appropriations, a claim for the loss of pay, allowances, compensation, emoluments, or other pecuniary benefits, or for the repayment of a fine or forfeiture, if, as a result of correcting a record under this section, the amount is found to be due the claimant on account of his or another's service in the Army.

//NOTHING FOLLOWS//