

IN THE CASE OF: [REDACTED]

BOARD DATE: 16 May 2024

DOCKET NUMBER: AR20230010740

APPLICANT REQUESTS: retention of her Reenlistment Bonus (REB) in the amount of \$5,000.00.

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 United States), 1 May 2010
- Memorandum, Subject: Request for Exception to Policy, 22 May 2013
- Defense Finance and Accounting Service (DFAS) Letter of Indebtedness, 26 June 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, when signing her REB addendum, the service representative and witnessing official dated the form 1 May 2010. However, she signed the form on 16 April 2010 for \$5,000.00. The error occurred over 10 years ago due to no fault of her own. She believed she was signing a valid contract for the Selected Reserve Incentive Policy (SRIP) and the bonus addendum.
3. A review of the applicant's available service record reflects the following:
 - a. On 2 June 2004, she enlisted in [REDACTED] Army National Guard [REDACTED] (ARNG).
 - b. On 6 September 2004, she entered initial active duty for training.

c. On 31 January 2005, she was honorably released from active duty and returned to her ARNG unit after being awarded military occupational specialty 92Y (Unit Supply Specialist).

d. DA Form 4836 (Oath of Extension of Enlistment or Reenlistment), dated 16 April 2010 shows she extended her enlistment with the INARNG for a period of 6 years. In conjunction with this extension, she signed NGB Form 600-7-3-R-E, bearing bonus control number [REDACTED], authorizing her a \$10,000.00 REB for a 6 year extension with the NGB in a critical unit identification code. She would be paid a 50 percent installment when her contract takes affect, 20 percent installment on the third year anniversary, and 30 percent on the sixth year anniversary of the contractual agreement. She signed the form April 2010 with the signature of the Enlisting Official and Service Representative signing on 1 May 2010.

e. On 2 October 2012, the Joint Force Headquarters [REDACTED] issued Orders Number 276-001 ordering her to active duty in an Active Guard/Reserve (AGR) status from 1 October 2012 – 30 September 2015.

f. DA Form 4836, dated 22 March 2016 shows she extended her enlistment with the [REDACTED] ARNG for a period of 4 years, 7 months, and 30 days.

g. DA Form 4836, dated 10 January 2022 shows she extended her enlistment with the [REDACTED] ARNG for a period of 6 years.

h. She continues service with the [REDACTED] ARNG.

4. The applicant provides the following:

a. Memorandum, Subject: Request for Exception to Policy, dated 22 May 2013 wherein the [REDACTED] ARNG Education Services Officer requested, in effect, the applicant be able to retain her bonus due to the following:

(1) She signed for the REB on 16 April 2010 for \$5,000.00; however, the Service Representative and Witnessing Official dated the bonus addendum 1 May 2010.

(2) She met all the requirements and completed the necessary paperwork with timely submission through her chain of command.

(3) She believed in good faith that she was signing a valid contract for the SRIP and the bonus addendum having mismatched dates are no fault of her own.

(4) She has already been paid the entire bonus in the amount of \$5,000.00.

(5) The State Incentive Manager did approve and validate the bonus control number.

b. DFAS Letter of Indebtedness, dated 26 June 2023 showing her debt is due to recoupment of the unearned portion of her National Guard Bonus in the amount of \$5,012.71 which includes the \$5,000.00 previous balance and \$12.71 interest charged to the account.

5. On 5 February 2024, the Chief, Special Actions Branch, NGB, provided an advisory opinion recommending approval of the applicant's request stating, in effect:

a. The applicant requests retainment of her \$5,000.00 bonus received for a bonus addendum signed in 2010. She states recoupment is for mismatched dates of signatures on a bonus addendum with a date of 16 April 2010 but the service representative and witnessing official dated the bonus addendum 1 May 2010. An additional reason for recoupment was accepting an AGR position, but she states she did not become AGR until October 2012. She did submit an Exception to Policy (ETP) and claims she did not know it was denied, and she would be required to pay back the bonus until notification from DFAS on 26 June 2023.

b. After review of her records and coordination with the ■■■ ARNG incentives office, the ETP submitted from the applicant was denied on 10 July 2023 (enclosure 1) for multiple discrepancies of the bonus addendum that would make her ineligible for the bonus. ETP states she became AGR/Military Technician (MILTECH) 1 day after the contract date. Her bonus addendum had unauthorized pen and ink changes and mismatched signature dates for the applicant, witnessing official, and service representative. She was contracted above the authorized amount violating ARNG SRIP 07-06 and bonus control number was incorrect for that type of bonus.

c. The denied ETP was available to the applicant in her iPERMs records on 26 August 2013. Records indicate that she did not become AGR until 1 October 2012 with Orders Number 276-001 (enclosure 2) which was more than 2 years after the contract started, contrary to the ETP denial. The mismatched dates, unauthorized pen and ink changes and incorrect bonus control number were results of the incentive manager and of no fault to the applicant. She believed in good faith she was signing a valid bonus addendum.

d. It is the recommendation of this office that the applicant's request be approved. There are multiple reasons that the applicant's bonus was terminated with recoupment and her ETP was denied however of no fault of her own. She believed in good faith she was signing a valid bonus and eligible for the bonus.

e. The ■■■ ARNG concurs with this advisory opinion.

6. On 12 February 2024, the applicant was provided with a copy of the advisory opinion and provided an opportunity to respond.

7. On 9 March 2024, the applicant responded to the advisory opinion agreeing with the recommendation.

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 supported granting an ETP authorizing the applicant to retain the first installment of the REB she contracted for in 2010 but, through no fault of her own, an ETP was denied. Based on a preponderance of the evidence, the Board determined the applicant's record should be corrected to show an ETP was approved authorizing retention of the initial \$5,000 installment of the incentive.

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 and Army National Guard records of the individual concerned be corrected by showing an ETP was approved authorizing her to retain the first installment of the REB she contracted for in 2010.

9/24/2024


XCHAIRPERSON


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. Title 37, USC, section 308 (Special Pay: reenlistment bonus) states the Secretary concerned may pay a bonus under paragraph (2) to a member of a uniformed service who is qualified in a military skill designated as critical by the Secretary of Defense, and reenlists or voluntarily extends the member's enlistment for a period of at least three years in a regular component or the Reserve component of the service concerned. Bonus payments authorized under this section may be paid in either a lump sum or in installments. If the bonus is paid in installments, the initial payment shall be not less than 50 percent of the total bonus amount.
3. National Guard Bureau Selected Reserve Incentive Program (SRIP) Program Policy 07-06 guidance for fiscal year 2007, 2008, 2009 provides that the REB in a critical UIC is processed in 3 installments: 50 percent on the contract start date provided the Soldier is assigned to the appropriate Military Occupational Specialty (UIC) and 20 percent on the 3-year anniversary of the contract start date provided the Soldier is assigned to the same UIC, and 30 percent on the 6-year anniversary of the contract start date.

//NOTHING FOLLOWS//