

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]
[REDACTED]

BOARD DATE: 11 June 2024

DOCKET NUMBER: AR20230011186

APPLICANT REQUESTS: in effect, an Exception to Policy (ETP) for payment of her Reenlistment/Extension Bonus (REB) dated 15 July 2011 in the Army National Guard.

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 Army National Guard (ARNG) of the United States), 15 July 2011
- Memorandum - Subject: Request for an ETP, 18 August 2014

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:

a. She was discharged from the ARNG on 31 January 2015 and was supposed to receive her bonus for the time she served. She submitted all the proper forms and even sent a memo for the request. She never received that bonus, and she is hoping this will help her to obtain the bonus she is entitled to. She is not sure what caused the injustice. She believes it could be a simple failure of miscommunication.

b. She joined the California State Guard in 2021 and after speaking with a service member about her bonus, he stated that she should not have fallen through the cracks and should be allowed to request that she be paid her bonus. When she reached out to her old unit regarding the bonus along with medical information, the person who handled the bonuses at the time stated she did not remember her; however, the applicant placed a complaint against her regarding her unprofessionalism when it came to the bonus process because of her personal issues.

3. A review of the applicant's official records show the following:

a. She enlisted in the California ARNG (CAARNG) on 31 May 2005.

b. On 10 January 2006, she entered Initial Active Duty for Training (IADT). She completed training for award of military occupational specialty (MOS) 63B1O (Wheeled Vehicle Mechanic).

c. Her DD Form 214 (Certificate of Release or Discharge from Active Duty) shows she was released from IADT on 6 July 2006, and was transferred to the CAARNG. Item 11 (Primary Specialty) shows 63B1O (Wheeled Vehicle Mechanic).

d. On 27 May 2011, DA Form 4836 (Oath of Extension of Enlistment or Reenlistment) shows she extended in the CAARNG for a period of 1 year, which changed her Expiration Term of Service (ETS) to 30 May 2012.

e. Her record contains a DA Form 4836 dated 15 July 2011, which shows she extended for a period of 6 years, changing her ETS to 30 May 2018. She signed the form electronically on 25 July 2011.

f. In connection with her July 2011 extension in the CAARNG, she completed and signed NGB Form 600-7-3-R-E, which shows:

(1) She was duty Military Occupational Specialty (MOS) qualified for the position for which she was reenlisting/extending and she held the rank and grade commensurate with the vacancy she was extending/reenlisting for.

(2) She reenlisted/extended for 6 years to receive a total bonus payment of \$5,000.00 in either a Non-Mobilized Unit or a Deployed Unit CONUS. She certified that she reenlisted/extended in a valid, vacant position and she was not coded as excess to the unit. The bonus would be paid in two (2) installments. The first 50 percent installment would be processed for payment the day after current ETS and the second and final 50 percent payment would be processed on the third-year anniversary. The applicant also indicated she reenlisted/extended for the REB in a deployed unit.

(3) She reenlisted/extended for 3 years to receive a total bonus payment of \$2,500.00 in either a Non-Mobilized Unit or a Deployed Unit CONUS. She certified that she reenlisted/extended in a valid, vacant position and she was not coded as excess to the unit. The bonus would be paid in two (2) installments. The first 50 percent installment would be processed for payment the day after current ETS and the second and final 50 percent payment would be processed on the third-year anniversary. The applicant also indicated she reenlisted/extended for the REB in a deployed unit.

(4) She understood that she would not receive a payment if she did not meet all eligibility requirements on the day the reenlistment/extension took effect. The reenlistment/extension would be verified by the State Incentive Manager prior to any payment being processed.

(5) She understood that she may be terminated from bonus eligibility without recoupment for "separation due to injury or illness that is determined not to be the result of my own misconduct, and the injury or illness occurred while not assigned to a designated combat zone or combat related operation."

g. On 29 October 2014, a formal Physical Evaluation Board (PEB) found the applicant physically unfit for mental health issues and chronic back pain, and recommended that her disposition be referred for case disposition under Reserve Component regulations. She did not concur with the formal PEB findings and recommendations and submitted a written appeal. The DA Form 199-1 (Formal PEB Proceedings) provides a narrative summary of the applicant's disabilities.

h. On 31 January 2015, the applicant was honorably discharged from the CAARNG. NGB Form 22 (Report of Separation and Record of Service) shows she was discharged under the provisions of National Guard Regulation 600-200 (Enlisted Personnel Management), paragraph 6-35l(8), for being medically unfit for retention standards.

4. In support of her case the applicant provides a self-written Memorandum - Subject: Request for an ETP, dated 18 August 2014, and stated:

a. She would like to request an ETP for the reason of not receiving her re-enlistment bonus, bonus number R11070005XX. She understood that she would not receive her second half of her bonus until she was cleared from being Medically Non-Deployable (MND). However, she was entitled to her first half, since she was compliant with all the standards listed in her bonus. She reenlisted in 2011 and since then have had to do several Exception to Policy memos to "re-request" her bonus. She is entitled to the first half of her bonus since she met all standards which include height/weight and passing her Army Physical Fitness Test. She is currently MND, and she fully understood that it is an issue that she needs to resolve before receiving her second half of her bonus.

b. She understood that she signed an incorrect addendum on 16 June 2010, and the correct addendum is dated 29 March 2011. She is willing and ready to sign any other documents that are needed to help her receive her bonus.

5. On 27 March 2024, the NGB, Chief, Special Actions Branch, provided an advisory opinion and recommended approval of her request. The advisory official stated:

a. The applicant extended with the CAARNG for six years in the amount of \$5,000.00. The first 50 percent installment would be processed for payment the day after her current ETS (30 May 2012), and her final 50 percent payment would be processed on the third-year anniversary. A review of the applicant's records by the CAARNG in the Guard Incentive Management System showed that the applicant's extension was not validated or initiated because the DA Form 4836 had mismatch dates, and additionally she also initialed two different payment options on her bonus addendum under section. A review of the applicant's record in the Integrated Personnel Electronic Records Management System showed that she was found to be medically unfit for retention and therefore she was medically discharged on 31 January 2015.

b. It is the recommendation of this office that the applicant's request be approved. The applicant should be allowed to receive the total amount of the bonus in the amount of \$5,000.00 minus taxes. Due to the constraints of the Barring Act the CAARNG has been unable to correct this issue for the applicant. The CAARNG Incentives Office stated that at no fault to the applicant, she should not be penalized for a date mismatch, or for her initialing two different payment options on her bonus addendum. This error should have been caught while her addendum was being initiated.

c. The applicant was medically discharged after being found unfit for retention by the PEB on 31 January 2015, and therefore did not complete her contract obligation of 30 May 2018. Section V (Termination) of the bonus addendum states that a Soldier being separated due to injury or illness that is determined not to be the result of misconduct, may be terminated from bonus eligibility without recoupment. The opinion was coordinated with the CAARNG Incentive Office.

6. On 28 March 2024, the applicant responded to the NGB advisory opinion and stated, she did not have any questions at this time, but she will reach out if she does.

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 applicant's contentions, the military record, and regulatory guidance were carefully considered. The evidence shows the applicant extended her enlistment with the CAARNG for six years in the amount of \$5,000.00. The first 50% installment would be processed for payment the day after her current ETS (30 May 2012), and her final 50% payment would be processed on the third-year anniversary. For some reason, the applicant's records by the CAARNG in the Guard Incentive Management System showed that the applicant's extension was not validated or initiated because the DA Form 4836 had mismatch dates, and additionally she also initialed two different payment options on her bonus addendum under section. The applicant was found medically unfit for retention, and she was medically discharged from the ARNG on 31 January 2015. The Board accepted her

argument and also agreed with the NGB advisory official's finding that due to no fault to the applicant, she should not be penalized for a date mismatch, or for her initialing two different payment options on her bonus addendum. This error should have been caught while her addendum was being initiated. The Board determined an error was committed and relief is warranted.

BOARD VOTE:

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| █ | █ | █ | GRANT FULL RELIEF |
| : | : | : | GRANT PARTIAL RELIEF |
| : | : | : | GRANT FORMAL HEARING |
| : | : | : | DENY APPLICATION |

BOARD DETERMINATION/RECOMMENDATION:

The Board determined that the evidence presented was 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 submitted an exception to policy to the National Guard Bureau (NGB) for payment of her Reenlistment/Extension Bonus, dated 15 July 2011 in the Army National Guard.
- The NGB timely received, processed, and approved the applicant's Exception to Policy for payment of her \$5,000 Reenlistment/Extension Bonus 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, 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 31, USC, section 3702, also known as the barring act, prohibits the payment of a claim against the Government unless the claim has been received by the Comptroller General within 6 years after the claim accrues. Among the important public policy considerations behind statutes of limitations, including the 6-year limitation for filing claims contained in this section of Title 31, USC, is relieving the government of the need to retain, access, and review old records for the purpose of settling stale claims, which are often difficult to prove or disprove.
3. Title 37, USC, section 308b (Special pay: reenlistment bonus for members of the Selected Reserve) provides that, the Secretary concerned may pay a bonus under subsection (b) to an enlisted member of a reserve component who (1) has completed not more than 20 years of total military service; and (2) reenlists or voluntarily extends an enlistment for a period of at least three years in a designated military skill, or in a designated unit, as determined by the Secretary concerned, in the Selected Reserve of the Ready Reserve of an armed force. Subsection (b) (Bonus Amounts; Payment) states, (1) The amount of a bonus under this section may not exceed \$15,000.00. (2) 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. The Secretary concerned shall prescribe the amount of each subsequent installment payment and the schedule for making the installment payments. (3) Any portion of a term of reenlistment or extension of enlistment of a member that, when added to the total years of service of the member at the time of discharge or release, exceeds 24 years may not be used in computing the total bonus amount under paragraph (1).
4. Title 37, USC, Section 331 (General bonus authority for enlisted members) provides that, the Secretary concerned may pay a bonus under this section to a person, including a member of the armed forces, who (1) enlists in an armed force; (2) enlists in or affiliates with a reserve component of an armed force; (3) reenlists, voluntarily extends an enlistment, or otherwise agrees to serve for a specified period in a designated career field, skill, or unit of an armed force.
5. 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 to the member.

6. National Guard Regulation 600-7 (Selected Reserve Incentive Programs (SRIP)) governs policies and procedures for the administration of the ARNG SRIP programs.

a. Paragraph 1-26 (Termination without recoupment) provides that, the conditions under which termination without recoupment of incentives is warranted are prescribed in this paragraph and the applicable program chapters and sections of this regulation. The effective date of the termination will be the effective date of the action. Payments due prior to the effective date will be paid to the Soldier. In pertinent part, payments due after the effective date of the action will be canceled and will not be paid to the Soldier as follows:

(1) Separation from the ARNG or transfer from the designated bonus position because of death, injury, illness, or other impairment that is not the result of misconduct by the Soldier. Termination effective date is the date of discharge.

(2) Discharged due to injury or illness that occurred or was detected while assigned in a Troop Program Unit status. Reason for medical discharge must not be a result of Soldier's own misconduct. Termination effective date is ARNG date of discharge.

b. Section IV (Reenlistment/Extension Bonus), paragraph 2-15k (Eligibility) states, the Soldier must execute a written agreement generated by the ARNG incentive management system on the same date as either the DD Form 4 (for immediate reenlistment) or DA Form 4836 (for extension) used to affect the reenlistment/extension. The addendum must contain signatures and dates of all required signature authorities on the agreement on the same date as annotated above.

//NOTHING FOLLOWS//